



Wichita-Sedgwick County Metropolitan Area Planning Department

10/29/2007

Marcus Properties LLC
7130 N Maple Ste 210
Wichita KS 67209

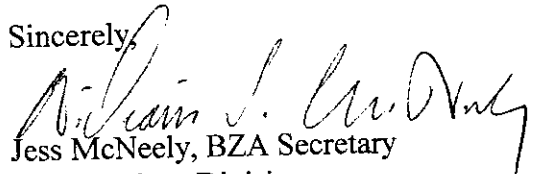
RE: BZA2007-57 Variance to eliminate 15' setback from property line for relocation of sign on property zoned "LC" Limited Commercial.

Dear Ladies and Gentlemen:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on **October 23, 2007**. This resolution reflects the official action of the Board. 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,


Jess McNeely, BZA Secretary
Current Plans Division

JM/ya

Cc Sharon Dickgrafe, Law Dept, 1-132
 Herb Shaner, OCI, 1-72
 Paul Gray, WCC District IV, 1-13
 Kurt Schroeder, OCI, 1-72

BZA RESOLUTION NO. 2007-57

WHEREAS, Marcus Properties LLC c/o Brian Suellentrap (owner/applicant); pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to Section 24.04.221.6 of the Sign Code to eliminate a 15-foot side setback requirement for a sign, generally located west of West Street, between Douglas and Maple (160 S West).

S 20' of Lot 19, Blk 2 and Lot 20, Blk 2, Westborough Addition, Sedgwick County, Kansas.

WHEREAS, proper notice as required by ordinance and by the rules of the Board of Zoning Appeals has been given; and

WHEREAS, the Board of Zoning Appeals did, at the meeting of October 23, 2007, 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 conditions that are unique, as the current sign location will be taken for a street widening project. The site is further unique as it is small, and will have no options for relocation of the existing pole sign.

WHEREAS, the Board of Zoning Appeals has found that granting the requested variance would not adversely affect the rights of adjacent property owners. The proposed sign location is at the southwest corner of the site. The property south of the application area has a parking lot between their building and the proposed sign location. Also, the proposed sign location will be approximately 50 feet from the next business sign to the south. Therefore, the proposed sign location should cause no confusion, nor have a negative affect on the adjacent property owner.

WHEREAS, the Board of Zoning Appeals has found that the strict application of the zoning regulations would constitute an unnecessary hardship upon the applicant, as the code required 15-foot side setback for pole signs would effectively prohibit the applicant from having a pole sign on the West street frontage.

WHEREAS, the Board of Zoning Appeals has found that the requested variance would not adversely affect the public interest at this location, as identification of businesses is in the public interest.

WHEREAS, the Board of Zoning Appeals has found that granting the requested variance would not be opposed to the general spirit and intent of the zoning regulations. The spirit and intent of the Sign Code, keeping adequate separation between signs, will still be achieved, as the next business sign to the south is approximately 50 feet from the proposed sign location.

WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, are found to be present for a variance to be granted.

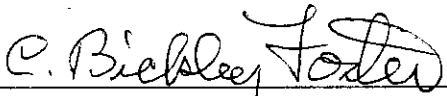
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals, pursuant to Section 2.12.590.B, Code of the City of Wichita, a variance to Section 24.04.221.6 of the Sign Code to eliminate a 15-foot side setback requirement for a sign, generally located west of West Street, between Douglas and Maple (160 S West).

S 20' of Lot 19, Blk 2 and Lot 20, Blk 2, Westborough Addition, Sedgwick County, Kansas.

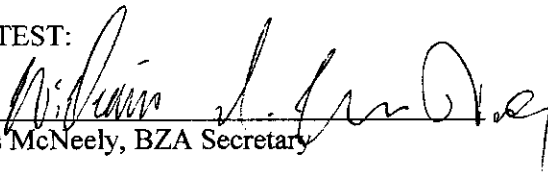
The variance is hereby GRANTED, subject to the following conditions:

1. The site shall be developed in substantial conformance with the approved site.
2. The applicant shall obtain all permits necessary to construct the signage and the signage shall be erected within one year of the issuance of the sign permit, unless such time period is extended by the BZA.
3. The above conditions are subject to enforcement by any legal means available to the City of Wichita.

ADOPTED AT WICHITA, KANSAS, this 23rd Day of October 2007.



BZA Board Chair, C. Bickley Foster

ATTEST:


Jess McNeely, BZA Secretary

SECRETARY'S REPORT

CASE NUMBER: BZA2007-57

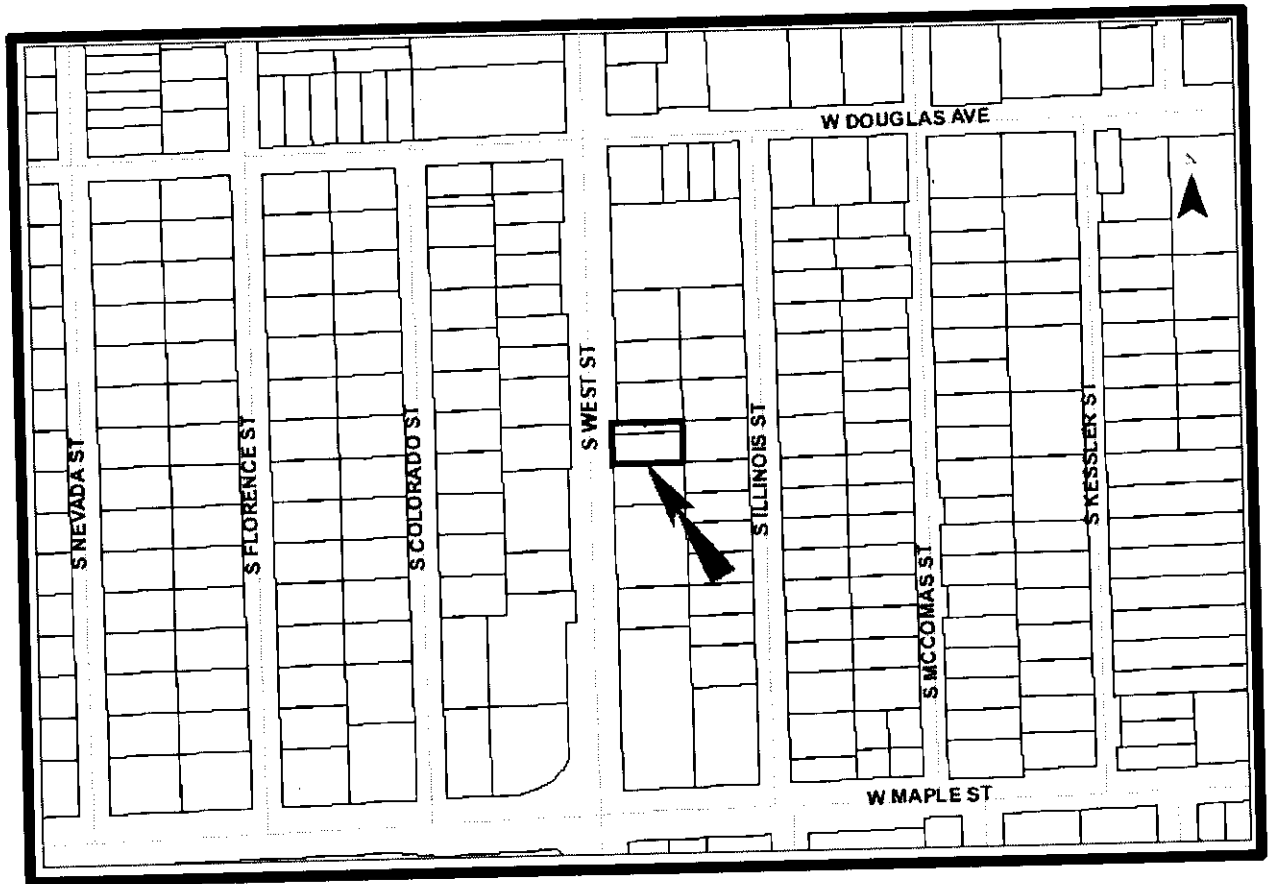
OWNER/APPLICANT: Marcus Properties LLC c/o Brian Suellentrap (owner)

REQUEST: Variance to Section 24.04.221.6 of the Sign Code to eliminate a 15-foot side setback requirement for a sign.

CURRENT ZONING: "LC" Limited Commercial

SITE SIZE: .25 acres

LOCATION: West of West Street, between Douglas and Maple (160 S West).



JURISDICTION: The Board has jurisdiction to consider the variance request under the provisions outlined in Section 2.12.590.B, Code of the City of Wichita. The Board may grant the request when all five conditions, as required by State Statutes, are found to exist.

BACKGROUND: The applicant requests a variance to eliminate the sign code side setback requirement of 15 feet for a pole sign. The application area is a retail establishment, located on the east side of South West Street, between Douglas and Maple. An existing pole sign on the property sits within a 10-foot wide strip to be acquired by the City for the widening of West Street. Parking spaces and a drive aisle for the site will become constrained with the loss of space for the West Street widening; the proposed sign location is a limited option to keep parking on the site accessible.

ADJACENT ZONING AND LAND USE:

NORTH	"LC"	Retail
SOUTH	"LC"	Retail
EAST	"SF-5"	Single-family residences
WEST	"LC"	Retail

The five criteria necessary for approval as they apply to variances requested.

UNIQUENESS: It is staff's opinion that this property is unique, as the current sign location will be taken for a street widening project. The site is further unique as it is small, and will have no options for relocation of the existing pole sign.

ADJACENT PROPERTY: It is staff's opinion that granting the requested variance, eliminating the side setback for signs, will not adversely affect the rights of adjacent property owners. The proposed sign location is at the southwest corner of the site. The property south of the application area has a parking lot between their building and the proposed sign location. Also, the proposed sign location will be approximately 50 feet from the next business sign to the south. Therefore, the proposed sign location should cause no confusion, nor have a negative affect on the adjacent property owner.

HARDSHIP: It is staff's opinion that the strict application of the provisions of the sign code would constitute an unnecessary hardship upon the applicant, as the code required 15-foot side setback for pole signs would effectively prohibit the applicant from having a pole sign on the West street frontage.

PUBLIC INTEREST: It is staff's opinion that the requested variance, to eliminate the side setback for signs, would not adversely affect the public interest at this location. Identification of businesses is in the public interest.

SPIRIT AND INTENT: It is staff's opinion that granting the requested variance, to eliminate the side setback for signs, would not oppose the general spirit and intent of the Sign Code. The spirit and intent of the Sign Code, keeping adequate separation between signs, will still be achieved, as the next business sign to the south is approximately 50 feet from the proposed sign location.

RECOMMENDATION: It is staff's opinion that the requested variance, to eliminate the 15-foot side setback for signs on this site, would be appropriate in accordance with the submitted site plan. Should the Board determine that conditions necessary to the granting of the variance exist, then the Secretary recommends that the variance to eliminate the 15-foot side setback for signs be GRANTED, subject to the following conditions:

1. The site shall be developed in substantial conformance with the approved site.
2. The applicant shall obtain all permits necessary to construct the signage and the signage shall be erected within one year of the issuance of the sign permit, unless such time period is extended by the BZA.
3. The above conditions are subject to enforcement by any legal means available to the City of Wichita.

155
REPAIR CENTERS
155 N. 5th St.
155 N. 5th St.

$$\text{SiO}_2 \rightarrow \text{SiF}_4$$

Propose & Sign Location

SECRET
LUSPERS, ET AL
1002763

+75.00

2. ¹BRIAN L.
LUTHERS, ET AL
1970

APR 12 1964

B2A 2007-57 SITE PLAN

160 *W. Davis* *S. L. M. Only*

Date: 10-29-07