3. Applicant must submit a written statement outlining in detail the manner in which it is believed that this application will meet the following criteria:

a. That the variance requested arises from such condition which is unique and which is not ordinarily found in the same zoning order and not by an action or actions of the property owner or the applicant.

Subject building is situated on the northeast corner of Broadway and 55th Street. The south end of the property runs parallel to a drainage ditch which adjoins city property. The northwest corner of subject property is bounded by a twenty five foot section of overgrown trees which lie on state property and inhibits curb appeal for southbound traffic.

b. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.

The granting of the variance permit does not infringe nor does it affect the rights of any property owner or resident in any manner by this request.

c. That the strict application of the provisions of the zoning order of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.

The city sign ordinance restricts the property owner from installing any pole sign which exceeds a gross surface area of one hundred square feet. Currently, the Pennzoil Ten Minute Oil Change sign does not include an area to identify the business as an independent operator. The optional reader board would allow the property owner to place his business name beneath the PTMOC panel.

d. That the variance desired will not adversely affect the public health, safety, morals,order, convenience, prosperity or general welfare.

The variance requested herein, would not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare in any manner. I do feel that the addition of the requested reader board would add a dramatic aesthetic appearance to the overall property site and would be an additional complement to the landscaping efforts now in progress.

e. That granting the variance desired will not be opposed to the general spirit and intent of the zoning order.

The requested variance exceeds the allowable square footage by twelve feet. The four by eight foot reader board would offer a balanced symmetry to the overall property site and afford the property owner the opportunity to announce services and specials that he is unable to currently do at this time.

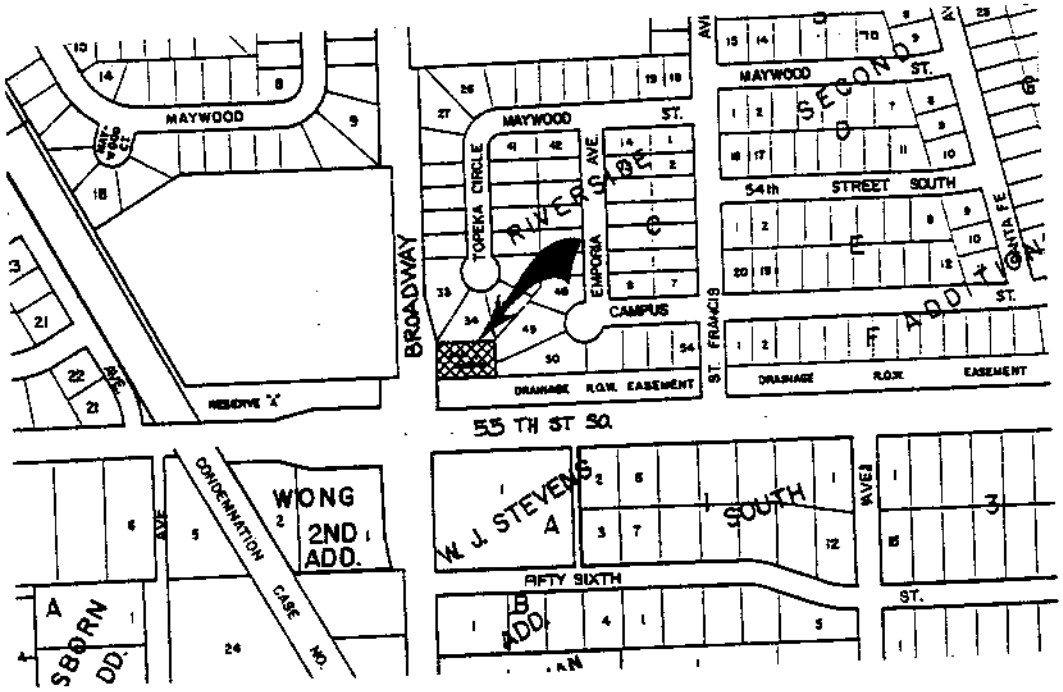
BZA 15-95

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 3
September 26, 1995

SECRETARY'S REPORT

CASE NUMBER:	BZA 15-95
OWNER/APPLICANT:	Karen and Stanley Lear
AGENT:	Don Reece
REQUEST:	Variance to increase the size of a pole sign from 100 square feet to 112 square feet.
CURRENT ZONING:	"C" Commercial
SITE SIZE:	95' x 155'
LOCATION:	Northeast corner of Broadway and 55th Street South (5550 S. Broadway).



JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions, as required by State Statutes, are found to exist.

BACKGROUND: The applicants, Karen and Stanley Lear, are requesting a variance to increase the size of a pole sign from the maximum allowed 100 square feet to 112 square feet. The site is the location of a Pennzoil Ten Minute Oil Change Center, on the northeast corner of Broadway and 55th Street South. It is the applicants' intent to add a company standardized, 32 square-foot reader board to the existing 80-square foot sign on the site. The height of the existing sign will remain at 25 feet with the proposed reader board being attached below the existing pole sign. The sign is located on the Broadway frontage and faces north/south. It should be noted that the existing sign for this business has been located on the drainage right-of-way along the south property line. The applicants received permission from the City of Wichita to place the sign at that location by applying for and receiving a minor use permit.

Although the lot is separated from 55th Street by a wide drainage right-of-way and there is no vehicular access between this lot and 55th Street, the lot is nevertheless considered a corner lot and its sign rights are calculated on having frontage on two arterials (95' on Broadway and 155' on 55th Street). This lot is permitted by the sign code to have two ground or pole signs, one facing the direction of travel along Broadway, at a size no larger than 100 square feet, and the other facing the direction of travel along 55th Street South at a size no larger than 124 square feet. The sign code would permit, without a variance, one sign of 200 square feet if the sign would be placed near the southwest corner of the lot so that it faces both directions of travel (minimum angle of 30 degrees). When this occurs, the sign code considers the sign adjacent to each street, and one-half of the sign area is charged against the total permitted sign area of each street frontage. The applicants have said they do NOT want to place the sign at an angle. If the variance is approved, the new sign will be 12 square feet larger than permitted by the sign code when considering only the Broadway frontage but will be 88 square feet smaller in area than if it were angled to face both Broadway and 55th Street South frontages.

ADJACENT ZONING AND LAND USE:

NORTH:	"AA" -	One-Family Dwellings
SOUTH:	"C" -	Used Car Sales
EAST:	"AA" -	One-Family Dwellings
WEST:	"C" -	Undeveloped Land-

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as the property is located adjacent to a drainage ditch on the south, which places the property 135 feet from the center line of 55th Street South and the property's west line is 75 feet from the center line of Broadway. There is also a dense row of trees along the north property line. The required building setback and the trees reduce the visibility of the site, especially from southbound traffic on Broadway.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the new reader board shall be placed on the existing sign pole and there are no signs on adjacent properties, therefore, the new signage will not have a negative impact on adjacent property owners.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as the applicant would not be able to use the existing nationally designed sign to identify the business as an independent operator. The addition of the reader board will allow the independent operator to personalize the business and advertise specials.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would not adversely affect the public interest inasmuch as the sign would not be placed on easements or in public right-of-way and will not be a sight hinderance to the driving or walking public.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would not be opposed to the general spirit and intent of the sign ordinance inasmuch as the 112 square-foot sign will be 44% smaller than would be permitted if the sign were placed near the southwest corner of the lot at a minimum 30-degree angle to one of the streets.

RECOMMENDATION: Should the Board determine that all five conditions necessary to the granting of a variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted, subject to the following conditions:

1. The only pole or ground sign permitted larger than allowed by the sign code on this site shall be installed at the location indicated on the approved site plan and shall be no larger than 112 square feet. This shall be the only pole or ground sign permitted on this site.

2. Prior to installing the pole sign, the applicant shall obtain a sign permit and shall comply with all sign code requirements except that of size which may be up to 112 square feet as permitted by this variance. The sign shall be installed with one year after the approval of the resolution authorizing the variance or the variance shall become null and void.

3. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

Ray Sledge, OCI
Pat Burnett, Deputy City Clerk
Yolanda Anderson, MAPD

SEDGWICK COUNTY

METROPOLITAN AREA PLANNING
DEPARTMENT
CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4421

September 28, 1995

Karen & Stanley Lear
5550 S. Broadway
Wichita, KS 67216

RE: BZA 15-95 - Variance to increase the size of a pole sign from 100 square feet to 112 square feet on property zoned "C" Commercial and generally located at the northeast corner of 55th Street South & Broadway (5550 S. Broadway).

Dear Mr. & Mrs. Lear:

Enclosed is a signed copy of the above-referenced BZA Resolution approved by the Board of Zoning Appeals on September 26, 1995. This resolution reflects the official action of the Board to grant your request and sets out the conditions of approval. It is forwarded to you for your information and files.

This is a reminder that the zoning adjustment signs should now be removed from the property. If you have any questions concerning this matter, please call our office.

Sincerely yours,

Lawrence P. Mitchell
Assistant Secretary
Board of Zoning Appeals

Enclosure
LPM/hm

cc: Don Reece, 1252 Sleepyhollow, Olathe, KS 66062
J. R. Cox, OCI
Paul Hays, OCI

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request be approved for a variance to increase the size of a pole sign from 100 square feet to 112 square feet on property zoned the "C" Commercial and legally described as follows:

Lot 1, Block A, Lear Addition, Wichita, KS. Generally located at the northeast corner of 55th Street South & Broadway (5550 S. Broadway).

subject to the following conditions:

1. The only pole or ground sign permitted larger than allowed by the sign code on this site shall be installed at the location indicated on the approved site plan and shall be no larger than 112 square feet. This shall be the only pole or ground sign permitted on this site including portable signs.

2. Prior to installing the pole sign, the applicant shall obtain a sign permit and shall comply with all sign code requirements except that of size which may be up to 112 square feet as permitted by this variance. The sign shall be installed within one year after the approval of the resolution authorizing the variance or the variance shall become null and void.

3. The resolution authorizing this variance may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

ADOPTED AT WICHITA, KANSAS, this 26th day of September, 1995.

Keith A Alter

Keith Alter, President

ATTEST:

Lawrence P. Mitchell

Lawrence P. Mitchell, Assistant Secretary

BZA RESOLUTION NO. 15-95

WHEREAS, Karen and Stanley Lear pursuant to Section 2.12.590.B, Code of the City of Wichita, request a variance to increase the size of a pole sign from 100 square feet to 112 square feet on property zoned "C" Commercial and legally described as follows:

> Lot 1, Block A, Lear Addition, Wichita, KS. Generally located at the northeast corner of 55th Street South & Broadway (5550 S. Broadway).

WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did, at the meeting of September 26, 1995, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Section 2.12.590.B, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has found that the variance arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owners or the applicant inasmuch as the property is located adjacent to a drainage ditch on the south, which places the property 135 feet from the center line of 55th Street South and the property's west line is 75 feet from the center line of Broadway. There is also a dense row of trees along the north property line. The required building setback and the trees reduce the visibility of the site, especially from southbound traffic on Broadway; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents inasmuch as the new reader board shall be placed on the existing sign pole and there are no signs on adjacent properties, therefore, the new signage will not have a negative impact on adjacent property owners; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application inasmuch as the applicant would not be able to use the existing nationally designed sign to identify the business as an independent operator. The addition of the reader board will allow the independent operator to personalize the business and advertise specials; and

WHEREAS, the Board of Zoning Appeals has found that the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, inasmuch as the sign has been granted a minor use permit to be placed in a public right-of-way and will not be a sight hinderance to the driving or walking public; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance desired will not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the 112 square-foot sign will be 44% smaller than would be permitted if the sign were placed near the southwest corner of the lot at a minimum 30-degree angle to one of the streets; and

WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.