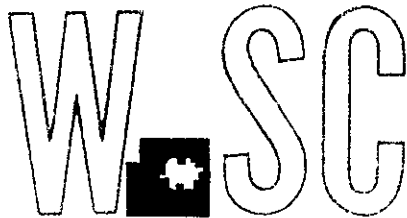


WICHITA — SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

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

October 1, 1997

John T. Arnold
501 Union Center
Wichita, KS 67202

RE: BZA 16-97 - Variance to increase the height of a pole sign from 30 feet to 45 feet on property located 300 feet west of Dugan Road on the north side of Kellogg (6422 W. Kellogg)

Dear Mr. Arnold:

Enclosed is a signed copy of the above-referenced BZA Resolution approved by the Board of Zoning Appeals on September 24, 1997. This resolution reflects the official action of the Board to grant your request and sets out the conditions of approval. It is forwarded to you for your information and files.

This is a reminder that the zoning adjustment signs should now be removed from the property. If you have any questions concerning this matter, please call our office.

Sincerely yours,

Lawrence P. Mitchell, Secretary
Board of Zoning Appeals

LPM/sah

cc: Everett Fettis, 120 S. Market, Wichita, KS 67202
Western Auto/Parts America, 6422 W. Kellogg, Wichita, KS 67209
OCI: J. R. Cox, Paul Hays, AND Ray Sledge
Pat Burnett, Deputy City Clerk
Yolanda Anderson, MAPC (resolution only)

BZA RESOLUTION NO. BZA 16-97

WHEREAS, John T. Arnold, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to increase the height of a pole sign from 30 feet to 45 feet on property zoned "LC" Limited Commercial and "GC" General Commercial and legally described as follows:

Lot 1, Woolf Addition, Wichita, Sedgwick County, Kansas.

AND

Beginning at the southwest corner of Lot 1; thence east along south lot line 150 feet; thence north at right angles from said south line, a distance of 189.94 feet more or less to the intersection with the north line of said lot; thence west on said north line 145.51 feet more or less to the northwest corner of said lot; thence south on west line of said lot 190 feet to the point of beginning, Fleming's First Addition, Wichita, Sedgwick County, Kansas. Generally located 300 feet west of Dugan Road on the north side of Kellogg (6422 W. Kellogg).

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 September 24, 1997, consider said application; and

WHEREAS, the Board of Zoning Appeals has proper jurisdiction to consider said request for a variance under the provisions of Section 2.12.590.B, Code of the City of Wichita; and

WHEREAS, the Board of Zoning Appeals has found that the variance arises from such condition which is unique to the property in question and which is not ordinarily found in the same zone or district; and is not created by an action or actions of the property owners or the applicant inasmuch as an elevated highway borders the front of the site, and reduces the visibility of the sign to the traveling public; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the permit for the variance to a 45-foot tall sign would adversely affect the rights of adjacent property owners inasmuch as a 45-foot tall sign would not improve the visual quality of the business area, but the Board of Zoning Appeals has found that the granting of a variance to a 35-foot tall sign would not adversely affect the rights of adjacent property owners inasmuch as the height of the sign would be similar to the height of other signs in the area and the sign has adequate separation from the other adjacent signs; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the sign code of which variance is requested may constitute unnecessary hardship upon the property owners represented in the application inasmuch as the identification of this use is not sufficiently provided for by the existing 25-foot tall pole sign; and

WHEREAS, the Board of Zoning Appeals has found that the variance to a 45-foot tall sign would adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, inasmuch as a 45-foot tall sign would impact the visual quality of the area and would be in excess of the height needed to provide adequate visibility, but the Board of Zoning Appeals has found that the variance to a 35-foot tall sign would not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare due to the fact that there are other signs in the area which are also at this height or greater; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance to a 45-foot tall sign as requested would be opposed to the general spirit and intent of the sign code inasmuch as a 45-foot tall pole sign would be excessive for this situation, but the Board of Zoning Appeals has found that the granting of a variance to a 35-foot tall pole sign would not be opposed to the general spirit and intent of the sign code inasmuch as a 35-foot tall sign would not be excessive and would harmonize with the surrounding uses and signs.

WHEREAS, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, to be present before a variance can be granted cannot be found to exist for a 45-foot tall pole sign, but can be found to exist for a 35-foot tall pole sign.

NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request be be denied, but that a variance to increase the height of a pole sign from 30 feet to 35 feet on on property zoned "LC" Limited Commercial and "GC" General Commercial and legally described as follows:

Lot 1, Woolf Addition, Wichita, Sedgwick County, Kansas.

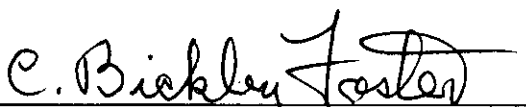
AND

Beginning at the southwest corner of Lot 1; thence east 150 feet to the south of said lot; thence north at right angles from said south line, a distance of 189.94 feet more or less to the intersection with the north line of said lot; thence west on said north line 145.51 feet more or less to the northwest corner of said lot; thence south on west line of said lot 190 feet to the point of beginning, Fleming's First Addition, Wichita, Sedgwick County, Kansas.

subject to the following conditions:

1. Prior to increasing the height of the sign, the applicant shall obtain a sign permit and shall comply with all sign code requirements, unless a variance is granted by the Board, except that the height of the sign may be up to 35 feet.
2. Only one pole or monument sign shall be permitted on this application lot if the height is more than 25 feet.
3. The sign shall be installed within one year or the resolution granting this variance shall become null and void.

ADOPTED AT WICHITA, KANSAS, this 24th day of September, 1997.


C. Bickley Foster, President

ATTEST:


Lawrence P. Mitchell, Secretary

AGENDA ITEM NO. 5
September 23, 1997

CASE NUMBER: BZA 16-97

OWNER/APPLICANT: John T. Arnold (owner); Western Auto-Parts America (lessee)

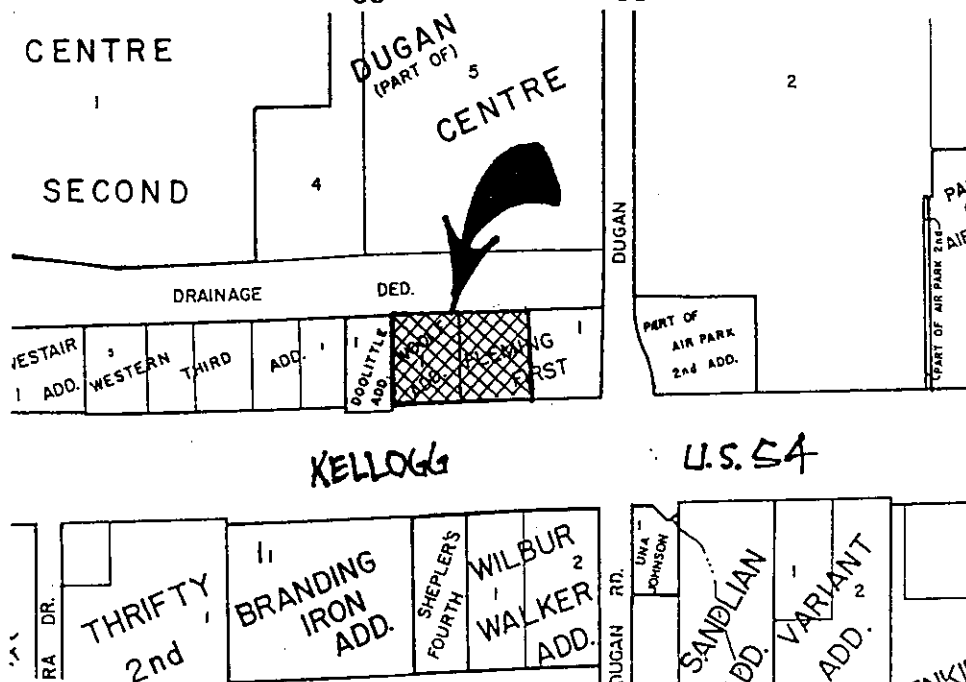
AGENT: Everett Fettis

REQUEST: Variance to increase the height of a pole sign from 30 feet to 45 feet.

CURRENT ZONING: "LC" Limited Commercial and "GC" General Commercial

SITE SIZE: 200' x 301'

LOCATION: 300 feet west of Dugan Road on the north side of Kellogg (6422 W. Kellogg)



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.

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BACKGROUND: The applicant proposes to increase the height of an existing pole sign on the Western Auto-Parts America site on west Kellogg from 25 feet to 45 feet. The applicant is in the process of re-identifying their business from "Western Auto" to "Parts America" and are resigning their business location to reflect their new identity. The current sign is 25 feet in height and 200 square feet in size.

The Western Auto-Parts America site is considered one zoning lot with 301 feet of frontage along Kellogg. This amount of frontage, per the sign code, will accommodate two individual pole signs, 25 feet in height, with a separation of at least 150 feet. The total signage along this frontage, per the sign code, cannot exceed 240 square feet (0.8' x 301'). The current sign code limits pole signs to 25 feet in height, but permits an increase in height of 5 feet for each sign that is allowed but not utilized along a street frontage. This method does not permit any pole sign to exceed a height of 35 feet. Therefore, the applicant could have on this site two 25-foot high pole signs with a combined size of no more than 240 square feet in size or one 30-foot high sign of up to 240 square feet in size.

The applicant indicates the reason for this request is that the improvements made to west Kellogg have increased the height of the highway in front of this property therefore obstructing the view of this sign from Kellogg. While it is true that Kellogg is elevated about 15 feet in front of this business, and about 22 feet at the Dugan overpass, the Western Auto sign is visible for eastbound traffic except for a few seconds as one approaches the Dugan overpass. At this point a vehicle is well beyond the highway exit which provides access to the businesses near Dugan Road. It is another business's pole sign (Wendy's) rather than the elevated highway which blocks the view of the Western Auto sign for a few seconds when westbound on Kellogg. The applicant's sign is lost in the multitude of pole signs that exist in the area when it is being viewed from the westbound Kellogg traffic near the Dugan exit. Staff is of the opinion that the existing height of the Western Auto sign provides adequate, although not constant, visibility and that an increase in height to 45 feet is not justified. The applicant may increase the height of the existing sign to 30 feet without a height variance.

ADJACENT ZONING AND LAND USE:

NORTH	"GC" Retail Center (Builder's Square)
SOUTH	"GC" Kellogg Avenue (US 54 Highway)
EAST	"GC" Food Service (Wendy's)
WEST	"LC" Office (Doolittle Construction)

UNIQUENESS: It is the opinion of staff that this property is unique inasmuch as an elevated highway borders the front of the site, however, the elevation hinders the view of the sign only momentarily and only from one direction.

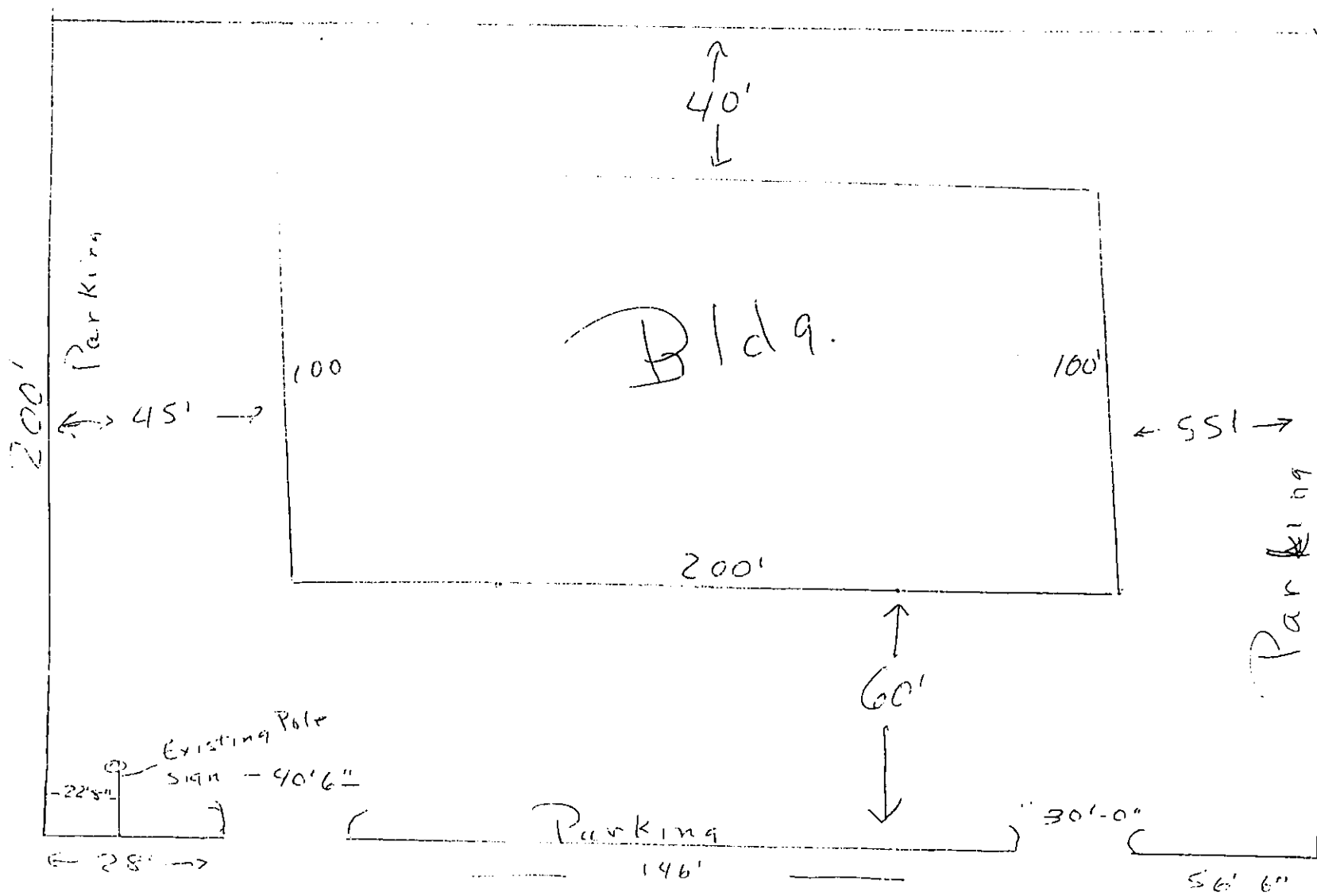
ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested may adversely affect the rights of adjacent property owners inasmuch as a 45-foot-tall Western Auto-Parts America sign may block the view of other signs in the area, most of which are 35 feet in height.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the zoning regulations will not constitute an unnecessary hardship upon the applicant inasmuch as the identification of this auto parts use is sufficiently provided for by the existing 25-foot-tall pole sign.

PUBLIC INTEREST: It is the opinion of staff that the requested variance would adversely affect the public interest inasmuch as the taller sign would not improve or protect the visual quality of the community.

SPIRIT AND INTENT: It is the opinion of staff that the granting of the variance requested would be opposed to the general spirit and intent of the zoning regulations inasmuch as a 45-foot-tall sign at this location is excessive and more than necessary to provide adequate visibility of this business to the public.

RECOMMENDATION: Since all five conditions necessary to the granting of a variance cannot be found to exist, it is the recommendation of the Secretary that the variance **NOT** be granted.



Kellogg Drive ← 301' →

West Highway 54

BZA 16-97