RECOMMENDATION: Since all five factors necessary to the granting of a variance cannot be found to exist, it is the recommendation of the Secretary that the variance **not** be granted. However, should the Board be able to justify all five factors, the following conditions of approval should be considered.

1. Prior to increasing the size of the existing sign, the applicant shall obtain a sign permit and shall comply with all sign code requirements, unless a variance is granted by the Board, except that the size of the sign may be up to 300 square feet.

2. This sign may be illuminated but shall not have flashing or moving lights or any parts which move or create the illusion of movement.

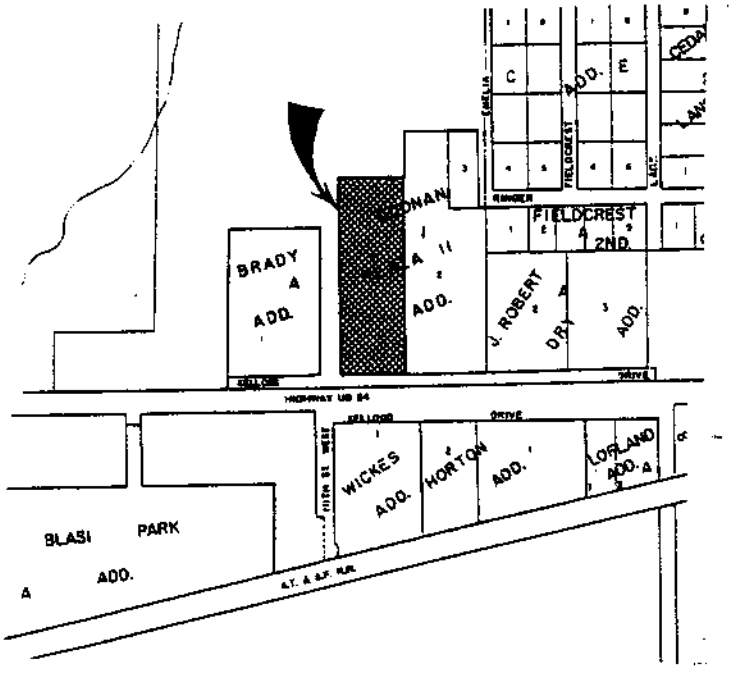
3. The sign shall be installed within one year or the resolution granting this variance shall become null and void.

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 2
October 24, 1995

SECRETARY'S REPORT

CASE NUMBER:	BZA 17-95
OWNER/APPLICANT: AGENT:	Doonan Truck and Equipment Inc. Kenny Doonan
REQUEST:	1. Variance to increase height of pole sign from 25 feet to 40 feet. 2. Variance to increase size of sign from 120 square feet to 300 square feet.
CURRENT ZONING:	"E" Light Industrial.
SITE SIZE:	4.8 Acres.
LOCATION:	1/2 mile west of Maize Road on north side of West Highway 54 (11118 West Highway 54)



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 applicant, Doonan Truck and Equipment Inc., is operating a truck sales and service business at 11118 West Highway 54 (Kellogg). According to Central Inspection, the business has a total of 331 feet of frontage along Kellogg (for purposes of calculating signage) which includes a 63 foot-wide unplatted access drive just west of the 268-foot-wide platted lot. The access drive is owned by this applicant and provides access to Doonan Trucks as well as to The Cotillion Ballroom. Vehicles turn directly off of Kellogg into this access drive. Currently, the applicant has two pole signs for his trucking business along the Kellogg frontage. The pole sign (Volvo) in the southwest corner of the site is presently 35 feet tall and 144 square feet in size. The pole sign (Doonan) in the southeast corner of the property is presently 36 feet tall and 200 square feet in overall size. This 200 square-foot Doonan sign is the one that the applicant desires to replace with a 300 square-foot sign at a height of 40 feet. The proposed new sign would include only the message "Peterbilt." The Cotillion sign has been classified by Central Inspection as an off-site sign and is not included in the calculations of signage for the Doonan trucking business.

The existing signage on the site today was placed there before the site was annexed into the City of Wichita in 1982. If these on-site signs were installed today under the present sign code, they could be no taller than 25 feet (one sign could be increased 5 feet in height if a third permitted sign is not utilized) and could total no more than 264 square feet in size. Therefore, the existing signage on this site is nonconforming under the present sign code, due to their total size and height, and no alterations are permitted to either sign unless that specific sign is brought into conformance with all applicable regulations.

The applicant has indicated that the taller and larger sign is needed to alert truckers as to his location so that they may safely exit Kellogg. He has also indicated that the new sign would be replacing an outdated, cluttered sign. It is the opinion of staff that a sign 25 feet in height and 120 square feet in size (264 sq. ft. allowed minus 144 sq. ft. Volvo sign = 120 sq. ft.) at this location would be adequate to alert truckers to the services available on the site. This is based on information found in the manual on Uniform Traffic Control Devices published by the U. S. Department of Transportation Federal Highway Administration which indicates that 10 inch lettering on signs is of sufficient size to adequately impart information to the motoring public along expressways. The size of lettering on the proposed sign is approximately 36 inches.

ADJACENT ZONING AND LAND USE:

NORTH:	"C"	Auditorium (Cotillion Ballroom)
SOUTH:	"E"	Church (Family Worship Center)
EAST:	"E"	Sales/Service (Wichita Outdoor Power)
WEST:	"C"& "E"	Access Drive and Nursery (Brady's Nursery)

REQUEST NO.1 Variance to increase the height of a pole sign from 25 feet to 40 feet.

UNIQUENESS: It is the opinion of staff that this property is **not** unique inasmuch as and there are no nearby elevated structures or curves in the roadway which would obstruct vision of a 25-foot-tall sign.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested **will** adversely affect the rights of adjacent property owners inasmuch as this requested sign height is 60% higher than height permitted by code and the other sign on the site also exceeds the height of signs permitted for adjacent properties.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning ordinance **will not** constitute an unnecessary hardship upon the applicant inasmuch as the sign provided for in the sign code is of sufficient height to be viewed by the traveling public at a sufficient distance to allow the slowing down and exiting of vehicles into this site.

PUBLIC INTEREST: It is the opinion of staff that the requested variance **would** adversely affect the public interest inasmuch as the visual quality of the area would be diminished and the public and private investment in buildings and open space would not be protected. If this and other sign variances are approved, the proliferation of business signs may distract motorists on Kellogg and reduce roadway safety.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested **would** be opposed to the general spirit and intent of the sign ordinance inasmuch as a taller sign than provided for in the sign code for identifying the location of the business, without justification based on physical characteristics of the property or adjacent properties, would not be preserving the visual qualities of the community or eliminating excessive signage.

RECOMMENDATION: Since all five factors necessary to the granting of a variance cannot be found to exist, it is the recommendation of the Secretary that the variance in sign height **not** be granted. However, should the Board be able to justify all five factors, the following conditions of approval should be considered:

1. Prior to increasing the height of the existing sign, the applicant shall obtain a sign permit and shall comply with all sign code requirements, unless a variance is granted by the Board, except that the height of the sign may be up to 40 feet.

2. This sign may be illuminated but shall not have flashing or moving lights or any parts which move or create the illusion of movement.

3. The sign shall be installed within one year or the resolution granting this variance shall become null and void.

REQUEST NO. 2: Variance to increase the size of a pole sign from 120 square feet to 300 square feet.

UNIQUENESS: It is the opinion of staff that this property is **not** unique inasmuch as many commercial properties located on expressways and developed with businesses catering to the traveling public have signs that do not exceed the sign code requirements and the exit from the highway into this site is directly in front of the access drive so there is no need for the sign to be visible at any greater distance than is normal for signs on direct access highways.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested **will** adversely affect the rights of adjacent property owners inasmuch as this requested sign size is 250% of the size permitted by code and, added to the existing signals already on site, would far exceed the amount of signage permitted for adjacent properties which have similar size frontages.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning ordinance **will not** constitute an unnecessary hardship upon the applicant inasmuch as the sign provided for in the sign code is of sufficient size to be viewed by the traveling public at a sufficient distance to allow the slowing down and exiting of vehicles into the site.

PUBLIC INTEREST: It is the opinion of staff that the requested variance **would** adversely affect the public interest inasmuch as the visual quality of the area would be diminished and the public and private investment in buildings and open space would not be protected. If this and other sign variances are approved, the proliferation of business signs may distract motorists on Kellogg and reduce roadway safety.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested **would be** opposed to the general spirit and intent of the sign ordinance inasmuch as a sign larger than provided for in the sign code would not be preserving the visual qualities of the community or eliminating excessive signage.

cc: Randy Sparkman, OCI
Paul Hays, OCI
Ray sledge, OCI
Pat Burnett, Deputy City Clerk
Yolanda Anderson, MAP

SEDGWICK COUN

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

October 30 1995

Mr. Kenny Doonan
Doonan Truck and Equipment Inc.
11118 West Highway 54
Wichita, KS 67209

RE: BZA 17-95 - A.) Variance to increase height of pole sign from 25 feet to 40 feet and
B.) Variance to increase size of sign from 120 square feet to 300 square feet.

Dear Mr. Doonan:

Enclosed are signed copies of the above-referenced BZA Resolutions adopted by the Board of Zoning Appeals on October 24, 1995. The resolutions reflect the official action of the Board to approve your request to increase the size of the sign from 120-square feet to 300-square feet and to deny your request to increase the height of the sign from 25 feet to 40 feet, but to approve increasing the height of the sign from 25 feet to 30 feet and sets out the conditions of approval. They are forwarded to you for your information and the 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
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Lot 1, Block 1, Doonan Plaza II, Sedgwick County, Kansas. Generally located 1/2 mile west of Maize Road on north side Highway 54 (11118 West Highway 54).

Subject to the following conditions:

1. Prior to increasing the size of the sign, the applicant shall obtain a sign permit and shall comply with all sign code requirements, unless a variance is granted by the Board, except that the size of the sign may be up to 300 square feet.

2. This sign may be illuminated but shall not have flashing or moving lights or any parts which move or create the illusion of movement.

3. The sign shall be installed within one year or the resolution granting this variance shall become null and void.

4. The only sign approved to 300 square feet in height shall be a sign with the Peterbilt logo as designated in the Exhibit attached to the Secretary's Report.

ADOPTED AT WICHITA, KANSAS, this 24th day of October 1995.

Keith A. Alter, President

ATTEST:

Louise Olivarez, Secretary

BZA RESOLUTION NO. 17-95A

WHEREAS, Doonan Truck and Equipment Inc. pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to increase height of a pole sign from 25 feet to 40 feet on property zoned "E" Light Industrial and legally described as follows:

> Lot 1, Block 1, Doonan Plaza II Sedgwick County, Kansas. Generally located 1/2 mile west of Maize Road on north side of Highway 54 (11118 West Highway 54).

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 October 24, 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 had the existing signage before the property was annexed into the City of Wichita, which makes the signs nonconforming; and

WHEREAS, the Board of Zoning Appeals has found that the requested variance to a 40-foot tall sign would adversely affect the rights of adjacent property owners or residents; inasmuch as a 40-foot tall sign would not improve the visual quality of the business area, but the Board of Zoning Appeals has found that the granting of a variance to a 30-foot tall sign would not adversely affect the rights of adjacent property owners or residents inasmuch as the request sign would be more attractive than the sign that is being replaced and would improve the visual quality of the business area: and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the sign code of which variance is requested may constitute unnecessary hardship upon the property owner represented in the application inasmuch as, without a taller sign, large truck traffic would not be able to identify the business in time to slow down and turn into the site; and

WHEREAS, the Board of Zoning Appeals has found that the requested variance to a 40-foot tall sign would adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, inasmuch as a 40-foot tall sign would impact the visual quality of the area and would be in excess of the height needed to provide adequate visibility, but the Board of Zoning Appeals has found that the granting of a variance to a 30-foot tall sign would not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare due to the fact that the site contains an existing sign taller than 30 feet and other signs in the area are also at this height or greater; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance to a 40-foot tall sign as requested would be opposed to the general spirit and intent of the sign ordinance inasmuch as a 40-foot sign would be excessive signage for this situation, but the Board of Zoning Appeals has found that the granting of a variance to a 30-foot tall sign would not be opposed to the general spirit and intent of the sign code inasmuch as a 30-foot tall sign would not be excessive and would harmonize with the surrounding uses and signs and, in fact, the height of the letters on this sign would be at approximately 25 feet; 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 cannot be found to exist for a 40-foot tall pole sign, but can be found to exist for a 30-foot tall pole sign.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to increase the height of a pole sign from 25 feet to 40 feet on property zoned the "E" Light Industrial District and legally described as follows:

> Lot 1, Block 1, Doonan Plaza II, Sedgwick County, Kansas. Generally located 1/2 mile west of Maize Road on north side Highway 54 (11118 West Highway 54).

be denied, but that a variance to increase the height of a pole sign from 25 feet to 30 feet on this same property be approved, subject to the following conditions:

1. Prior to increasing the height of the sign, the applicant shall obtain a sign permit and shall comply with all sign code requirements, unless a variance is granted by the Board, except that the height of the sign may be up to 30 feet.

2. This sign may be illuminated but shall not have flashing or moving lights or any parts which move or create the illusion of movement.

3. The sign shall be installed within one year or the resolution granting this variance shall become null and void.

4. The only sign approved to 30 feet in height shall be a sign with the Peterbilt logo as designated in the Exhibit attached to the Secretary's Report.

ADOPTED AT WICHITA, KANSAS, this 24th day of October 1995.

Keith A. Alter, President

ATTEST:

Louise Olivarez, Secretary

BZA RESOLUTION NO. 17-95B

WHEREAS, Doonan Truck and Equipment Inc. pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to increase the size of a sign from 120 square feet to 300 square feet on property zoned "E" Light Industrial and legally described as follows:

> Lot 1, Block 1, Doonan Plaza II Sedgwick County, Kansas. Generally located 1/2 mile west of Maize Road on north side of Highway 54 (11118 West Highway 54).

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 October 24, 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 had the existing signage before the property was annexed into the City of Wichita, which makes the signs nonconforming; 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 requested sign would be more attractive than the sign that is being replaced and would improve the visual quality of the business area; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the sign code of which variance is requested may constitute unnecessary hardship upon the property owner represented in the application inasmuch as, without a larger sign, large truck traffic would not be able to identify the business in time to slow down and turn onto the site; and

WHEREAS, the Board of Zoning Appeals has found that the variance desired will not adversely affect public health, safety, morals, order, convenience, prosperity or general welfare, but is in the public interest in terms of traffic safety by allowing big truck operators better clearance to identify the place of business they are seeking; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance will not be opposed to the general spirit and intent of the sign ordinance inasmuch as the lettering of the standardized factory logo on the sign covers only a small percentage of the total sign area. Therefore the sign has to be larger in total area so that the letters will be of sufficient size so it may be viewed and understood by truck traffic which is the purpose of site signage; 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 have been found to exist.

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 sign from 120 square feet to 300 square feet on property zoned the "E" Light Industrial District and legally described as follows: