

6. This variance authorizing a larger sign may be declared null and void upon a finding by the Board that the applicant has failed to comply with any of the foregoing conditions of approval.

BOARD OF ZONING APPEALS
WICHITA, KANSAS

AGENDA ITEM NO. 4
November 28, 1995

SECRETARY'S REPORT

CASE NUMBER: BZA 20-95

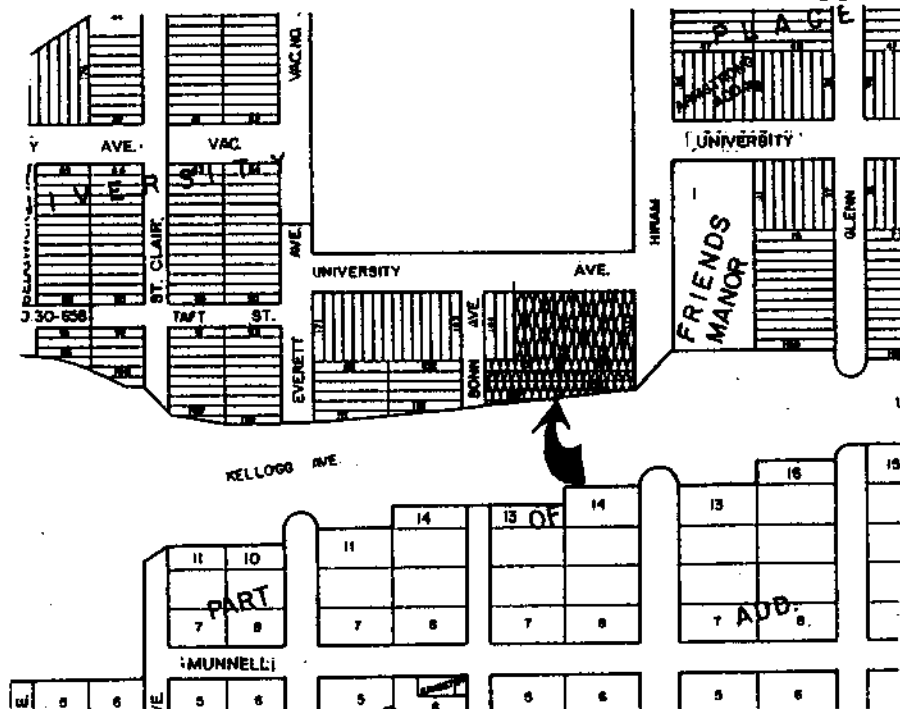
OWNER/APPLICANT: Friends University
AGENT: Gisele McMinimy

REQUEST: Variance 1. Increase the height of a pole sign from 20 feet to 35 feet.
2. Increase size of a sign from 48 square feet to 184 square feet.

CURRENT ZONING: "B" Multiple-Family Dwelling.

SITE SIZE: 2.0 acres

LOCATION: Northeast corner of Bonn and Kellogg Drive.



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, Friends University, is operating an educational institution in an area generally bounded by Highway 54 (Kellogg) on the south, Maple on the north, Glenn on the east and Meridian on the west. Kellogg Drive is located adjacent to Kellogg and provides for east/west circulation along the south portion of the campus. The northeast corner of Bonn and Kellogg Drive is the location of the proposed 35-foot tall 184-square-foot sign. The underlying zoning of the site is "B" Multi-Family and the sign code restricts signs for institutional uses within this zoning category to a maximum sign area of 48 square feet at a height not to exceed 20 feet if they are located along designated collector, arterial or expressway streets. Therefore, the applicant is requesting both a height and size variance for the proposed sign, which would be classified as a bulletin board sign.

There is an existing Friends University sign located on the northeast corner of Meridian and Kellogg Drive. This sign is oriented toward Meridian traffic and is 30 feet in height and 160 square feet in size. Early OCI records indicate that the sign was installed in 1958 before the current sign code was adopted and when the site was being used by the YMCA.

The applicant has indicated that an additional taller and larger new sign located along Kellogg Drive is needed to identify Friends University and to display messages, which will be oriented toward the cultural, educational and entertainment opportunities which Friends University provides to the community. The requested sign would contain an electronic changeable message component which would also display the time and temperature. The sign code, per 24.04.220(q) has a prohibition of "moving signs" located in residential districts. Therefore, the frequency of message changes will have to be controlled if a sign of this type is permitted on the applicant's site. It is the opinion of staff that a sign provided for in the sign code of 20 feet in height and 48 square feet in size would be adequate to alert the community as to the activities being provided by Friends University.

ADJACENT ZONING AND LAND USE:

NORTH:	-	"B"	Educational Institution (Friends University)
SOUTH	-	"RB" & Kellogg	US Highway 54 & Residential
EAST	-	"B"	Multi-Family Complex (Student Housing)
WEST	-	"B"	Educational Institution (Casado Campus Center)

Request No. 1 Variance to increase height of a pole sign from 20 feet to 35 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 20-foot tall sign.

ADJACENT PROPERTY: It is the opinion of the staff that the granting of the variance requested may adversely affect non-university related residential property owners in the vicinity inasmuch as this requested sign height is 75% higher than permitted by code and makes this lighted sign substantially more visible than it would be at the 20-foot height.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the sign 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 to alert them as to events occurring on the Friends University Campus.

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 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 installing the proposed 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 35 feet.
2. This requested bulletin board sign shall be the only bulletin board sign permitted along the Kellogg/Kellogg Drive frontage of the Friends University property. The existing non-conforming bulletin board sign at Kellogg and Meridian may remain

under the non-conforming sign provisions but, if altered in the future, shall come into compliance with the sign code.

3. This sign may be illuminated but shall not have flashing or moving lights or any parts which move or create the illusion of movement. The time and temperature display shall be constant, not flashing on and off, with the minute designation changing only every 60 seconds and the temperature changing only as the actual temperature fluctuates. The other changeable message portion of the sign shall be changed no more than four times within a twenty-four-hour period.
4. The sign shall be constructed substantially in compliance with the elevation drawing and site plan location drawing as submitted with this application.
5. The sign shall be installed within one year or the resolution granting this variance shall become null and void.
6. This variance authorizing a taller sign may be declared null and void upon a finding by the Board that the applicant has failed to comply with any of the foregoing conditions of approval.

REQUEST NO. 2: Variance to increase the size of a pole sign from 48 square feet to 184 square feet.

UNIQUENESS: It is the opinion of staff that this property is not unique inasmuch as there are no visual barriers along this stretch of highway which would necessitate a larger sign in order to overcome the barrier, and the speed of traffic at this location is no different than at most other locations on west Kellogg.

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 383% of the size permitted by code and would far exceed the amount of signage permitted for adjacent properties which are located in a similar zoning category. Also, a 184-square-foot lighted sign would be substantially more visible from, and incompatible with, nearby residential properties than a 48-square-foot lighted sign.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the sign 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 to alert them as to events occurring on the Friends University campus.

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, without justification based on uniqueness or hardship 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 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 installing the proposed 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 184 square feet.
2. This requested bulletin board sign shall be the only bulletin board sign permitted along the Kellogg/Kellogg Drive frontage of the Friends University property. The existing non-conforming bulletin board sign at Kellogg and Meridian may remain under the non-conforming sign provisions but, if altered in the future, shall come into compliance with the sign code.
3. This sign may be illuminated but shall not have flashing or moving lights or any parts which move or create the illusion of movement. The time and temperature display shall be constant, not flashing on and off, with the minute designation changing only every 60 seconds and the temperature changing only as the actual temperature fluctuates. The other changeable message portion of the sign shall be changed no more than four times within a twenty-four- hour period.
4. The sign shall be constructed substantially in compliance + + 0 with the elevation drawing and site plan location drawing as submitted with this application.
5. The sign shall be installed within one year or the resolution granting this variance shall become null and void.

Ms. Gisele McMinimy

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December 4, 1995

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



METROPOLITAN AREA PLANNING
DEPARTMENT

CITY HALL — TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202-1688
(316) 268-4421
FAX (316) 268-4390

December 4, 1995

Ms. Gisele McMinimy
Friends University
2100 University
Wichita KS 67213

**RE: BZA 17-95 - A.) Variance to increase height of pole sign from 20 feet to 35 feet
and
B.) Variance to increase size of sign from 48 square feet to 184
square feet.**

Dear Ms. McMinimy:

Enclosed are signed copies of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on November 28, 1995. The resolutions reflect the official action of the Board to approve your request to increase the size of the sign from 48 square feet to 184 -square feet and to deny your request in to increase the height of the sign from 20 feet to 35 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 268-4421.

Sincerely yours,

Lawrence P. Mitchell
Assistant Secretary
Board of Zoning Appeals

Enclosure
LPM/le

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.

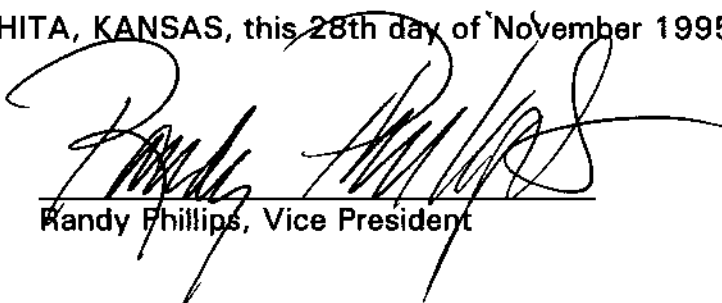
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request be approved for a variance to increase the size of a pole sign from 48 square feet to 184 square feet on property zoned "B" Multiple-Family Dwelling District and legally described as follows:

All of Lots 101, 103, and 105, together with part of Lots 107 and 109, except that portion taken for street right-of-way, on Bonn Street; and all of Lot 102, together with part of Lots 104, 106, and 108, except that portion taken for street right-of-way, on Hiram Avenue; and all of Lots 113, 115, 117, 119, 121, 123, 125, 127, 129, 131, 133, and 135 on Shirley Avenue, now University Avenue; all in University Place Addition, Wichita, Sedgwick County, Kansas. Generally located at the northeast corner of Bonn and Kellogg Drive.

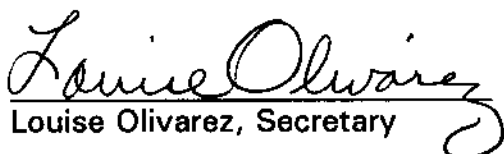
subject to the following conditions:

1. Prior to installing the proposed sign, the applicant shall obtain a sign permit and shall comply with all sign code requirement, unless a variance is granted by the Board, except that the size of the sign may be up to 184 square feet.
2. This requested bulletin board sign shall be the only bulletin board sign permitted along the Kellogg/Kellogg Drive frontage of the Friends University property. The existing non-conforming bulletin board sign at Kellogg and Meridian shall be removed concurrent with installation of the new sign.
3. This sign may be illuminated but shall not have flashing or moving lights or any parts which move or create the illusion of movement. The time and temperature display shall be constant, not flashing on and off, with the minute designation changing only every 60 seconds and the temperature changing only as the actual temperature fluctuates. The other changeable message portion of the sign shall be changed no more than four times within a twenty-four hour period.
4. The sign shall be constructed substantially in compliance with the elevation drawing and site plan location drawing as submitted with this application.
5. The sign shall be installed within one year or the resolution granting this variance shall become null and void.
6. This variance authorizing a larger sign may be declared null and void upon a finding by the Board that the applicant has failed to comply with any of the foregoing conditions of approval.

ADOPTED AT WICHITA, KANSAS, this 28th day of November 1995.


Randy Phillips, Vice President

ATTEST:


Louise Olivarez, Secretary

BZA RESOLUTION NO. 20-95A

WHEREAS, Friends University pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to increase the height of a pole sign from 20 feet to 35 feet on property zoned "B" Multiple-Family Dwelling and legally described as follows:

All of Lots 101, 103, and 105, together with part of Lots 107 and 109, except that portion taken for street right-of-way, on Bonn Street; and all of Lot 102, together with part of Lots 104, 106, and 108, except that portion taken for street right-of-way, on Hiram Avenue; and all of Lots 113, 115, 117, 119, 121, 123, 125, 127, 129, 131, 133, and 135 on Shirley Avenue, now University Avenue; all in University Place Addition, Wichita, Sedgwick County, Kansas. Generally located at the northeast corner of Bonn and Kellogg Drive.

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 November 28, 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 part of a 40-acre university campus which has existed in this general area since the late 1800's and the property is located adjacent to an expressway; and

WHEREAS, the Board of Zoning Appeals has found that the requested variance to a 35-foot tall sign would adversely affect the rights of adjacent property owners or residents inasmuch as a 35-foot tall sign would not improve the visual quality of the 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 applicant owns virtually all of the surrounding property and there will be adequate separation between the location of the sign and other property owners in the 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 than provided for by the sign code, the university would not be able to adequately inform the community about the opportunities the university provides; and

WHEREAS, the Board of Zoning Appeals has found that the requested variance to a 35-foot tall sign would adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, inasmuch as a 35-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 but is in the public interest in terms of informing the public as to what opportunities are available on the university campus; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance to a 35-foot tall sign as requested would be opposed to the general spirit and intent

of the sign ordinance inasmuch as a 35-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 an existing, 37-year-old, 160 square-foot nonconforming sign which is located west of the proposed sign along the expressway frontage will be removed when the new sign is installed. Therefore, signage along the expressway frontage will be more attractive and functional; 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 35-foot pole sign, but can be found to exist for a 30-foot tall pole sign.

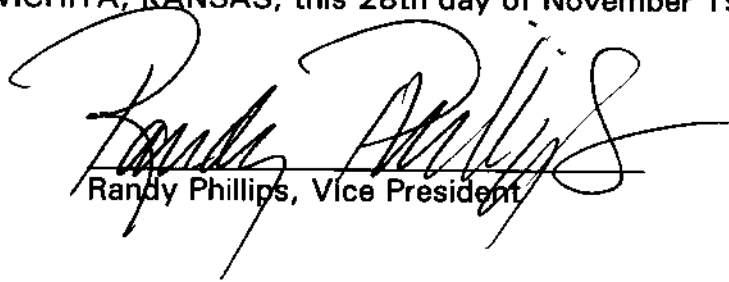
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to increase the height of a pole sign from 20 feet to 30 feet be approved on property zoned "B" Multiple-Family Dwelling District and legally described as follows:

All of Lots 101, 103, and 105, together with part of Lots 107 and 109, except that portion taken for street right-of-way, on Bonn Street; and all of Lot 102, together with part of Lots 104, 106, and 108, except that portion taken for street right-of-way, on Hiram Avenue; and all of Lots 113, 115, 117, 119, 121, 123, 125, 127, 129, 131, 133, and 135 on Shirley Avenue, now University Avenue; all in University Place Addition, Wichita, Sedgwick County, Kansas. Generally located at the northeast corner of Bonn and Kellogg Drive.

subject to the following conditions:

1. Prior to installing the proposed 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 requested bulletin board sign shall be the only bulletin board sign permitted along the Kellogg/Kellogg Drive frontage of the Friends University property. The existing non-conforming bulletin board sign at Kellogg and Meridian shall be removed concurrent with installation of the new sign.
3. This sign may be illuminated but shall not have flashing or moving lights or any parts which move or create the illusion of movement. The time and temperature display shall be constant, not flashing on and off, with the minute designation changing only every 60 seconds and the temperature changing only as the actual temperature fluctuates. The other changeable message portion of the sign shall be changed no more than four times within a twenty-four hour period.
4. The sign shall be constructed substantially in compliance with the elevation drawing and site plan location drawing as submitted with this application.
5. The sign shall be installed within one year or the resolution granting this variance shall become null and void.
6. This variance authorizing a taller sign may be declared null and void upon a finding by the Board that the applicant has failed to comply with any of the foregoing conditions of approval.

ADOPTED AT WICHITA, KANSAS, this 28th day of November 1995.



Randy Phillips, Vice President

ATTEST:



Louise Olivarez, Secretary

BZA RESOLUTION NO. 20-95B

WHEREAS, Friends University pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to increase the size of a pole sign from 48 square feet to 184 square feet on property zoned "B" Multiple-Family Dwelling District and legally described as follows:

All of Lots 101, 103, and 105, together with part of Lots 107 and 109, except that portion taken for street right-of-way, on Bonn Street; and all of Lot 102, together with part of Lots 104, 106, and 108, except that portion taken for street right-of-way, on Hiram Avenue; and all of Lots 113, 115, 117, 119, 121, 123, 125, 127, 129, 131, 133, and 135 on Shirley Avenue, now University Avenue; all in University Place Addition, Wichita, Sedgwick County, Kansas. Generally located at the northeast corner of Bonn and Kellogg Drive.

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 November 28, 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 part of a 40-acre university campus which has existed in this general area since the late 1800's and the property is located adjacent to an expressway; 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 applicant owns virtually all of the surrounding property and there will be adequate separation between the location of the sign and other property owners in the area; 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 may constitute unnecessary hardship upon the property owner represented in the application inasmuch as without a larger sign than provided for by the sign code, the university would not be able to adequately inform the community about the opportunities the university provides; 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, but is in the public interest in terms of informing the public as to what opportunities are available on the university campus; 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 sign ordinance inasmuch as an existing, 37-year-old, 160 square-foot sign which is located west of the proposed sign along the expressway frontage will be removed when the new sign is installed. Therefore, signage along the expressway frontage will be more attractive and functional; and