



Wichita-Sedgwick County Metropolitan Area Planning Department

May 25, 2001

Boice, Raidl, Rhea
C/o Michael Semrick
6700 Antioch Plaza
Suite 300
Merriam, KS 66204

FILE COPY

RE: BZA2001-00002 – 1) Variance to allow building signs fronting onto a parking area with a depth of less than 150 feet; and 2) Variance to allow more than three building signs per building elevation on property zoned "LC" Limited Commercial. Generally located north of 21st Street North and west of Maize Road.

Dear Mr. Semrick:

Enclosed is a signed copy of the above-referenced BZA Resolution approved by the Board of Zoning Appeals on May 22, 2001, 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.

If you have any questions concerning this matter, please call our office at 268-4421.

Sincerely,

Scott Knebel, Assistant Secretary
Board of Zoning Appeals

SK/rs

cc: Wal-Mart Real Estate Bus. Trust, c/o Sam Walton Dev. Complex, 2001 SE 10th Street,
Bentonville AR 72712
City Council Member, District V, Bob Martz, Mail Stop 1-13
D.A.B. V, Dana L. Brown, Mail Stop 1-135
J. R. Cox, Office of Central Inspection, Mail Stop 1-72
Pat Longwell, OCI, Mail Stop 1-72
Sharon Dickgrafe, Law Department, Mail Stop 1-132

WHEREAS, Wal-Mart Realty Inc. (applicant/owner); Boice-Raidl-Rhea Architects c/o Michael Semrick pursuant to Section 2.12.590.B, Code of the City of Wichita, requests 1.) Variance to allow building signs fronting onto a parking area with a depth of less than 150 feet; and 2.) Variance to allow more than three building signs per building elevation on property zoned "LC" Limited Commercial and legally described as follows:

That part of Lot 1, Block 1, Newmarket Square, an Addition to Wichita, Sedgwick County, Kansas, described as beginning at the Northwest corner of Lot 9 in said Block 1; thence N 01 degrees 20' 39"E along the West Line of said Lot 9 as extended Northerly, 889.13 feet to the intersection with the North line of Lot 3 in said Block 1, as extended Westerly; thence S 88 degrees 37'11"E along said extended North line, 963.75 feet to the Northwest corner of said Lot 3; thence S 01 degrees 22'49"W, 400 feet to the Southwest corner of Lot 4 in said Block 1; thence S 88 degrees 37'11"E, 250 feet to the Southeast corner of said Lot 4; thence S 01 degrees 22'49"W, 60 feet to the Northeast corner of Lot 5 in Block 1; thence N 88 degrees 37'11"W, 250 feet to the Northwest corner of said Lot 5; thence S 01 degrees 22'49"W, 405.91 feet to the Southwest corner of Lot 6 in said Block 1; thence S 89 degrees 59'50"W, 333.91 feet to a corner of said Lot 1; thence S 90 degrees 00'00"W, 60.01 feet to the Northeast corner of Lot 7 in said Block 1; thence S 90 degrees 00'00"W, 569.55 feet to the point of beginning. Generally located north of 21st Street North and west of Maize Road.

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 May 22, 2001, 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. The project in question does display uniqueness to it, in that the building will be 208, 043 square feet and will actually house several different types of tenants. This is quite a bit larger than them ordinary retail store, or for that matter any of the surrounding "big box" retail businesses in the community. Also the amount of setback from the right-of-way is also either equal to or greater than most other establishments, which adds to the uniqueness.

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. In regards to adjacent property, it seems fitting to look back on the uniqueness of this project. The surrounding commercial areas probably do contain "direct competitors" of Wal-Mart but many of these businesses usually only offer one type of service, such as oil change, grocery, or pharmacy, in a much smaller scale building structure. Since Wal-Mart houses several types of services, under one roof, it is hard not to be a "direct competitor" with surrounding businesses. Should being a "direct competitor" be the basis on why we are limited in communicating

available services to the public through informational signage, especially since we have already reduced the overall total square feet of signage from one thousand two hundred forty-five down to nine hundred ninety-three square feet? (Note: this amount is comparable to what other establishments in the area could be allowed) In addition, there are only four very small, non-illuminated signs that face the residential area surrounding this property and become less visible due to screening. In summary it is hard to see where the granting of this variance can in any way negatively impact adjacent properties.

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. Due to the fact that every Wal-Mart Supercenter is not created exactly alike it is necessary to inform the public of what particular services are available at different locations. In not being able to display the informational signage pertaining to services offered at this location it potentially puts this store in a position to lose business to another facility that offers the same service and is allowed to communicate it. In summary the provisions of the zoning regulations may constitute an unnecessary hardship upon this location, in as much that surrounding establishments are proportionally allowed equivalent amounts of signage. However, due to the size of the building structure Wal-Mart may not be allowed the same advantages.

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. In view of public interest it should be pointed out that signage for this location could actually have been approved without a variance requesting an allowance for additional signs. However, in order to this we would have been forced to crowd signs together, which offered a cluttered and unsightly arrangement. Our request is based on the premise that we would be well within the amounts of square feet allowed for signage and only request a minimal increase in the number of signs allowed in order to present a package that is more conducive to what the city is trying to achieve.

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.

To quote the sign code section 24.04.020 – purpose – “That purpose of the sign regulations set forth in this chapter shall be to eliminate potential hazards to motorists and pedestrians; to encourage signs which, by their location and design, are harmonious to the buildings and sites which they occupy, and which eliminate excessive and confusing sign displays; to provide an opportunity to achieve a reasonable balance between the need of the sign and outdoor advertising industries while improving and preserving the visual qualities of the community; to protect public and private investment in buildings and open spaces; to provide for the administration of the regulations imposed and set forth herein; and to promote the public health, safety and general welfare.”

Due to the amount of setback from the right-of-way and the size of the building structure the overall magnitude of the signage is significantly reduced and since none of the proposed signs resemble traffic related signage, it is hard to associate any possible hazard with these signs. Again the sign package has been designed and laid out to give the best possible appearance aesthetically, to avoid an excessive and cluttered appearance, and present a more attractive structure to the community. A licensed contractor is used to secure all signage to the wall of the building in order to ensure the safety of the public in close proximity to the building. In summary, the sign package we are presenting is no way contradicts the spirit and intent of the ordinance set forth in section 24.04.020.

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.

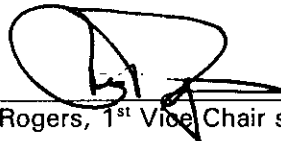
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request be approved for the variances to allow building signs fronting onto a parking area with a depth of less than 150 feet and to allow more than three building signs per building elevation on property zoned "LC" Limited Commercial and legally described as follows:

That part of Lot 1, Block 1, Newmarket Square, an Addition to Wichita, Sedgwick County, Kansas, described as beginning at the Northwest corner of Lot 9 in said Block 1; thence N 01 degrees 20' 39"E along the West Line of said Lot 9 as extended Northerly, 889.13 feet to the intersection with the North line of Lot 3 in said Block 1, as extended Westerly; thence S 88 degrees 37'11"E along said extended North line, 963.75 feet to the Northwest corner of said Lot 3; thence S 01 degrees 22'49"W, 400 feet to the Southwest corner of Lot 4 in said Block 1; thence S 88 degrees 37'11"E, 250 feet to the Southeast corner of said Lot 4; thence S 01 degrees 22'49"W, 60 feet to the Northeast corner of Lot 5 in Block 1; thence N 88 degrees 37'11"W, 250 feet to the Northwest corner of said Lot 5; thence S 01 degrees 22'49"W, 405.91 feet to the Southwest corner of Lot 6 in said Block 1; thence S 89 degrees 59'50"W, 333.91 feet to a corner of said Lot 1; thence S 90 degrees 00'00"W, 60.01 feet to the Northeast corner of Lot 7 in said Block 1; thence S 90 degrees 00'00"W, 569.55 feet to the point of beginning. Generally located north of 21st Street North and west of Maize Road.

RECOMMENDATION: The variances to allow building signs fronting onto a parking area with a depth of less than 150 feet and to allow more than three building signs per building elevation are GRANTED, subject to the following conditions:

1. The building signage for Wal-Mart shall be limited to and shall be placed in locations that are in substantial conformance with those shown on the attached elevation renderings.
2. The building signage shall be limited to a total of 1,519 square feet, and each individual sign shall be limited in size to those dimensions shown on the attached elevation renderings.
3. The applicant shall obtain all permits necessary to construct the building signage and the building signage shall be erected within one year of the issuance of the sign permit, unless such time period is extended by the BZA.
4. 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 22nd DAY of MAY, 2001.



John Rogers, 1st Vice Chair signing for Floyd Pitts, President

ATTEST:



Scott Knebel, BZA Secretary

SECRETARY'S REPORT

CASE NUMBER: BZA2001-00002

OWNER/APPLICANT: Wal-Mart Realty Inc.

AGENT: Boice-Raidl-Rhea Architects c/o Michael Semrick

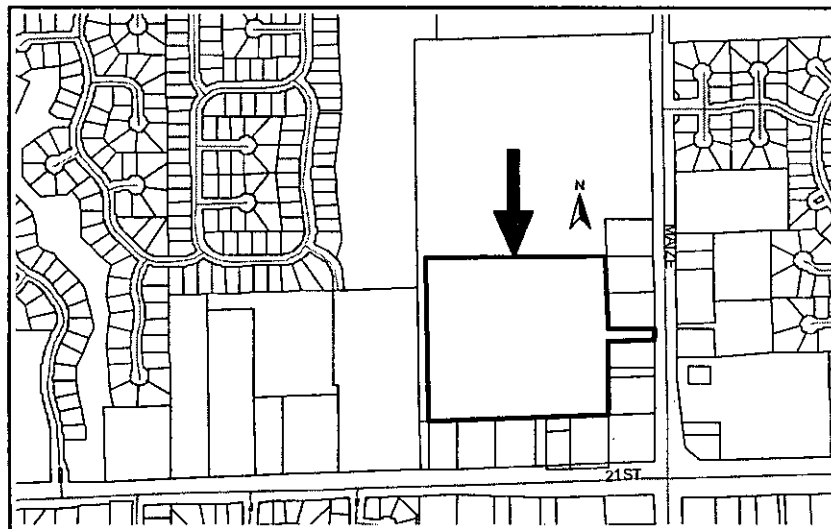
REQUEST:

1. Variance to allow building signs fronting onto a parking area with a depth of less than 150 feet; and
2. Variance to allow more than three building signs per building elevation.

CURRENT ZONING: "LC" Limited Commercial

SITE SIZE: 19.75 Acres

LOCATION: North of 21st Street North and west of Maize Road



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.

March 27, 2001

May 22, 2001

BACKGROUND: In the "LC" Limited Commercial zoning district, the Sign Code permits building signs provided that there shall be no more than three signs for each business on each building elevation having street frontage or fronting onto a parking area with a depth of 150 feet or more, and shall be limited in total area to twenty percent of each building elevation. The applicant indicates that the Wal-Mart Supercenter being constructed north of 21st Street North and west of Maize Road requires signage that effectively communicates the multiple services provided within the store. The applicant further indicates that the limitation of three signs per building elevation and the prohibition of signs on building elevations fronting parking areas with a depth of less than 150 feet limits the effective communication of the multiple services provided within the store (see attached letter). Therefore, the applicant is requesting two variances. One variance is to allow building signs fronting onto a parking area with a depth of less than 150 feet, and the second variance is to allow more than three building signs per building elevation.

The surrounding uses are primarily commercial with a church located west of the site and residential properties located southwest of the site. With the exception of four signs over automotive repair bays, the proposed signage would be visible only from the commercial areas at the intersection of 21st Street North and Maize Road.

ADJACENT ZONING AND LAND USE:

NORTH	"LC"	Developing retail center
SOUTH	"LC"	Vacant commercial out parcels
EAST	"LC"	Vacant commercial out parcels
WEST	"SF-6"	Church; single-family residences

The five criteria necessary for approval apply to both variances requested.

UNIQUENESS: It is the opinion of staff that this property is not unique, inasmuch as the property is proposed to be developed with a "big box" retail business, and there are dozens of "big box" retail businesses in Wichita that conform with existing sign regulations.

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 the property is adjacent to commercial areas containing direct competitors of Wal-Mart, and these direct competitors have conformed to existing sign regulations and could be at a competitive disadvantage if additional signage is allowed for Wal-Mart. Additionally, several of the signs requested would be visible from residential areas, which could lead to a negative visual impact on these properties.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning regulation will not constitute an unnecessary hardship upon the applicant, inasmuch as dozens of "big box" retailers in which have designed and installed signage

March 27, 2001

May 22, 2001

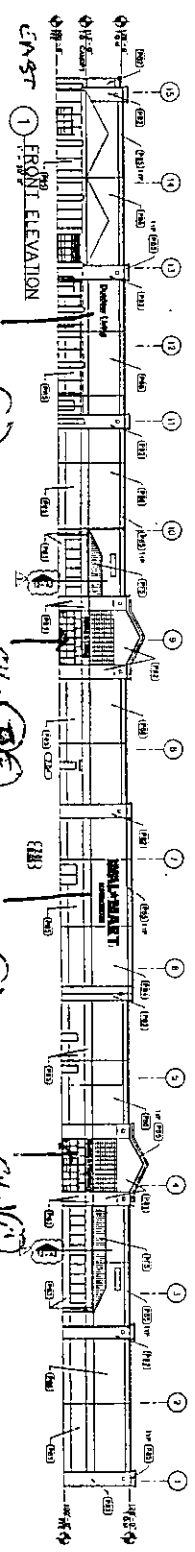
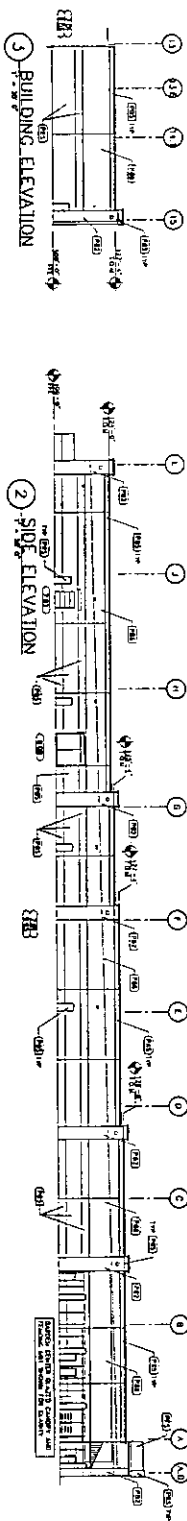
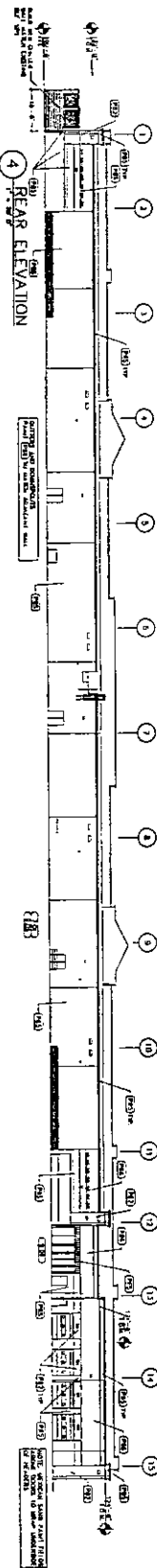
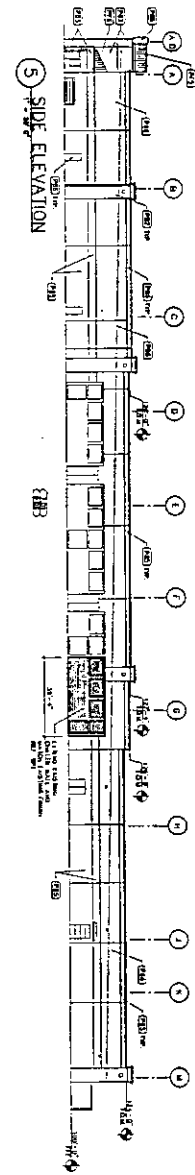
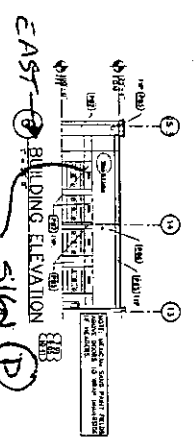
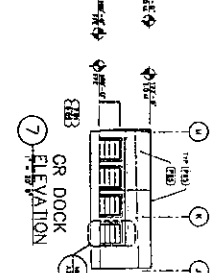
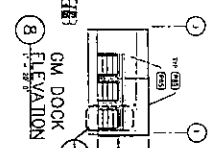
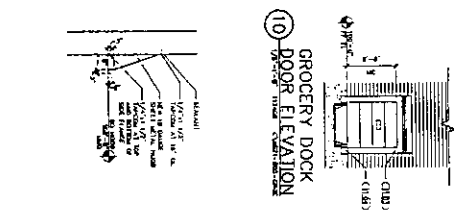
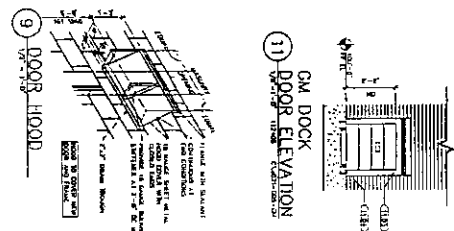
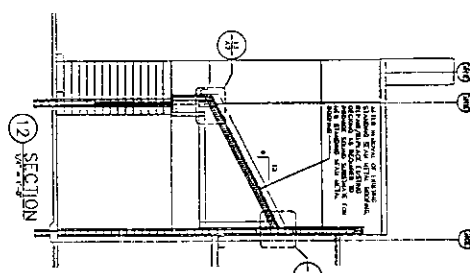
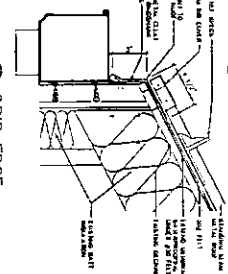
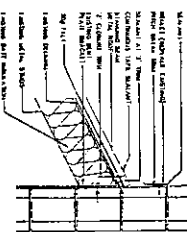
in conformance with existing sign regulations, and Wal-Mart can redesign its signage in a manner that conforms to the code.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would adversely affect the public interest, inasmuch as several of the signs are for slogans and trademarks, which in the opinion of staff are unnecessary for identification of the business and would lead to an unsightly, cluttered development.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would oppose the general spirit and intent of the Sign Code inasmuch as the sign regulations are designed for application in instances where "big box" retailers are located in the "LC" district. The intent of these regulations is to limit each business to three building signs per building elevation and to prohibit signs on building elevations fronting parking areas less than 150 feet deep.

RECOMMENDATION: It is staff's opinion that the conditions necessary for the granting of the variance do not exist; therefore, it is the recommendation of the Secretary that the variances to allow building signs fronting onto a parking area with a depth of less than 150 feet and to allow more than three building signs per building elevation be **DENIED**. If, however, the Board should determine that the conditions necessary to the granting of the variance exist, then it is the recommendation of the Secretary that the variances to allow building signs fronting onto a parking area with a depth of less than 150 feet and to allow more than three building signs per building elevation be subject to the following conditions:

1. The building signage shall be placed in locations that are in substantial conformance with those shown on the attachments submitted with this application.
2. The building signage shall be limited to a total of 1,245 square feet, and each individual sign shall be limited in size to those dimensions shown on the attachments submitted with this application.
3. The applicant shall obtain all permits necessary to construct the building signage and the building signage shall be erected within one year of the issuance of the sign permit, unless such time period is extended by the BZA.
4. 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.



THE VOICE

110150

EXTERIOR FINISH SCHEDULE

[illegible]

KLINGER & SMITH, A
ARCHITECTS
PO BOX 10016, KS
CITY: 66616-0016

[illegible]

WAL-MART
GENERAL REMODEL
WICHITA, KANSAS
STORE NO. 3283

[illegible]

EXTERIOR
ELEVATION

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