

BZA Case No. BZA 3-78 - DONREY
OUTDOOR, WICHITA, requests a
variance to permit off-site sign
on light commercial property
not located in a designated mile
constituted of at least 70% "res"

222

ACTION

BZA 3-78 COMMITTEE

Approved

DATE

4-25-78

~~5-28-78~~

M.A.P.C. _____

B.C.C./B. CO. C. _____

Revised
1-27-78
MAD
C.I.
5-8-78

22

BZA Case No. BZA 3-78 - DONREY
OUMPOOR, WICHITA, requests a
variance to permit off-site sign
on light commercial property
not located in a designated mile
constituted of at least 700 feet

Map No. 5747
 Sec. 23
 Twp. 27
 Range 1E

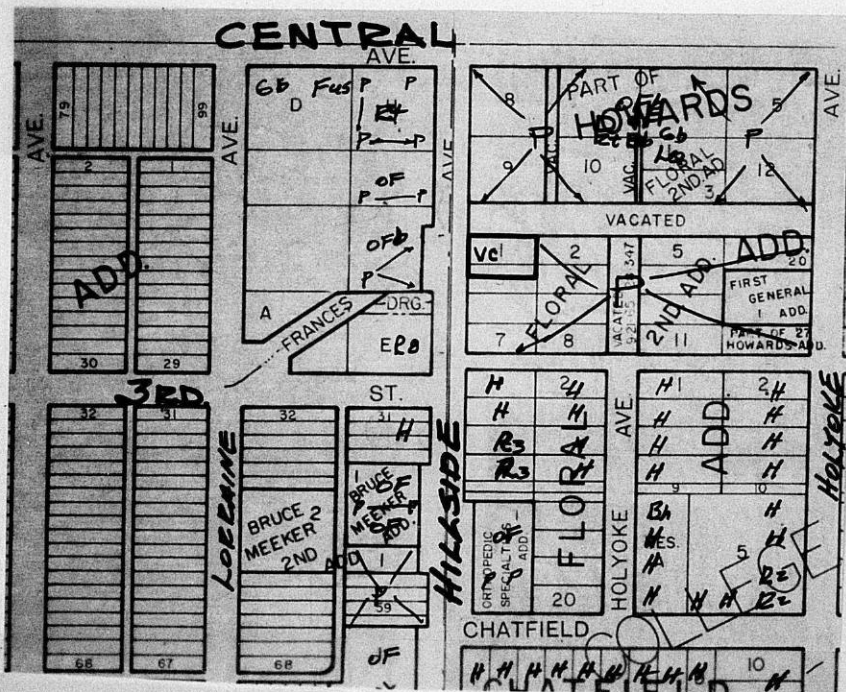
BZA- 3-78
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:

1. Acres: 0.22 (75 ft. by 130 ft.)
2. Adjoining Zoning: E _____ S _____ W _____ N _____
3. Land Use: East PARKING LOT South PARKING LOT
 West OFFICE North PARKING LOT
4. Sketch Plan Land Use is for: _____
5. Present Land Use if for: Vacant Commercial
6. Area (is) (is not) platted: _____

PHOTO DATA:

Taken by _____ Date _____ Time _____



SHIELD®
 No. 2-153C
 HASTINGS, MN - LOS ANGELES
 LOGAN, OH - MOBILE, TX - U.S.A.

SEND STAFF REPORT
 BZA 3-78
 TO → MARK L. YATES
 ATTORNEY AT LAW

SUITE 480
 R. H. GARVEY BLDG.
 200 WEST DOUGLAS
 WICHITA, KANSAS 67202
 (316) 264-9137
 RES. 362-3751

STINSON, WIDOM & LARSENWELL
 ATTORNEYS AT LAW

May 15, 1978

Jeannie Cantrell
Professional Management Services
One Twenty Building
120 S. Market
Wichita, Kansas 67202

Re: Case No. BZA 3-78

Dear Ms. Cantrell:

Pursuant to your request, I am enclosing a copy of the official resolution adopted by the Board of Zoning Appeals for the referenced case number.

Sincerely,

Larry Dobson
Assistant Secretary

LD:bh
Encl.

LEASING
BROKERAGE

REAL PROPERTY MANAGEMENT

Dobson

PROFESSIONAL MANAGEMENT SERVICES

May 9, 1978



Mr. Larry Dobson
Assistant Secretary
Board of Zoning Appeals
455 N. Main
Wichita, Kansas 67208

Re: Case No. BZA 3-78

Dear Mr. Dobson:

Reference is made to your April 27, 1978 letter to Mr. Vince L. Bogart in which you advise him of the action taken by the Board on the above case.

Please forward to our office a copy of the Resolution setting forth this action. Your cooperation is appreciated.

Very truly yours,

PROFESSIONAL MANAGEMENT SERVICES

Jeannie Cantrell

Jeannie Cantrell
Secretary

PHONE 316 265-3241

ONE TWENTY BUILDING / 120 SOUTH MARKET / WICHITA, KANSAS 67202

RESOLUTION NO. BZA 3-78

WHEREAS, Donrey Outdoor Wichita, 3405 North Hydraulic, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita to waive the provisions of Section 28.04.139 L 1, L 6 (b) and L 6 (d) of the Code of the City of Wichita, in order to permit an off-site sign to be located on property zoned the "LC" Light Commercial District, and legally described as follows:

Lot 1, and the North 1/2 of Lot 3, Floral 2nd Addition, Wichita, Sedgwick County, Kansas. Generally located on the east side of Hillside in an area south of Central (416 N. Hillside).

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 April 25, 1978, 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 owner or the applicant inasmuch as the applicants entered into a lease agreement with the property owner and then erected an off-site sign on the basis of a sign permit issued by the City; 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 an equitable time limitation is being placed upon the granting of the variance to assure that the use will be discontinued after that time; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of Title 28 (Zoning Ordinance) of which variance is requested, will constitute unnecessary hardship upon the property owner represented in the application inasmuch as commitments, agreements and expenditures were consummated on the basis of securing a sign permit from the appropriate City agency; 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 due to the fact that the sign sets far back from public right-of-way; 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 Title 28 (Zoning Ordinance) inasmuch as the above four conditions have been found to exist; 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.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to waive the provisions of Section 28.04.139 L 1, L 6 (b) and L 6 (d) of the Code of the City of Wichita in order to permit an off-site sign to be located on property zoned the "LC" Light Commercial District and legally described as:

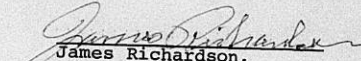
Lot 1, and the North 1/2 of Lot 3, Floral 2nd Addition, Wichita, Sedgwick County, Kansas. Generally located on the east side of Hillside in an area south of Central (416 N. Hillside),

be approved subject to the following condition:

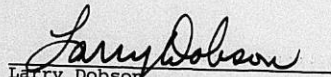
1. The variance shall apply only to this specific sign, meaning the advertising now displayed on the face of the

sign, and shall be limited to a time period extending through June 30, 1979, or at such time as the applicant abandons the location, whichever occurs first.

ADOPTED AT WICHITA, KANSAS, this 25th day of April, 1978.


James Richardson,
Chairman

ATTEST:


Larry Dobson,
Assistant Secretary

5-3-18

May 3, 1978

Mr. Vince L. Bogart
Attorney-at-Law
444 North Market
Wichita, Kansas 67202

Re: Case No. BZA 3-78
Request for Variance

Dear Mr. Bogart:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on April 25, 1978, in connection with your request for a variance to waive the provisions of Section 28.04.139 L 1, L6(b) and L 6(d) of the Code of the City of Wichita in order to permit an off-site sign to be located on property zoned the "LC" Light Commercial District, and generally located on the east side of Hillside in an area south of Central (416 North Hillside).

This Resolution reflects the official action of the Board to grant your request and sets out the condition of approval. It is forwarded to you for your information and files.

If you have any questions regarding this matter, please call our office.

Very truly yours,

Larry Dobson
Assistant Secretary

LD:hh

cc: Donrey Outdoor Wichita, 3405 N. Hydraulic, 67219
Don Gisick, City Clerk
Robert Feldner, Supt., Central Inspection
Joe Donnelly, Housing and Zoning Administrator

April 27, 1978

Mr. Vince L. Bogart
Attorney-at-Law
444 North Market
Wichita, Kansas 67202

Re: Case No. BZA 3-78
Request for Variance

Dear Mr. Bogart:

At the regular meeting of the Board of Zoning Appeals on Tuesday, April 25, 1978, your request for a variance to waive the provisions of Section 28.04.139 L 1, L 6(b) and L 6(d) of the Code of the City of Wichita in order to permit an off-site sign to be located on property zoned the "LC" Light Commercial District, and generally located on the east side of Hillside in an area south of Central (416 North Hillside) was considered.

It was the action of the Board to approve this request subject to the following condition:

1. The variance shall apply only to this specific sign, meaning the advertising now displayed on the face of the sign, and shall be limited to a time period extending through June 30, 1979, or at such time as the applicant abandons the location, whichever occurs first.

In response to your comments at the meeting concerning a zoning map used by your clients to determine the zoning of subject property, it should be understood that the map they are using is not an official zoning map and cannot reliably be used for verification of zoning.

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy as soon as the signatures of the Chairman and Secretary have been obtained.

If you have any questions, please call our office.

Very truly yours,

Larry Dobson
Assistant Secretary

LD:bh

Vince L. Bogart - Attorney-at-Law
April 27, 1978 - Page 2

cc: Donrey Outdoor Wichita, 3405 N. Hydraulic, 67219
Fred Linde, City Grievance Officer
Mark Yates, Attorney-at-Law, Stinson, Wisdom, Lasswell, R. H.
Garvey Building, 67202
Don Gisick, City Clerk
Robert Feldner, Supt., Central Inspection
Joe Donnelly, Housing and Zoning Administrator

Dobson

THE CITY OF WICHITA
OFFICE OF CITIZEN PARTICIPATION

DATE February 24, 1978

TO Larry Dobson, Junior Planner, Current Plans, MAPD

FROM Dennis Bishop, CPO Administrative Aide

SUBJECT BZA 3-78 (East Side of Hillside in
an Area South of Central)

On February 20, 1978, CPO Council "G" considered the captioned case.

The Council voted unanimously to recommend approval of the requested zoning variance.

Please forward this information to the Board of Zoning Appeals when this case is considered.

Dennis L. Bishop
Dennis Bishop
CPO Administrative Aide

DB:rh

NOTED

David L. Furnas
David Furnas
CPO Coordinator



Robson

LEASE AGREEMENT

S.S. or F.I.D. No. 511-65-1765

DONREY OUTDOOR ADVERTISING COMPANY
3405 N. HYDRAULIC—WICHITA, KANSAS 67219

Lease No. 588

The undersigned, hereinafter called Lessor, hereby leases to DONREY OUTDOOR ADVERTISING COMPANY, hereinafter called the Lessee, the following described real property situated in Wichita City

Sedgwick County, State of Kansas

Floral 2nd Addition, Lot 1 and North one-half of Lot 3. 1 - 50 ft. outdoor advertising structure located on the east end of lot along the canal bank on the south side.

For the purpose of constructing and maintaining advertising displays and devices, including all necessary equipment, for a term of one (1) years from the date of first occupancy of said property. The Lessee agrees to pay Lessor as rental for this lease the sum of \$ 300.00, payable annually, in advance, from the date ~~(begin)~~ July 1, 1977 (of first occupancy of said property).

The Lessor hereby acknowledges receipt of the sum of \$ _____ from the Lessee as and for partial payment of the first annual rent hereunder.

SPECIAL PROVISIONS: This lease subject to issuance of City sign permit. Donrey has permission to trim or remove trees in area of sign site for construction and vision. Should it prove feasible, Donrey reserves the right to add a South face to the structure with appropriate compensation.

All advertising displays, devices and equipment placed upon said property by Lessee shall be and remain the property of Lessee and may be removed by Lessee at the expiration or other termination of this lease.

In the event Lessor contracts for the sale of said property, or the construction thereon of permanent improvements, the Lessor may, if necessary to consummate such sale or make such improvements, terminate this lease by giving 60 days written notice to Lessee. Provided, however, and notwithstanding such notice, Lessee shall have the right to occupy the property until consummation of the sale or the commencement of improvements and all prepaid rental, prorated as of the date Lessee will cease to occupy the property, shall have been refunded to Lessee. The provisions of this paragraph do not apply to any sale of the property in connection with the exercise of the right of eminent domain or condemnation by any public, private or governmental entity.

In the event the advertising value of the property is destroyed or diminished by (a) the enactment or enforcement of any law, statute, ordinance, rule, regulation or building restriction which prevents or interferes with the erection or maintenance of Lessee's displays or devices, (b) if, in the opinion of the Lessee, the view to said property becomes entirely or partially obstructed for any reason, (c) changes in streets or highways or any diversion of traffic, or (d) any event or occurrence which adversely affects the advertising and commercial value of the property to the Lessee, Lessee may terminate this lease upon 30 days written notice to the Lessor, in which event, Lessor agrees to refund to the Lessee all unexpired prepaid rentals.

The Lessor agrees not to obstruct the view of Lessee's advertising structures in any manner, or to do or permit any act upon property owned by Lessor which will adversely affect Lessee's access to, or the use and enjoyment of, the leased premises.

At the expiration of the term herein provided, this lease shall be automatically renewed for a further period of five years, unless the Lessee notifies the Lessor of its intention not to renew 30 days prior to the expiration of the initial term. At the expiration of the initial term, or the renewal thereof, this agreement will continue in force for successive periods of one year unless terminated by either Lessor or Lessee by the giving of written notice to the other, not less than 30 days before the last day of the lease term then in effect.

Lessee shall hold harmless the Lessor from all damages to persons or property resulting from the negligence or willful acts of its agents, servants, and employees in the construction, maintenance, repair or removal of Lessee's property.

The Lessor warrants and represents that he is the (Owner), (Tenant), (Agent) of the leased premises and has full power and authority to make and execute this lease.

Upon approval by an officer of DONREY OUTDOOR ADVERTISING COMPANY, this lease shall be binding upon the parties hereto and their respective heirs, personal representatives, successors, trustees, or assigns.

Harriet Francisco
Leaseman

Lessor *Reese Denniston*

APPROVED:
DONREY OUTDOOR ADVERTISING COMPANY
By *J. L. Daniel*
Vice-President

Reese Denniston

5-23-77
Date

536 S. Glendale

Wichita, Kansas 67218
City State Zip

EXHIBIT "A"

Permit No: **S 4505**

Permanent Sign No. **5192**

SIGN PERMIT

PERMISSION IS HEREBY GRANTED TO ERECT/CONTINUE A SIGN ON **06/14/77**

THIS PERMIT TO BE RENEWED **6/14/82**

Sign is: NEW EXISTING RENEWED NON-CONFORMING

LOCATION:

Street No. **416** Dir **N** Street Name **HILLSIDE** St Typ Dir Zip Code **67214**

Name of Company **VACANT BLDG.** LEASED CERTIFIED IN COMPLIANCE

Owner Name Street No. Dir

Street Name St Typ Dir Zip Code

Sign Hanger **DONKEY OUTD**

PAID
JUN 14 1977
 TEL. 92
 CITY OF WICHITA

Sign shall be in conformance with Title XXIV of the Code of the City of Wichita, listed below, and with all applicable City ordinances:

TYPE OF SIGN: (Check One)

Wall Projecting Ground Roof Billboard Ground Billboard Illuminated

Area **1110** Fee **\$ 130.00** Date **06/14/77**

SIGNATURE 

VOID UNLESS VALIDATED BY CASHIER

KA-003 Revised 3/1/75

EXHIBIT "C"

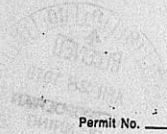
DEPARTMENT OF PUBLIC WORKS - CENTRAL INSPECTION DIVISION
 7TH FLOOR - 455 NORTH MAIN - PHONE 268-4475 No A17403

To DUNREY Sign Co
 Address 3405 N. Hydraulic NW 12-1, 1927
 You are hereby notified that the 12x50 BILLBOARD
 located at 416 N. Hillside is in violation of
 City Ordinance No. 23588 Code Chapt. 28.04.140 6-6-C and you are
 hereby ordered to Remove BILLBOARD and SIGNS
from the above location

This Notice Must Be Complied With On _____
 or Before 1-2, 1928 Supt. Central Inspection
 By [Signature]
 INSPECTOR D. FLOWERS

FORM KA-217 Refusing or neglecting to comply with this notice will be followed by prosecution.

EXHIBIT "D"



Permit No. 4505 Permanent Sign No. 5192

CITY OF WICHITA—CENTRAL INSPECTION DIVISION
APPLICATION FOR PERMANENT SIGN PERMIT

Address 416 N. Hillside Zip 14 Known as Vacant Bldg.

190'

Owner Reese Demiston Owner Address 536 S. Oledale Zip 67218

TYPE	LENGTH	WIDTH	NO. FACES	TOTAL AREA	MATERIAL	ILLUMINATED	NOTATIONS
Wall							
Projecting							
Ground							
Roof Billboard							
Ground Billboard	<u>50'</u>	<u>12'</u>	<u>1</u>	<u>600 sq</u>	<u>METAL</u>	<u>YES</u>	
ADDITIONAL AREAS	<u>2</u>						
	<u>3</u>						

LEASED NON-CONFORMING

I hereby certify that I have read and examined this application and know the same to be true and correct. All provisions of laws and ordinances governing this type of work will be complied with whether specified herein or not. The granting of a permit does not presume to give authority to violate or cancel the provisions of any other federal, state, or local law regulating construction or the performance of construction.

Sign Hanger Donkey Company Donkey Outdoor Advertising

APPROVED BY [Signature] Date 5-23-77

EXHIBIT "B"





EAST TOWARD MEDICAL TOWERS
BUILDING & SIGN



SOUTHEAST AT SIGN &
PARKING LOT



SOUTHEAST AT SIGN &
OWNER'S BUILDING



SOUTH TO OWNER'S BUILDING &
ALONG HILLSIDE

SECRETARY'S REPORT
CASE NO. BZA 3-78

APPLICANT: Donrey Outdoor Wichita, 3405 North Hydraulic, Wichita, Kansas.

AGENT: Vince L. Bogart, 444 N. Market, Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita to waive the provisions of Section 28.04.139 L 1, L 6(b) and L 6(d) of the Code of the City of Wichita in order to permit an off-site sign to be located on property zoned the "LC" Light Commercial District.

GENERAL LOCATION: East side of Hillside in an area south of Central (416 N. Hillside).

ZONING: Subject property is zoned the "LC" Light Commercial District and the "BB" Office District. Property to the north is "LC". West is the "B" Multiple Family Dwelling District. South and east are zoned the "BB" Office District.

LAND USE: Subject property contains a vacant commercial building and an off-site sign. Properties to the south, east, and north are all developed as parking lots. West is a doctor's office building.

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 of the following conditions are found to exist:

1. That the variance requested 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 owner or the applicant.
2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
3. That the strict application of the provisions of Title 28 of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and

SECRETARY'S REPORT

Case No. BZA 3-78

Page 2

5. That the granting of the variance desired will not be opposed to the general spirit and intent of Title 28 (zoning ordinance).

COMMENTS BY THE SECRETARY:

The applicant is requesting a waiver or variance from three of the limiting conditions which permit off-site signs to be located on property zoned "LC" Light Commercial.

An off-site sign is by definition "a sign delivering a message or advertisement other than by name, occupation or nature of the activities conducted on the premises or the products sold or manufactured thereon, and shall include all poster panel signs." Section 28.04.139 L1 and L6 provide that off-site signs shall be permitted in the "LC" Light Commercial district subject to specific requirements.

The applicant is requesting a variance from the following three requirements of the City Code pertaining to off-site signs in "LC" zoning:

- A. Section 28.04.139 (L) (1) - "There shall be permitted not more than one off-site sign facing a direction of travel for each one thousand lineal feet, or major fraction thereof, of street having "C" commercial or "E" light industrial properties adjacent thereto."
- B. Section 28.04.139 (L) (6) (b) - "There shall be not less than seventy percent of the designated mile located adjacent to "LC", "C", "E" or "F" zoned properties or any combination thereof."
- C. Section 28.04.139 (L) (6) (d) - "No off-site sign shall be located on any property that is not a part of at least three hundred continuous feet of "LC" zoning that has frontage along the arterial or expressway street."

Subject property is located on the east side of Hillside in an area approximately 300 feet south of Central. A 12 x 50 foot off-site sign has been erected on the property, east of an existing but vacant commercial building. The off-site sign has only one advertising face, which is directed to the northwest.

A sign permit, obtained by the applicant in June of 1977, was apparently issued on the basis that the property was zoned "C" Commercial rather than "LC" Light Commercial and that the off-site sign would have been permitted in "C" zoning. The sign was erected in July of 1977 and in December of 1977, the Office of Central Inspection, apparently after discovering that the property was not zoned "C", issued notice to the applicant to remove the sign from the property. However, off-site signs may under certain circumstances, be permitted on Light Commercial

property. In reviewing the possibility that the sign might be permitted on "LC" property it was determined that the sign violates the above three provisions which the applicant has requested to be waived.

In reference to (A) above, Section 28.04.139 (L) (1) regulates the number of off-site signs permitted within a designated mile. A designated mile being the length of the centerline of a street between mile section lines, which in this case would be between Central and Kellogg. The number of off-site signs permitted in this designated mile is determined by the lineal footage of "C" and "E" zoned properties adjacent thereto, with no more than one off-site sign facing a direction of travel being permitted for each one thousand lineal feet or major fraction thereof, of street being adjacent to "C" or "E" zoned properties. This requirement applies to the designated mile regardless of whether the property in question is zoned "LC", "C" or "E". This designated mile has approximately 720 feet of "C" zoning and no "E" zoning. Therefore, as a major fraction of 1,000 feet, one off-site sign would be permitted facing each direction of travel on Hillside, between Kellogg and Central. An off-site sign located at the southeast corner of Douglas and Hillside has existed for several years and is directed to the north, thereby utilizing the one permitted off-site sign facing north in this mile.

In reference to requested variances (B) and (C) above, Section 28.04.139 (L) (6) contains five additional requirements pertaining to the location of off-site signs in the "LC" light commercial district. Subparagraph (b) of this Section requires a combination of "LC", "C", "E" or "F" zoned properties to be located adjacent to not less than 70 percent of the designated mile. This combination of zoning districts adjacent to this designated mile on Hillside comprises approximately 36 percent of the zoning. Subparagraph (d) of this section provides that the "LC" property containing an off-site sign must be a part of at least three hundred continuous feet of "LC" zoning. Subject property has only 120 feet of frontage and is not adjacent to other "LC" property. However, "C" zoned property is adjacent to the north making a combined total of 440 feet for the two districts.

The applicant, as a licensed sign contractor in the city, has a responsibility to verify that the project or proposal that he is planning will comply with the various codes and regulations which govern his activities. Central Inspection, likewise has the responsibility of determining that the requirements and conditions of the zoning ordinance can be complied with prior to the issuance of a permit. In this case the applicant tried to determine the zoning of subject property from a small scale, generalized zoning map rather than the official zoning maps and then verbally told Central Inspection that the property was zoned "C". The Central Inspection representative then issued the sign permit on the basis of the property being zoned "C", apparently without

checking the zoning and without considering whether another off-site sign could be permitted in the designated mile.

It is difficult for the Secretary to support a variance based solely on the fact that an error was made in the issuance of a permit. However, it is recognized that commitments, actions, and expenditures were made in good faith on the basis of the issuance of that permit. The applicant's agent has set forth some of the factors he believes are important to consider and his letters of justification are attached for your information. Included in this is a statement whereby the applicant is agreeable to a limiting time period for the variance, coinciding with the current lease and option period. The lease has a five year option clause beyond the original one year period.

In a review of the five conditions which the Board must find to exist before a variance may be granted, it is the Secretary's opinion that the third part of the applicant's request, (C) above, dealing with the 300 continuous feet of "LC" zoning, could be justified for each of the five conditions based on the fact that the less restrictive "C" District is adjacent to this strip of "LC" zoning which combines for approximately 440 continuous feet of "LC"/"C" zoning. The following individual review of each of the five conditions will discuss the other two variances being requested.

UNIQUENESS:

It is the opinion of the Secretary that it is difficult to determine that these requests arise from a condition which is unique to this property inasmuch as a mistake was simply made in the issuance of a sign permit and the sign would not be permitted even if the property could be rezoned to the "C" or "E" district.

ADJACENT PROPERTY:

It is the opinion of the Secretary that it is difficult to determine that the granting of these variances would not adversely affect the rights of adjacent property owners or residents inasmuch as the owners of adjacent "C" zoned property could not erect an off-site sign along this Hillside frontage even though they have less restrictive zoning than subject property.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance would not constitute an unnecessary hardship upon the applicant inasmuch as although commitments and agreements were consummated on the basis of securing a sign permit from the appropriate city agency, the applicant's lease of subject property was for one year, running through June, 1978. The sign structure and possibly the sign itself can be removed from subject property and relocated at another location without a great loss.

SECRETARY'S REPORT

Case No. BZA 3-78

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PUBLIC INTEREST:

It is the opinion of the Secretary that it is difficult to determine that the granting of these variances desired would not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare inasmuch as this would actually permit one more off-site sign that is permitted by the aggregate zoning of this designated mile.

SPIRIT AND INTENT:

It is the opinion of the Secretary that it is most difficult to determine that the granting of the requested variance would not be opposed to the general spirit and intent of the zoning ordinance for the above stated reasons.

RECOMMENDATION:

It is the opinion of the Secretary that all of the five conditions necessary to the granting of a variance cannot be found to exist for these two requests, and it is, therefore, recommended that the requests be denied.

However, if the Board determines that the five conditions can be found to exist and grants the variance, it is suggested that the variance be for a specified time period and limited to advertising done by the applicant, for the company currently purchasing the advertising on the off-site sign.

XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX
XXXXXXXXXXXXXXXXXXXX

Tenth Floor, City Hall
455 North Main Street

April 11, 1978

M. Meredith Hill, C.P.M.
Professional Management Services
120 Building
120 S. Market
Wichita, Kansas 67202

Re: Case No. BZA 3-78 - Hearing Date

Dear Mr. Hill:

In reference to your letter of April 7, 1978, the attached notice of public hearing has been sent to Mark L. Yates, to the applicant and to owners within two hundred feet of subject property, as certified by Security Abstract Company. The scheduled hearing date for consideration of this case is Tuesday, April 25, 1978.

If additional information is desired, please feel free to call me.

Sincerely yours,

Jack H. Galbraith
Secretary

JHG:LD:bh
Encl.

PROFESSIONAL MANAGEMENT SERVICES

April 7, 1978



Mr. Jack H. Galbraith, Secretary
Board of Zoning Appeals
Tenth Floor - City Hall
455 N. Main
Wichita, Kansas 67202

*no enclosure
cc*

Dear Mr. Galbraith:

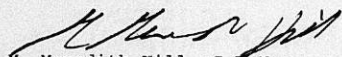
In the latter part of February we received the enclosed letter from you advising that the Board of Zoning Appeals had postponed the Case No. BZA 3-78. To date, we have not received a notice advising us of the date set for this hearing.

We would appreciate your expediting this hearing so that the matter can be resolved to the benefit of the neighborhood.

If a hearing is not to be held, we again request the removal of the sign in accordance with current laws.

Respectfully submitted,

PROFESSIONAL MANAGEMENT SERVICES


M. Meredith Hill, C.F.M.
Managing Agent

cc: Mr. Mark, Attorney at Law
Stinson, Wisdom & Lasswell
R. H. Garvey Building
Wichita, Kansas 67202

PHONE 316 265-3241

ONE TWENTY BUILDING / 120 SOUTH MARKET / WICHITA, KANSAS 67202

10 notices sent to agent, applicant and adjoining property owners

10 notices to MAPC members

1 notice to CPO

21 total notices sent on BZA 3-78, 3-30-78

1 notice to Mark C. Yates

1 notice to Mr. Meredith Hill 4-11-78

BOARD OF ZONING APPEALS
TENTH FLOOR - CITY HALL
455 North Main, Wichita, Kansas 67202
March 30, 1978

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 3-78

An application has been filed by Donrey Outdoor Wichita, 3405 North Hydraulic, Wichita, Kansas, pursuant to Section 2.12.590. B, Code of the City of Wichita, requesting a variance to waive the provisions of Section 28.04.139 L 1, L 6 (b) and L 6 (d) of the Code of the City of Wichita in order to permit an off-site sign to be located on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 1, and the North 1/2 of Lot 3, Floral 2nd Addition, Wichita, Sedgwick County, Kansas.
Generally located on the east side of Hillside in an area south of Central (416 N. Central).

This application has been assigned Case No. BZA 3-78 and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, April 25, 1978, at 1:30 p.m., in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time, you may appear if you so desire, either in person or by agent or attorney.

It should be noted that the Citizen Participation Organization Area Council may consider this case at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS

CASE NO. BZA3-78

CITY OF WICHITA, KANSAS

FILED _____

AMENDED
APPLICATION FOR VARIANCE

I. Name of Applicant Donrey Outdoor Wichita
Mailing Address 3405 N. Hydraulic Phone 838-0871
Name of Authorized Agent Vincent L. Bogart
Mailing Address P. O. Box 1801 Phone 263-6291
Relationship of applicant to property is that of Lessee
(Owner, Tenant, Lessee, Other)

II. The variance requested is from the provisions of 28.04.139
L 1, L 6(b) and L 6(d) in order to permit existing off-site
sign in LC district.
for property located 416 North Hillside
and legally described as: Lot 1 and N ½ of Lot 3, Floral 2nd
Addition, Wichita, Kansas

in the City of Wichita; and which is presently zoned LC

- III. The applicant herein, or his authorized agent, acknowledges:
- That he has received an instruction sheet concerning the filing and hearing of this matter;
 - That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 24-606); and that the appropriate fee is herewith tendered;
 - That he has been advised of his right to bring action in the District Court of Sedgwick County to appeal the decision of the Board.
 - That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

DONREY OUTDOOR WICHITA

Applicant

By Vincent L. Bogart

Authorized Agent

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 8:30 (a.m. - p.m.), 3-27 19 78
together with appropriate fee of \$50.00.

T9-402

Larry DeLeon
Signed

STATEMENT JUSTIFYING VARIANCE

A. Factual Statement

Prior to May 23, 1977, the applicant contacted the owner of the subject property relative to securing a lease for an off-site sign.

On examining a zoning map it appeared to the applicant that the small tract consisting of the subject property was zoned commercial and contiguous to other commercial zoning on the southeast quadrant of Hillside and Central.

On or about May 23, 1977, the applicant secured a lease from the owners of the subject property for off-site sign purposes for a period of one year with automatic renewals for a further period of five years.

In an abundance of caution the lease was made subject to a prior condition that the lease would only become effective if the City of Wichita issued a sign permit for the subject property. A copy of said lease is attached hereto and marked Exhibit "A."

Thereafter and on the 23rd day of May, 1977, an application for off-site sign was filed with the appropriate city office, a copy of said application is attached hereto and marked Exhibit "B."

Thereafter and on June 14, 1977, a sign permit was issued by the City of Wichita granting permission for the applicant to construct the requested sign, a copy of said permit is attached hereto and marked Exhibit "C."

In the month of July and in accordance with the sign permit the applicant entered into an advertising agreement and caused a sign to be constructed at a cost of \$4,790.53.

Thereafter and on the 1st day of December, 1977, applicant was notified that the sign was in violation of the City Code and would have to be removed, a copy of which is attached hereto and marked Exhibit "D."

After a discussion with appropriate city officials it was determined that a variance by this body would have to be granted in order for the sign to be permitted.

B. Request for Variance

It is applicant's belief and understanding that the Code provision as to which applicant may be in violation is: 28.04.139 L 6(b) and (d) and applicant requests a variance be granted from the provision set forth therein for the following reasons:

1. The matter set forth in the preceding factual statement.
2. The property is located immediately adjacent to a large tract of "C" zoned property upon which the Medical Towers property is located and is separated from other adjacent property by a meandering creek. It is surrounded on four sides by: Hillside on the west, commercial property on the north and east and light commercial parking areas on the southeast and south. It is a small tract not suited for light commercial development because of its irregular contour and because of its location and the factual allegation theretofore set forth. This variance request arises from unique conditions not created by actions of the applicant.
3. Although five off-site signs are permitted in a linear mile there are presently only two in the linear mile between Central and Kellogg and this fact coupled with the commercial usage of adjoining property and the distance from residential property should warrant a finding that the variance will not adversely affect adjacent property owners or residents.

4. A strict application of the provision of 28.04.139 L 6(b) and (d) would cause a considerable financial burden on applicant because of the following:

- (a) Construction of sign, \$4,790.53;
- (b) Loss of contract for advertising, \$21,000.00;
- (c) Existing lease, \$1,800.00; and,
- (d) Other expense and loss of time, \$1,500.00,

none of which would have been incurred except for the action of the City of Wichita in granting the original permit.

5. The Kansas State Legislature in K.S.A. 67-2231(a) has declared that outdoor advertising is a legitimate commercial use of private property adjacent to streets, roads and highways where such commercial use does not conflict with the lawful designated use of the surrounding property and since the allowance of the requested sign would result in less than one-half of the permitted number in this particular mile and because of the reasons previously stated, this board should find that the variance will not adversely affect public health, safety, morals, order, convenience, property or general welfare.

6. Granting the variance will not be opposed to the general spirit and intent of Title 28 of the Code of the City of Wichita for the reasons heretofore set forth and in addition:

- (a) 28.04.010 states in part "It is not intended by this Chapter to interfere with, abrogate or annul any . . . permit . . . issued, pursuant to law, relating to the use of building or premises.
- (b) The use of this property for sign purposes would be absolutely valid if Zoned C. The location and unique characteristics of the property would justify such a zoning classification.

(c) The intent of at least a portion of the sign ordinances is to prohibit unsightliness in a proliferation of off-site signs. This particular usage would maintain the number well within that considered appropriate by those persons responsible for drafting and passage of the ordinance.

(d) When considered with the C. and L.C. zoning contiguous and adjacent to the subject property, the off-site sign is located on property that is a part of 300 continuous feet of L. C. or C zoning. Surely the limitation in 28.04.139 L 6(d) should include C zoned property in the computation.

(e) The spirit and intent of the ordinances would surely not be violated by recognizing a hardship predicated in part by the prior authorization by the City of the very act complained of.

7. This Board has in the past recognized the hardship of enforcing the zoning ordinance in set-back and other situations where the applicant caused construction based upon faulty advise of others, surely a stronger case should be made for one who relies upon a prior authorization granted by officers of the City of Wichita who were acting within the scope of their delegated authority in granting the authorization.

Respectfully submitted,

VINCENT L. BOGART, Chartered

Vincent L. Bogart
Agent for the Applicant

AMENDED AND SUPPLEMENTAL
STATEMENT JUSTIFYING VARIANCE

Applicant hereby incorporates by reference its Statement Justifying Variance filed with the original application, as hereinafter qualified, together with the following new material.

On January 20, 1978, and after conferences with the planning staff and the department of central inspection, applicant filed an application for a variance from Wichita Code provisions, 28.04.139, L 6(b) and L 6(d) to permit an existing sign for which a city permit had been originally issued, but which the city later determined to have been improperly granted.

After appearing before the appropriate C. P. O. and obtaining their approval of the application, preparatory to appearing before the Board of Zoning Appeals, the applicant received a copy of the report of the secretary of the Board of Zoning Appeals. The report was received by the applicant on February 21, 1978, some seven days prior to the scheduled hearing.

As a part of the report the secretary stated that one other regulation had been overlooked in preparing the application, specifically, section 28.04.139 L 1, which pertains to the number of off-site signs permitted in the designated mile within which the subject sign is located. This was the first time this defect had been raised by anyone despite many conferences with members of city staffs regarding the proposed filing.

Thereafter, and on February 22, and again on March 8, the applicant reviewed this regulation with the city legal staff, superintendent of central inspection, and a member of the planning staff to point out that this regulation was so ambiguous that the application of it would constitute an undue and unreasonable burden on the applicant; however, following the conferences and in order to facilitate and expedite the matter, the applicant has included L 1 in its request for a variance.

To further complicate matters, the secretary's report points out that the original permit was issued on the mistaken belief that the property was zoned C but that under the secretary's interpretation the sign would not have been permitted even in C zoning because only 814 lineal feet of C zoning exists in the designated mile.

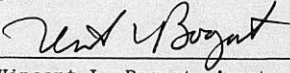
While the applicant does not agree with the interpretation of the ordinance, it has included this provision in its variance request in order to eliminate any question about the matter if the request is approved.

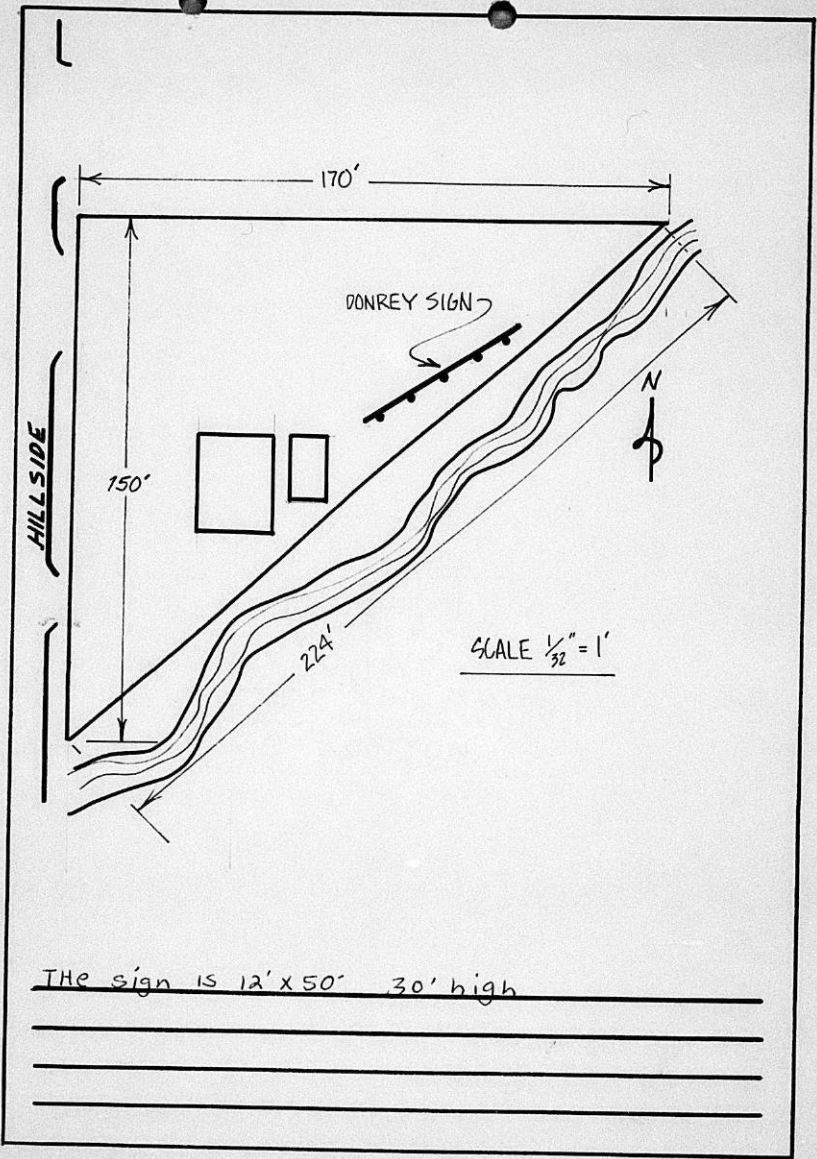
Applicant has been informed by the office of planning that there is 1185 feet of LC zoning in addition to the C zoning in the designated mile.

The applicant also agrees that the variance, if granted, may apply only to this specific sign and limited to the period of the lease and options exercisable thereunder, and at such time as the options expire or the applicant abandons the location, whichever occurs first, the variance may be considered to have expired.

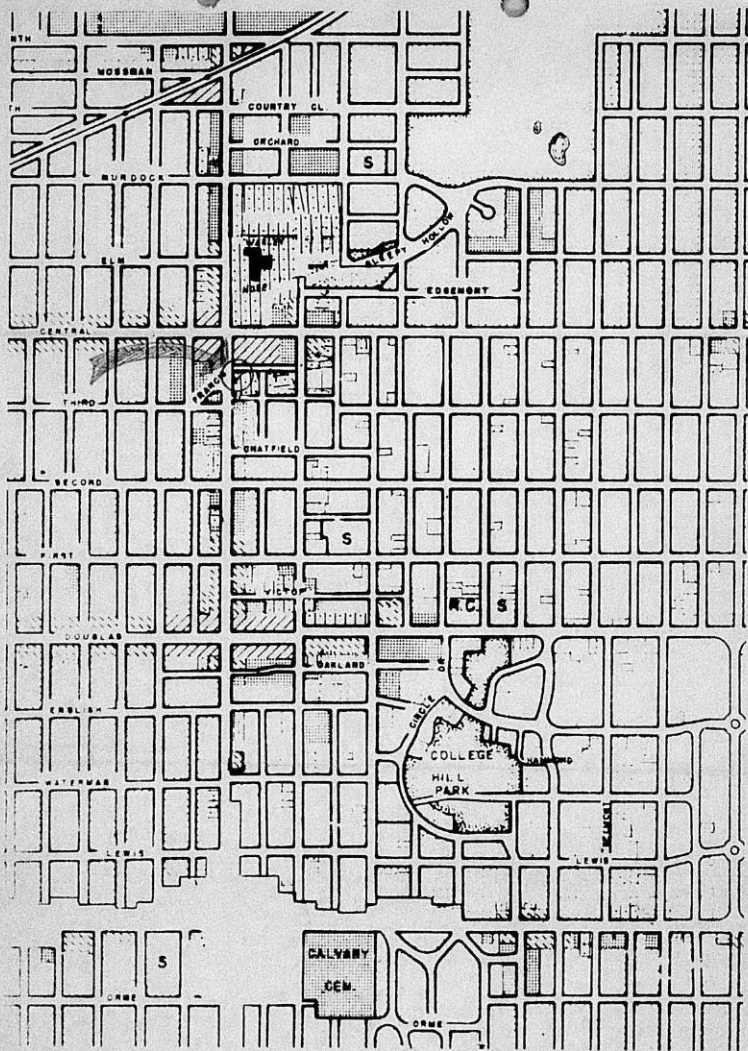
RESPECTFULLY SUBMITTED,

DONREY OUTDOOR WICHITA,
Applicant

By 
Vincent L. Bogart, Agent



The sign is 12' x 50' 30' high



Notice to defer Case No. BZA 3-78 sent
to 4 BZA members (none sent to Kopietz)
1 to Mark Yates, Attorney
1 to Powell - Legal Counsel
1 to Feldner - Supt. Central Inspection
15 sent to applicant and adjoining property owners
22 total notices sent on February 22, 1978

BOARD OF ZONING APPEALS
TENTH FLOOR - CITY HALL
455 North Main, Wichita, Kansas 67202

February 22, 1978

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 3-78

You were previously notified of an application filed by Donrey Outdoor, Wichita, 3405 N. Hydraulic, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to waive two requirements for off-site signs to be permitted on property zoned the "LC" Light Commercial District; as listed in Section 28.04.139 (L) (6) of the City Code.

The property involved is legally described as:

Lot 1, and the North 1/2 of Lot 3, Floral 2nd Addition, Wichita, Sedgwick County, Kansas.
Generally located on the east side of Hillside in an area south of Central (416 N. Hillside).

PLEASE NOTE: The applicant's representative and the City's Law Department have agreed that a deferral of this case is appropriate to clarify the specific requirements of the City Code which pertain to off-site signs in the "LC" Light Commercial District. Therefore, the Board of Zoning Appeals will not consider Case No. BZA 3-78 at its meeting on Tuesday, February 28, 1978, as previously scheduled.

A new notice will be mailed to you as soon as another meeting date is determined. If you have any questions concerning this matter, please call our office at 268-4421.

Jack H. Galbraith
Secretary

2-17-78

Robert Feldner, Superintendent of Central Inspection

Larry Dobson, Assistant Secretary to Board of
Zoning Appeals

Case No. BZA 3-78 - Request for Variance from
Sign Regulations

Attached for your review and comment is a copy of the Secretary's Report to the Board of Zoning Appeals on the above-captioned case. As you will note, in the report, we refer to Section 28.04.139(1) dealing with the number of off-site signs permitted in a designated mile, wherefrom we conclude that an off-site sign permit should not have been issued in this instance even if the property was zoned "C" instead of "LC". Please review our comments and advise me if we have misstated the intent of this section as interpreted by your office.

In researching this case it was noted that neither the Application for Sign Permit nor the Permit itself has a blank for designating the zoning classification of the property. It might be helpful to all parties involved if space for this information was included on these forms.

Larry Dobson
Assistant Secretary

LD:bh
Attach

cc: Joe Donnelly, Housing and Zoning Administrator

SECRETARY'S REPORT
CASE NO. BZA 3-73

APPLICANT:

Donrey Outdoor Wichita, 3405 N. Hydraulic, Wichita, Kansas.

AGENT:

Vince L. Bogart, 444 N. Market, Wichita, Kansas.

REQUEST:

Variance pursuant to Section 2.12.590.B, Code of the City of Wichita to: waive the following two requirements for off-site signs to be permitted on property zoned the "LC" Light Commercial District; as listed in Section 28.04.139 (L) (6) of the City Code:

- (b). "There shall be not less than seventy percent of the designated mile located adjacent to "LC", "C", "E", of "F" zoned properties, or any combination thereof;"
- (d). "No off-site sign shall be located on any property that is not a part of at least three hundred continuous feet of "LC" zoning that has frontage along the arterial or expressway street,"

GENERAL LOCATION:

East side of Hillside in an area south of Central (416 N. Hillside).

ZONING:

Subject property is zoned the "LC" Light Commercial District and the "BB" Office District. Property to the north is "LC". West is the "D" Multiple Family Dwelling District. South and east is zoned the "BB" Office District.

LAND USE:

Subject property contains a vacant commercial building and an off-site sign. Properties to the south, east and north are all developed as parking lots. West is a doctor's office building.

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 of the following conditions are found to exist:

SECRETARY'S REPORT

Case No. BZA 3-78

Page 2

1. That the variance requested 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 owner or the applicant.
2. That the granting of the permit for the variance will not adversely affect the rights of adjacent property owners or residents.
3. That the strict application of the provisions of Title 28 of which variance is requested will constitute unnecessary hardship upon the property owner represented in the application.
4. That the variance desired will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare; and
5. That the granting of the variance desired will not be opposed to the general spirit and intent of Title 28 (zoning Ordinance

COMMENTS BY THE SECRETARY:

The applicant is requesting a waiver or variance from two of the limiting conditions which permit off-site signs to be located on property zoned "LC" Light commercial.

An off-site sign is by definition "a sign delivering a message or advertisement other than the name, occupation or nature of the activities conducted on the premises or the products sold or manufactured thereon, and shall include all poster panel signs." Section 28.04.139 (L) (b) provides that off-site signs shall be permitted in the "LC" Light Commercial district subject to five specific requirements. The two requirements requested to be waived are:

- (b) There shall be not less than seventy percent of the designated mile located adjacent to "LC", "C" "E" or "F" zoned properties or any combination thereof;

and

- (d) No off-site sign shall be located on any property that is not a part of at least three hundred continuous feet of "LC" zoning that has frontage along the arterial or expressway street;

In reference to (b) above the designated mile in this instance is on Hillside between Kellogg and Central. The combination of "LC" "C", "E" or "F" zoned properties located adjacent to this designated mile comprises approximately 36 percent of the designated mile as compared to the required 70 percent; and in reference to "D" above the continuous length of "LC"

zoning, including subject property, is only 120 feet, but 320 feet of "C" zoning is adjacent to the "LC" making a combined total of the two districts of 440 feet.

Subject property is located on the east side of Hillside in an area approximately 300 feet south of Central. A 12 x 50 foot off-site sign has been erected on the property, east of an existing but vacant commercial building. The off-site sign has only one advertising face, which is directed to the northwest.

A sign permit, obtained by the applicant in June of 1977, was apparently issued on the basis that the property was zoned "C" Commercial rather than "LC" Light Commercial and that the off-site sign would have been permitted in "C" zoning. The sign was erected in July of 1977 and in December of 1977, the Office of Central Inspection, apparently after discovering that the property was not zoned "C", issued notice to the applicant to remove the sign from the property. Off-site signs may, under certain circumstances, be permitted in Light Commercial zoning and the applicant, therefore, has filed this application for variance from the two above stated provisions governing off-site signs in "LC" zoning.

In researching this case it appears that one other regulation regarding permitted number of off-site signs has been overlooked. Specifically, Section 28.04.139 (L) (1), which pertains to the number of off-site signs permitted in the "LC", "C" or "E" districts, stated that "There shall be permitted not more than one off-site sign facing a direction of travel for each one thousand lineal feet, or major fraction thereof, of street having "C" commercial or "E" light industrial properties adjacent thereto." Applying this to the designated mile on Hillside between Kellogg and Central there is 840 lineal feet of "C" zoning and no "E" zoning. Therefore, only one off-site sign should be permitted facing the north. An off-site sign located at the southeast corner of Douglas and Hillside has existed for several years and is directed to the north, thereby utilizing the one permitted off-site sign in this mile.

The applicant, as a licensed sign contractor in the city, has a responsibility to verify that the project or proposal that he is planning will comply with the various codes and regulations which govern his activities. Central Inspection, likewise has the responsibility of determining that the requirements and conditions of the zoning ordinance can be complied with prior to the issuance of a permit. In this case the applicant tried to determine the zoning of subject property from a small scale, generalized zoning map rather than the official zoning maps and then verbally told Central Inspection that the property was zoned "C". The Central Inspection representative then issued the sign permit on the basis of the property being zoned "C", although this apparently was not verified by checking the official zoning maps. To now further complicate the matter, our research as stated above, would indicate that the sign permit should not have been issued even if the property was zoned "C" Commercial.

SECRETARY'S REPORT
Case No. BZA 3-78
Page 4

It is difficult for the Secretary to support a variance based solely on the fact that an error was made in the issuance of a permit. However, it is recognized that commitments, actions, and expenditures were made in good faith on the basis of the issuance of that permit.

In a review of the five conditions which the Board must find to exist before a variance may be granted, it is the Secretary's opinion that the second part of the applicant's request, dealing with the 300 continuous feet of "LC" zoning, could be justified for each of the five conditions based on the fact that the less restrictive "C" District is adjacent to this strip of "LC" zoning which combines for approximately 440 continuous feet of "LC"/"C" frontage. The following individual review of each of the five conditions applies to the first part of the applicant's request which requires 70 percent of the designated mile to be zoned "LC", "C", "E" or "F".

UNIQUENESS:

It is the opinion of the Secretary that it is difficult to determine that this request arises from a condition which is unique to this property inasmuch as an off-site sign should not be permitted even if the property were to be rezoned "C" or "E".

ADJACENT PROPERTY:

It is the opinion of the Secretary that it is difficult to determine that the granting of this variance would not adversely affect the rights of adjacent property owners or residents inasmuch as the owners of adjacent "C" zoned property could not erect an off-site sign along this Hillside frontage even though they have less restrictive zoning than subject property.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance would not constitute an unnecessary hardship upon the applicant inasmuch as although commitments and agreements were consummated on the basis of securing a sign permit from the appropriate city agency, the applicant's lease of subject property was for one year, running through June, 1978. The sign structure and possibly the sign itself can be removed from subject property and relocated at another location without a great loss.

PUBLIC INTEREST:

It is the opinion of the Secretary that it is difficult to determine that the granting of the variance desired would not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare inasmuch as this would actually per-

SECRETARY'S REPORT

Case No. BZA 3-78

Page 5

mit one more off-site sign than is permitted by the aggregate zoning of this designated mile.

SPIRIT AND INTENT:

It is the opinion of the Secretary that it is most difficult to determine that the granting of the requested variance would not be opposed to the general spirit and intent of the zoning ordinance for the above stated reasons and inasmuch as the applicant still could not have a legal permit for his sign without obtaining another variance of the total number of off-site signs permitted in a designated mile.

RECOMMENDATION:

It is the opinion of the Secretary that all of the five conditions cannot be found to exist, and it is therefore recommended that this application be denied.

However, if the Board determines that the conditions can be found to exist and grants the variance, it should be subject to the applicant seeking clarification of Section 28.04.139 (L) (1) from the Office of Central Inspection and the filing of an appropriate variance application if the discussion of this Section as set forth in this report is deemed to be accurate.

10 notices sent to agent and/or applicant and adj. prop. owners
10 notices sent to MAPC
1 notice to CPO
21 total notices on BZA 3-78, 2-2-78

10 -
10-1
1

BOARD OF ZONING APPEALS
TWENTIETH FLOOR - CITY HALL
455 north Main, Wichita, Kansas 67202

February 3, 1978

NOTICE TO ADJOINING PROPERTY OWNERS: Case No. BZA 3-78

An application has been filed by Donrey Outdoor, Wichita, 3405 N. Hydraulic, Wichita, Kansas, pursuant to Section 2.12. 590.B, Code of the City of Wichita, requesting a variance to waive the following two requirements for off-site signs to be permitted on property zoned the "LC" Light Commercial District; as listed in Section 28.04.139 (L) (6) of the City Code:

- (b). "There shall be not less than seventy percent of the designated mile located adjacent to "LC" "C", "E" or "F" zoned properties, or any combination thereof;"
- (d). "No off-site sign shall be located on any property that is not a part of at least three hundred continuous feet of "LC" zoning that has frontage along the arterial or expressway street,"

and legally described as follows:

Lot 1, and the North 1/2 of Lot 3, Floral 2nd Addition, Wichita, Sedgwick County, Kansas. Generally located on the east side of Hillside in an area south of Central (416 N. Hillside).

This application has been assigned Case No. BZA 3-78 and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, February 28, 1978, at 1:30 p.m., in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time you may appear if you so desire, either in person or by agent or attorney.

It should be noted that the Citizen Participation Organization Area Council may consider this case at its next meeting. Additional information about such a meeting may be obtained by calling the CPO Office, 268-4516.

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS

CASE NO. _____

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicant Donrey Outdoor Wichita

Mailing Address 3405 N. Hydraulic 19 Phone 838-0871

Name of Authorized Agent Vincent L. Bogart

Mailing Address 444 N. Market 02 Phone 263-6291

Relationship of applicant to property is that of Lessee
(Owner, Tenant, Lessee, Other)

II. The variance requested is from the specific terms of 28.04.139

L 6(b) and (d) in order to permit off-site sign in L.C. district
(To permit off-site sign on Light Commercial property not located in a designated mile corridor of at least 70% 'LC', 'C', 'E' or 'F' zoning and not part of at least 300 continuous feet of 'LC')

for property located 416 N. Hillside 1/2 of Lot 3

Floral 2nd Addition, Wichita, Kansas,

and legally described as: Lot 1 and N 1/2 of Lot 3

Floral 2nd Addition, Wichita, Kansas

in the City of Wichita; and which is presently zoned L.C.

III. The applicant herein, or his authorized agent, acknowledges:

- a. That he has received an instruction sheet concerning the filing and hearing of this matter;
- b. That he has been advised of the fee requirements established by Section 2.12.580 of the Code of the City of Wichita (Ordinance No. 24-606); and that the appropriate fee is herewith tendered;
- c. That he has been advised of his right to bring action in the District Court of Sedgwick County to appeal the decision of the Board.
- d. That all documents are attached hereto as noted in paragraphs 2, 3, 4, and 5 of the instructions.

Donrey outdoor Wichita
Applicant

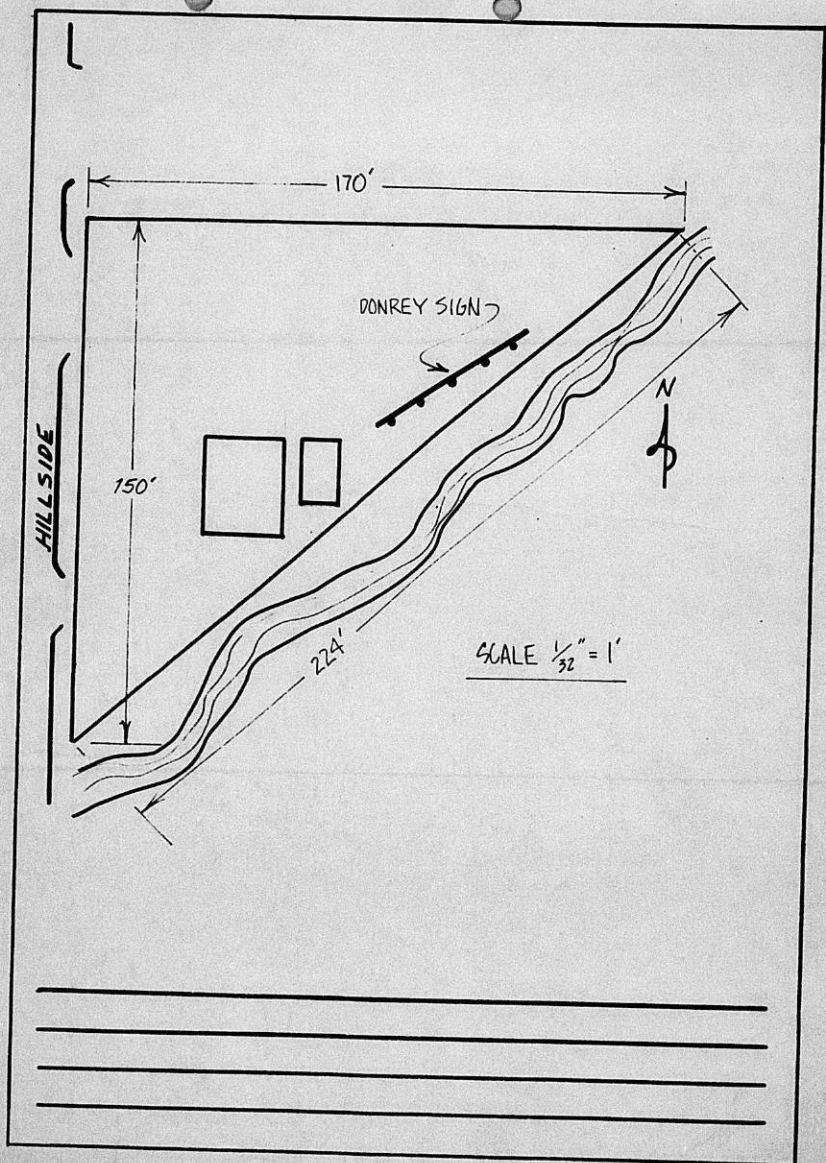
Vincent L. Bogart
Authorized Agent

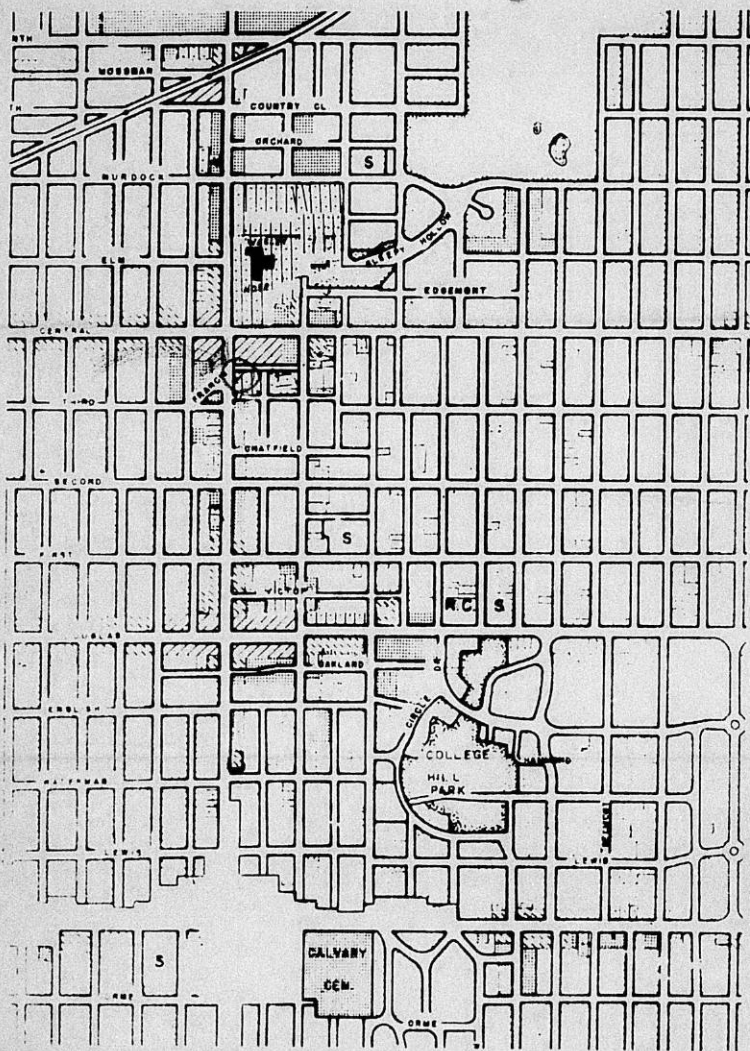
OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 1:15 (a.m. - (p.m.)), 1-20 1978 together with appropriate fee of \$50.00.

E. side of Hillside in an area South of Central

T9-402

Larry Johnson
Signed





OWNERSHIP LIST

Lot	Addition	Property Owner
S $\frac{1}{2}$ of Lot 3 and All of Lots 5 and 7 on Hillside Avenue and Lots 2,4,6 & 8 & Lots 5,7,9 & 11 on Holyoke Ave., in Floral Second Addition & S $\frac{1}{2}$ of vacated Frances Ave. & vacated Holyoke Ave. adjoining		✓ William M. Mack, sole Trustee of National Investment Trust 3333 E. Central 67208
Lot 1 & N $\frac{1}{2}$ of Lot 3 on Hillside, in Floral Second Addition		✓ R.A. Denniston 536 S. Glendale 67218
Lots 1 & 3 on Holyoke, Floral Second Addition		D ✓ William M. Mack, sole Trustee of National Investment Trust 3333 E. Central 67208 <i>Mulrodt 4-7-78</i>
Lot 1, on Hillside, Floral Addition and Lot 2 on Holyoke, Floral Addition		" " " " " " "
The South 69.5 feet of the West 151.75 feet of Lot 9 in Howard's Addition to College Hill Addition		" " " " " " "
Beginning at a point 74.62 feet South of the Northwest corner of Lot 8, in Howard's Addition to College Hill Addition to Wichita, Kansas; thence South along the east line of Hillside Ave., 49.93 feet; thence East 151.74 feet to a point 124.81 feet South of the north line of Lot 8; thence North 49.93 feet; thence West 151.74 feet to the point of beginning.		" " " " " " "
Beginning at the northwest corner of Lot 8 in Howard's Addition to College Hill Add., thence South 74.62 feet, thence East 141.75 feet to a point 74.88 feet South of the north line of Lot 8, thence North 74.88 feet to the north line of said Lot 8, thence West 141.75 feet to point of beginning; also, all of Lots 7 and 10 in Howard's Addition to College Hill Add., except the West 10 feet for alley		✓ R.A. Loshbough & Vera M. 120 N. Belmont 67208
Beginning at a point 150 feet South of the Northwest corner of Lot 8, Howard's Add. to College Hill Add., City of Wichita, thence North on the East line of Hillside Ave. 25.4 feet, thence East 151.75 feet, thence South 25.25 feet; thence West 151.75 feet to place of beginning, except the East 10 feet for alley		✓ Hugh P. Cloninger & Anna B. 333 S. Terrace 67218



434 NORTH MAIN
WICHITA, KANSAS 67202
267-8371

Lot	Addition	Property Owner
	Beginning 150 feet South of Northwest corner of Lot 8, Howard's Add. to College Hill Add., thence East 151.75 feet; South 25 feet; thence West 151.75 feet; thence North 25 feet to place of beginning, except the East 10 feet for alley	Mabel Redfield Lester Eugene Redfield address unknown <i>not in CD not in PB not in SD</i>
	Lot E except the North 40 feet on Hillside, Maple Grove Addition	Floyd L. Thomas address unknown <i>423 Margaret Hayesville</i>
	North 30 feet of Lot F and All of Lot G, on Hillside, Maple Grove Addition	Dorothy B. Maxwell Robert W. Keeler 5102 E. 2nd St. 67208
	Lot F except North 30 feet thereof on Hillside, Maple Grove Addition	Margaret Wier 1459 Willow Rd. 67208 Harold F. O'Donnell & Harriet E. address unknown
	Lot H except East 20 feet thereof on Hillside, Maple Grove Addition	S & N Fast Foods Inc. 8815 Birch Lane 67212

We hereby certify the foregoing to be a true and correct list of the property owners of:

200 foot radius of Lot 1, and the North half of Lot 3, Floral 2nd Addition, Sedgwick County, Kansas,

as shown by the last deeds of record on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on the 6th day of January, 1978 at 7:00 a.m.

THE SECURITY ABSTRACT & TITLE COMPANY, INC.

By

Mary Gable
Vice President

Order No. 259700
rmk

Form 27-321

PAYMENT NOTICE

City of Wichita

PAY AT TREASURER'S OFFICE - FIRST FLOOR

Bldg & Elev.	Elec.	Elev. Insp.	Exam. Fees
Hse. Mvr.	Hse. Moving	Licse.	Mech.
Oil Well	Pav. Cuts	Plan.	Plbg. Cert.
Sanitation	Sewer	Signs	Sidewalk
Street	Trailer		

DESCRIPTION	AMOUNT
22A variance	15000

Name: Wichita County for District Office Bldg

Address: 3405 N. Highland

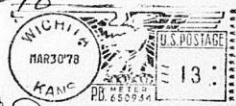
Type: AA 407103 Due Date: _____

Comments: _____

Date: 1-10-78 By: cd

Betty

3-78



*not in BOP
not in SD*

WICHITA - SEDGWICK COUNTY



BOARD OF ZONING APPEALS
 CITY HALL - TENTH FLOOR
 455 NORTH MAIN STREET
 WICHITA, KANSAS 67202

Important!
 Notice of Hearing
 Enclosed

Wm. Mack, Sole Trustee of National
 Investment Trust
 3333 E. Central
 Wichita, Kansas 67208

