

ADOPTED AT WICHITA, KANSAS, this 26th day of June, 1979.

Mary L. Kopietz, Chairman

ATTEST:

Jack H. Galbraith, Secretary

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5. Case No. BZA 21-79 - Donrey Advertising Company, 3405 N. Hydraulic, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to install an off-site sign in the "LC" Light Commercial District by varying the 70% requirement of the designated mile to be adjacent to the "LC", "C", "E" or "F" zoning, on property zoned the "LC" Light Commercial District and legally described as follows:

Beginning at a point on the South line of the Southwest Quarter of Sec 15, Twp 27 S, Range 1 West of the 6th P.M., Sedgwick County, Ks., 764.78 feet West of the Southeast corner of said SW 1/4, thence North 200 feet; thence West parallel to the South line of said SW 1/4 to a point on the East line of a tract of land deeded to John T. Arnold & Associates by deed recorded on Film 268 page 790; thence Southeasterly along said East line to a point on the South line of said SW 1/4; thence East along said South line to the place of beginning, except the South 55 feet for street purposes. Generally located on the north side of Central approximately 300 feet west of the Big Ditch.

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LYTLE showed slides of the application area and reviewed the following comments from the Secretary's Report:

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
5. That granting 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 variance from the strict application of that portion of the zoning ordinance that permits the erection of off-site signs in the "LC" Light Commercial District. The ordinance states that in order to erect an off-site sign in the "LC" district, at least 70 percent of the designated mile must be adjacent to the "LC", "C", "E" or "F" zoning district.

The designated mile in question is West Central Avenue from Ridge Road to Hoover. The particular location proposed for the off-site sign is on property on the north side of Central approximately 300 feet west of the Big Ditch.

At the time the provisions for off-site signs to be located in the "LC" district were adopted into the ordinance, it was intended that off-site signs not be permitted in areas that were considered residential. At that time, certain criteria for the use of major streets for such advertising was established and it was determined that when a large portion of the street was zoned commercial it could be assumed to be developed as commercial. A figure of 70 percent was determined to be predominantly zoned commercial for a designated mile.

The designated mile in this particular instance is intersected by a drainage way (Big Ditch) using approximately one-fourth of the mile and will more than likely remain as "AA" Single

Family. Using the method set forth in the ordinance for determining proper zoning adjacent to the center line of the designated mile, 3250 feet (or 61.5%) is adjacent to "LC" zoning. By removing the portion of the mile used by the flood control right-of-way, 82 percent of the remaining portion of the mile is adjacent to "LC" zoning. It should be further mentioned that a zoning policy has been established along Central to look with favor on "LC" zoning on the entire mile which would be 75 percent of the mile excluding the Big Ditch area.

UNIQUENESS:

It is the opinion of the Secretary that this is a unique situation inasmuch as the area used by the flood control right-of-way will be used for the designated purpose from now on and the zoning will probably remain the most restrictive classification.

ADJACENT PROPERTY:

It is the opinion of the Secretary that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the immediate adjacent properties are vacant and the erection of one sign located at the normal building setback line would not interfere with future development on adjacent properties.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance may constitute an unnecessary hardship upon the applicant inasmuch as this will be the only designated mile on West Central that will permit the location of an off-site sign.

PUBLIC INTEREST:

It is the opinion of the Secretary that the granting of the variance requested would not adversely affect the public interest inasmuch as the general area is not an area that is proliferated with a large number of signs.

SPIRIT AND INTENT:

It is the opinion of the Secretary that the granting of the variance requested will not be opposed to the general spirit and intent of the zoning ordinance inasmuch as the intent of the regulations is to provide reasonable distribution of areas throughout the community for off-site advertising.

RECOMMENDATION:

If the Board determines that the above five conditions can be found to exist, it is the Secretary's recommendation that the variance be granted subject to the following conditions:

1. The off-site sign shall not exceed 600 square feet in surface area nor exceed a height of 30 feet above grade.
2. No portion of the sign shall extend closer than 35 feet from the right-of-way line of Central.
3. The sign shall not be illuminated between the hours of 11:00 p.m. and 7:00 a.m.

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LYTLE stated CPO Council "A" voted 7-1 to recommend denial of the request.

JACOB asked how many signs could possibly be erected in this area. LYTLE replied a maximum of five, with at least a 330 foot separation between each sign. JACOB then asked if it were not true that 100% of zoning would never be secured since the floodway would remain. LYTLE answered this was true, but that 70% could possibly be secured with a total of five signs allowed based on the total lineal footage of the area. A general discussion followed concerning the possible lineal footage remaining which could be used in determining allowability of future signs. HENDERSON then requested a rereading of the proposed condition #4, asking for an explanation of how this condition would prohibit additional signs in the area. LYTLE explained that he had added this condition after receiving comments from CPO Council A and he then read condition #4 "This shall be the only off-site sign permitted in the designated mile until such time additional zoning is granted to comply with the 70% requirement". LYTLE went on to explain that in other words, until the 70% "LC" zoning the requested sign would be the only one permitted in this particular mile. HENDERSON then asked if the addition of a small parcel to the "LC" would this allow additional signs. LYTLE replied should this occur the sign request would come under the normal provisions of the ordinance. HENDERSON then asked if the sand pit currently enjoying "AA" Single Family zoning would revert, in the future, to "LC". GALBRAITH replied that this was doubtful as a plan had been filed indicating erection of townhouses around the sand pit after mining operations cease.

KEN FRANCISCO, sales manager, Donrey Advertising, Inc., then appeared before the Board stating he had nothing further to add to the staff report, except that the applicant had no other plans for sign erection in this designated mile. He informed the Board the applicant had wanted this one location

because of severe limitation in distribution in the west part of Wichita and felt a definite need to include this in their paint bulletining program. He further stated that the piece of land leased for this sign was unique in that it was a small finger of land and could probably never be used for any other purpose.

HENDERSON then directed a question to Lytle asking if other sign requests were made for this location after additional "LC" zoning was established would they be required to come before the Board of Zoning Appeals for approval. LYTLE replied in the negative; that any further sign requests would come under the sign ordinance itself as this particular request was only for a variance of the 70% of "LC" zoning to permit the erection of this one sign.

No one else appeared on behalf of the applicant; no one appeared in opposition.

MOTION: JACOB moved, HENDERSON seconded and it carried unanimously that the five conditions necessary for the granting of a variance had been found to exist and that a variance be granted subject to the conditions as set out in the Secretary's Report and the addition of condition #4. (TAYLOR was absent.)

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The variance was granted as shown by the adoption of the following Resolution:

RESOLUTION NO. BZA 21-79

WHEREAS, Donrey Outdoor Advertising Company, 3405 North Hydraulic, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to install an off-site sign by varying the 70% requirement of the designated mile to be adjacent to "LC", "C", "E" or "F" zoning, on property zoned the "LC" Light Commercial District, and legally described as follows:

Beginning at a point on the South line of the Southwest Quarter of Sec 15, Twp 27 S, Range 1 West of the 6th P.M., Sedgwick County, Ks., 764.78 feet West of the Southeast corner of said SW 1/4, thence North 200 feet; thence West parallel to the South line of said SW 1/4 to a point on the East line of a tract of land deeded to John T. Arnold & Associates by deed

recorded on Film 268 page 790; thence South-easterly along said East line to a point on the South line of said SW 1/4; thence East along said South line to the place of beginning, except the South 55 feet for street purposes. Generally located on the north side of Central approximately 300 feet west of the Big Ditch.

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 June 26, 1979, 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 area used by the flood control right-of-way will be used for the designated purpose from now on and the zoning will probably remain the most restrictive classification. The remaining portion of the designated mile contains 82% "LC" zoning and the established zoning policy would increase the zoning to 100% of the remaining portion of the designated mile.

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 immediate adjacent properties are vacant and the erection of one sign located at the normal building setback line would not interfere with future development on adjacent properties.

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 this will be the only designated mile on West Central that will permit the location of an off-site sign.

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 general area is not an area that is proliferated with a large number of signs.

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 intent of the regulations is to provide reasonable distribution of areas throughout the community for off-site advertising.

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 install an off-site sign by varying the 70% requirement of the designated mile to be adjacent to "LC", "C", "E" or "F" zoning, on property zoned the "LC" Light Commercial District, and legally described as:

Beginning at a point on the South line of the Southwest Quarter of Sec 15, Twp 27 S, Range 1 West of the 6th P.M., Sedgwick County, Ks., 764.78 feet West of the Southeast corner of said SW 1/4, thence North 200 feet; thence West parallel to the South line of said SW 1/4 to a point on the East line of a tract of land deeded to John T. Arnold & Associates by deed recorded on Film 268 page 790; thence Southeasterly along said East line to a point on the South line of said SW 1/4; thence East along said South line to the place of beginning, except the South 55 feet for street purposes. Generally located on the north side of Central approximately 300 feet west of the Big Ditch

be approved subject to the following conditions:

1. The off-site sign shall not exceed 600 square feet in surface area nor exceed a height of 30 feet above grade.
2. No portion of the sign shall extend closer than 35 feet from the right-of-way line of Central.
3. The sign shall not be illuminated between the hours of 11:00 p.m. and 7:00 a.m.
4. This shall be the only off-site sign permitted in the designated mile until such time as additional zoning is granted to comply with the 70% requirement.

ADOPTED AT WICHITA, KANSAS, this 26th day of July, 1979.

Mary L. Kopietz, Chairman

ATTEST:

Jack H. Galbraith, Secretary

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6. Case No. BZA 22-79 - Harold Orindgreff, 2900 Oriole Drive, Wichita, Kansas, pursuant to Section 2.12.590.C, Code of the City of Wichita, requests an exception to permit the establishment of an outdoor sales and storage area for boats and trailers, on property zoned the "LC" Light Commercial District and "AA" Single Family Dwelling District and legally described as follows:

Beginning at a point on the east line of Section 18, Township 28 South, Range 1 East of the Sixth Principal Meridian, in Sedgwick County, Kansas, 1133.47 feet north of the Southeast corner of said Section, thence west 641 feet; thence north 154.58 feet; thence east 641 feet; thence south 154.8 feet more or less, to point of beginning. Generally located on the southwest corner of 45th Street South and Seneca (4601-03-05 S. Seneca).

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LYTLE showed slides of the application area and reviewed the following comments from the Secretary's Report:

JURISDICTION:

The Board has jurisdiction to consider this request under the provisions outlined under Section 2.12.590-C, Code of the City of Wichita. The Board may grant the exception provided the conditions set out in Section 28.04.183.2 can be complied with.

COMMENTS BY THE SECRETARY:

The applicant is requesting an exception to permit the establishment of an outdoor sales and storage area for boats and trailers on subject property. This will be a new location for a business that has been located on South Broadway and is purchasing this property to relocate the marine sales business.