

Case No. BZA 31-85 - McDonald's Corp. - requests a variance to increase the permitted height of a ground or pole sign from 30 feet to 35 feet on property zoned the "LC" Light Commercial District and generally located the

200' 4 Sec 7-11-85
Shot 7-22-85
Record

Posted
5-20-85

ACTION

BZA 31-85 APPROVED 5-20-85
DATE

200'4 Sec 7-11-85
Shot 7-12-85
Record

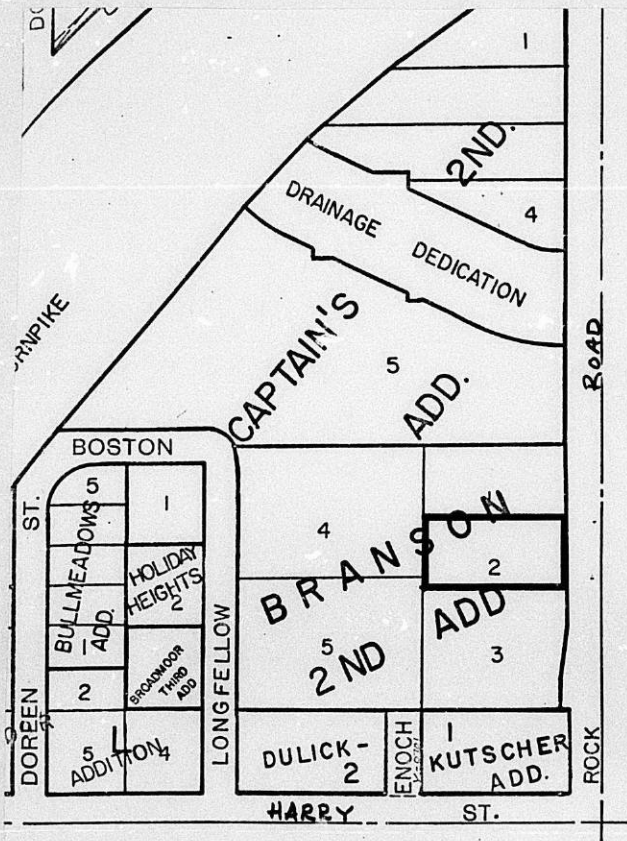
Case No. BZA 31-85 - McDonald's Corp. -
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permitted height of a ground or pole
sign from 30 feet to 35 feet on pro-
perty zoned the "LC" Light Commercial
District and generally located the

Map No. 5946 B

BZA 31-85
Filed _____

AREA DATA:

1. Acres: _____ (_____ ft. by _____ ft.)
2. Adjoining Zoning: E LC S LC W C N LC
3. Land Use: East Comm South Rest.
West Whee North Tire store
4. Area (is) ~~(is not)~~ platted.



Shel.
No. 2453C
HARTMAN, INC.
100 ANNE STREET, SUITE 100
ROCKFORD, ILLINOIS 61101
U.S.A.

THE CITY OF WICHITA



BOARD OF ZONING APPEALS
CITY HALL - TENTH FLOOR
455 NORTH MAIN STREET
WICHITA, KANSAS 67202
(316) 268-4421

June 4, 1985

McDonald's Corporation
11880 College Boulevard
Overland Park, Ks. 66210

Re: BZA 31-85 - Request for Variance

Gentlemen:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on May 28, 1985 pertaining to your request to increase the height of a ground or pole sign from 30 feet to 35 feet. This variance is only for an increase in height and does nothing to resolve the problem with the area limitations discussed at the meeting.

Unfortunately, I had not been informed by Central Inspection that any sign permits had been issued even though I had several conversations with Mr. Jonker on the calculations of the sign area permitted on the property. Also discussion as to the accuracy of the area calculations made on the #70-200 and #70-100 signs that are attached were agreed to as being calculated in conformance with the limitations of the ordinance.

Not until the meeting of May 28, 1985 was I aware the permit for the sign had been issued. The next day, I contacted Joe Donnelly, of Central Inspection, and he informed me that a permit had been issued for a sign 320 square feet in gross surface area. The ordinance permits only 2 square feet of sign area for each lineal foot of frontage on an arterial street. The frontage of your property on Rock Road is 128½ feet providing a maximum area for the identification sign of 257 square feet.

I do not know if adequate information was furnished to make a proper determination of the permitted area, or if Central Inspection made the error. This matter should be resolved prior to the installation of the sign.

If you have any questions, please don't hesitate to give me a call.

Sincerely,



Glen E. Lytle
Assistant Secretary

THE CITY OF WICHITA 2

GEL:sad
Encl.

cc: Rex Jones, § McDonald's Corporation, 11880 College Blvd., Overland
Park, Kansas 66210
Everett Fettis, 120 South Market, Suite 504, Wichita, Ks. 67202
Monty Robson, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

RESOLUTION NO. BZA 31-85

WHEREAS, McDonald's Corporation, 11880 College Boulevard, Overland Park, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to permit an increase in the height of a ground or pole sign from 30 feet to 35 feet on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 2, Branson 2nd Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Rock Road and north of Harry.

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 28, 1985, 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 property is located near a gas line that the pipe line company has requested that the sign not be located above the gas line or within ten feet which requires the sign to be located 4 feet west of the property line and therefore additional height is needed for clearance above the driveway when the sign is moved; 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 height of the sign to 35 feet is insignificant; 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 owners represented in the application inasmuch as the request by the pipe line company to move the sign to the west creates the hardship; 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 increase in height will not interfere with any right-of-way or easements; 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 intent of the regulations is to maintain a reasonable limitation on sign heights; and

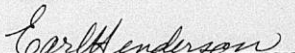
WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted has been found to exist.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to permit an increase in the height of a ground or pole sign from 30 feet to 35 feet on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 2, Branson 2nd Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Rock Road and north of Harry.

be approved.

ADOPTED AT WICHITA, KANSAS, this 28th day of May, 1985.


Earl Henderson, President

ATTEST:


Glen E. Lytle, Assistant Secretary

THE CITY OF WICHITA

OFFICE OF Citizen Participation DATE May 21, 1985

TO Glen Lytle, Special Assistant for Zoning

FROM Barry L. Carroll, Administrative Aide III

SUBJECT BZA 31-85 West side of Rock
 Road and North of Harry Street

On Monday, May 20, CPO Council "H" considered the above captioned case, a request for a variance to permit an increase in the height of a ground pole sign from 30 feet to 35 feet. Council members were provided the notice to adjoining property owners, a map of the area, and MAPD staff comments. After extensive discussion, the Council voted 8-0, to recommend denial of the request.

The agent had been invited but was not in attendance. There were no area residents to speak either favorably or in opposition to the request.

Please provide the Council's recommendation to the Board of Zoning Appeals when case BZA 31-85 is considered.

Barry L. Carroll

Barry L. Carroll
Administrative Aide III

BLC:dm

Noted:

Annie K. Montgomery

Annie K. Montgomery
CRS Director

RECEIVED

MAY 23 1985

METROPOLITAN PLANNING

ROUTE _____

RE: AGENDA ITEM NO. 6

SECRETARY'S REPORT
CASE NO. BZA 31-85

APPLICANT: McDonald's Corp., 11880 College Boulevard, Overland Park, Kansas.

AGENT: Everett Fettis, 120 South Market, Suite 504, Wichita, Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B, Code of the City of Wichita, to permit an increase in the height of a ground or pole sign from 30 feet to 35 feet.

GENERAL LOCATION: On the west side of Rock Road and north of Harry Street.

ZONING: Subject property is zoned the "LC" Light Commercial District as are the properties to the north, east and south. To the west is "C" Commercial.

LAND USE: Subject property is being developed as a fast food restaurant. To the south is another restaurant as is the property to the east. To the north a TBA Store and to the west are residential storage warehouses.

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 the State Statutes are found to exist.

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance to increase the permitted height of a ground or pole sign from 30 feet to 35 feet. This request is made in order to install an identification sign adjacent to the driveway and as near the front property line as possible and still provide a clearance of 15 feet where the sign would project over the driveway. The applicant has not provided any justification of the five conditions necessary to the granting of a variance. The only comment was made by the applicant's agent when the case was filed was there is a gas line in the right-of-way of Rock Road and in order to provide clearance as requested by the pipeline company, it is necessary to move the sign back away from the front property line four feet.

In reviewing the site plan submitted with the application, it is noted that the lot has a frontage of 128.49 feet and will permit one identification sign of 256 square feet. The plans denote a standard road sign #70-200 which is 326 square feet in gross surface as calculated by terms of the City of Wichita regulations. In other words, the sign as proposed is not permitted by the ordinance since it exceeds the permitted area limitation for a lot of this width.

When the next smaller standard McDonald's sign #70-100 is placed on the property at a distance to clear the pipeline easement, the structure will not extend over the driveway so it would not need the variance for additional height to be constructed on the property. The sign #70-100 with a drive thru panel has a gross surface area of 173 square feet in accordance with the provisions of the ordinance.

It is the opinion of the Secretary that the applicant needs to revise the graphics on the property so that the size of the sign is in conformance with the limitations of the ordinance. The installation of sign #70-100 with a pole 16 feet in length will provide for any necessary clearance for a driveway and still comply with the 30 foot height limitation for the property. The said sign would only have a 14 foot maximum horizontal dimension that would fit with the curbed area and the sign could be located 6 feet west of the property line on Rock Road.

UNIQUENESS:

It is the opinion of the Secretary that this property is not unique inasmuch as it is rectangular and of more than adequate size to accommodate a sign of sufficient size to identify the use without the granting of a variance.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will adversely affect the rights of adjacent property owners inasmuch as it would be granting a higher sign than would be permitted on the same size property to the north which also is located adjacent to the pipeline.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance does not constitute an unnecessary hardship upon the applicant inasmuch as the applicant has another means of resolving the clearance needed for the driveway below the sign should it need to be moved to the west at the request of the pipeline company.

PUBLIC INTEREST:

It is the opinion of the Secretary that the requested variance would not adversely affect the public interest inasmuch as the location of a higher sign would not interfere with any right-of-way or easements.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested would be opposed to the general spirit and intent of the zoning ordinance inasmuch as the ordinance is specific as to height and area and the size of the property determines whether any sign in the "LC" district is permitted to exceed a height of 30 feet.

RECOMMENDATION:

It is the opinion of the Secretary that the five conditions necessary to the granting of a variance cannot be found to exist and the variance should be denied.

BZA CASE NO. 31-85

<u>2</u>	NOTICES SENT TO APPLICANT/AGENT
<u>10</u>	LEGAL ADVERTISEMENT SENT TO MAPC
<u>1</u>	NOTICES SENT TO CPO
<u>9</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>12</u>	TOTAL NOTICES SENT <u>5-8-85</u>

BOARD OF ZONING APPEALS
Tenth Floor - City Hall
455 North Main, Wichita, Kansas 67202

May 8, 1985

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 31-85

As required by law, all property owners of record, within 200 feet of a property to be considered for an exception or variance by the Board of Zoning Appeals, are to be notified of the public hearing. An application has been filed by McDonald's Corporation, 11880 College Boulevard, Overland Park, Kansas, requesting a variance.

Pursuant to Section 2.12.590.B, of the Code of the City of Wichita, the applicant is requesting a variance to increase the permitted height of a ground or pole sign from 30 feet to 35 feet on property zoned "LC" Light Commercial District. A legal description of the applicant's property is as follows:

Lot 2, Branson 2nd Addition to Wichita, Sedgwick County, Kansas. Generally located on the west side of Rock Road and north of Harry.

This application has been assigned Case BZA 31-85. It will be considered by the Board of Zoning Appeals on May 28, 1985 at 1:30 p.m. in the Board Room, First Floor of City Hall, 455 North Main Street, Wichita, Kansas. If you have no interest or objections regarding the requested variance, you have no obligation to appear or comment. If you desire to appear at the Board meeting, you are invited to do so, 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.

If you have any questions about the application, please feel free to call the Wichita-Sedgwick County Metropolitan Area Planning Department at 268-4421.

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS
CITY OF WICHITA, KANSAS

*ownership list
to be delivered*

CASE NO. 31-85
FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicant McDonald's Corporation
Mailing Address 11880 College Blvd
Overland Park, Kansas 66210 Phone 913-492-0200
Name of Authorized Agent Everett C. Fettis
Mailing Address 120 S. Market - Suite 504 Phone 316-267-7251
Wichita, Kansas 67202
Relationship of applicant to property is that of OWNER
(Owner, Tenant, Lessee, Other)

II. The variance requested is to relocate the sign and raise
it 5 feet in height *(increase the permitted height from*
30 feet to 35 feet
on the west side of Rock Road and
for property located A Rock Road & Harry *north of Harry*

and legally described as: Lot 2 Branson 2nd add. to City

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

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. 36-596); 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.

Applicant McDonald's Corp.
Authorized Agent Everett C. Fettis

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 3:30 (~~4:00~~ p.m.), April 17, 1985, together with appropriate fee of 150.00

Signed [Signature]

OWNERSHIP LIST

Lot	Addition	Property Owner
Lot 1	Branson 2nd Addition	James J. Hying ✓ Sherry F. Hying 16290 Tower Lane Wichita, KS 67230
Lots 2 & 3	"	D McDonald's Corporation 11880 College Blvd. Overland Park, KS 66210
East 163.22' of Lots 4 & 5	"	✓ Carl A. Nelson, Trustee of the Rebecca B. Rounds Living Trust #2, Robert S. Rounds Living Trust #2 & Steven C. Rounds Living Trust #2 660 Sutton Place 209 E. William Wichita, KS 67202
Lots 4 & 5, except the East 163.22'	"	✓ Longfellow-Ventures, a general partnership 3705 E. Douglas Wichita, KS 67218
Lot 5	Captain's 2nd Addition	✓ Keith a/k/a Keith L. Anderson Lois Anderson 6002 Grace Lane Wichita, KS 67208
Lot 2 & Lot 3, except the South 25' of the West 200'	Triple "J" Addition	✓ Woodlawn Properties 5900 E. Central Wichita, KS 67208
That part of Lots 3 & 4, Triple "J" Addition, Wichita, Kansas, described as beginning at the front corner common to Lots 4 & 5 in said Triple "J" Addition; th. East along the line common to said Lots 4 & 5 & extended a distance of 200'; th. North parallel with the West line of said Lots 3 & 4, 125.32' to a point 25' North of the South line of said Lot 3; th. West parallel with the South line of said Lot 3, 200' to the West line of said Lot 3; th. South 125' to beg., Sedg. Co., KS.		✓ K. Gregg Fuson Linda J. Fuson 343 S. Fountain Wichita, KS 67218
Lot 5	Triple "J" Addition	✓ Merle Jean Hefley & Harvey W. Hefley, Co-Trustees of Merle Jean Hefley Living Trust 8232 E. Douglas Wichita, KS 67206
North 100' of the South 275' of Lot 17, Blk. 4	Lynnecrest Heights	✓ Lori J. Gonzales 6443 S. Wilson Tempe, AZ 85283 AND ✓ Edythe S. Flynn 698 Wetmore Dr. Wichita, KS 67209

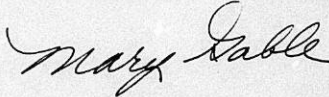
Page 2

We hereby certify the foregoing to be a true and correct list of the property owners of the hereinbefore described lots within a 200 foot radius of:

Lot 2, Branson 2nd Addition, Wichita, Kansas,
Sedgwick County, Kansas.

as shown by the last deed of record on file in the Office of the Register of Deeds, Sedgwick County, Kansas, on the 22nd day of April, 1985, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT AND TITLE COMPANY, INC.



By

Sr. Vice-President

Order No: 345749
ns

MICROFILMED
FROM THE BEST
AVAILABLE COPY

FORM 29-0

PAYMENT NOTICE
City of Wichita

Bldg.	Use of Str.	Code Bks	Copies
Elec	Elev. Insp.	Hse Moving	Lic.
Mech	Boiler Insp.	Fav. Cuts	Cert.
Pibg	Exam Fees	Sewer	Elev.
Signs	Plan Rev. (P.W.)	Cement	M.S.P.

Planning

DESCRIPTION	AMOUNT
CITY BTA Val	150 ⁰⁰
NAME	EVERETT FETTIS
ADDRESS	120 SO. MARKET
FUND	45-42710-003
COMMENTS	
DATE	APRIL 17, 1925
BY	[Signature]

*

This BZA. Case
Has a Large Drawing
On 35mm Microfilm

Roll # 2