



FILE COPY

**Wichita-Sedgwick County Metropolitan Area Planning Department**

October 17, 2003

Chris Anderson  
Conway Bank  
121 E. Kellogg  
Wichita, KS 67202

**RE: BZA2003-40 – 1) Variance to Section 24.04.221.3 of the Sign Code to increase the maximum permitted height of a pole sign from 25 feet to 42 feet; 2) Variance to Section 24.04.221 (m) of the Sign Code to increase the maximum three foot distance to allowed between the two faces of a sign that triggers the requirement to count both sides of the same sign as two signs instead of a single sign; and 3) Variance to Section 24.04.221.1 to allow a corner sign to face a single street frontage instead of being angled to face both street frontages. Generally located at the southeast corner of Kellogg Main. (District I)**

Dear Mr. Anderson:

Enclosed is a signed copy of the above-referenced BZA site plans approved by the Board of Zoning Appeals on September 23, 2003. 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,

Scott Knebel  
Assistant BZA Secretary

SK/rms

CC: Greg Ferris, Ferris Consulting, P O Box 573, Wichita, KS 67201  
Carl Brewer, WCC, District I, Mail Stop 1-13  
Virdeana Gilkey, N.A. I, Mail Stop 1-135  
Sharon Dickgrafe, Law Department, Mail Stop 1-132  
J. R. Cox, OCI, 1-72  
Pat Longwell, OCI, 1-72

**BZA RESOLUTION NO. 2003-00040**

**WHEREAS**, Conway Bank c/o Chris Anderson, (owner/applicant), Ferris Consulting, c/o Greg Ferris, (agent) pursuant to Section 2.12.590.B, Code of the City of Wichita, requests 1) Variance to Section 24.04.221.3 of the Sign Code to increase the maximum permitted height of a pole sign from 25 feet to 39 feet; 2) Variance to Section 24.04.221(m) of the Sign Code to increase the maximum three foot distance allowed between the two faces of a sign that triggers the requirement to count both sides of the same sign as two signs instead of a single sign; and 3) Variance to Section 24.04.221.1 to allow a corner sign to face a single street frontage instead of being angled to face both street frontages on property zoned "GC" General Commercial and "B" Multi-family Residential and legally described as follows:

Lots 1 and 2, Flaming Steer Addition, Wichita, Sedgwick County, Kansas and Lot 27 and the north 9 feet of Lot 29, Dieters Addition, Wichita Sedgwick County, Kansas. Generally located at the southeast corner of Kellogg and Main.

**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 meetings of August 26, 2003 and September 23, 2003, 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 variances arise from such condition which is unique. It is the opinion of the Board that this property is unique, inasmuch as the property is located adjacent to an elevated segment of a freeway overpass and signage of the height permitted by the Sign Code would not sufficiently relay the location of the business on the subject property to traffic along Kellogg. Additionally, since Main Street is one-way south-bound at the subject property and the sign would be blocked from view by south-bound traffic by the freeway overpass, the property is uniquely situated such that an angle sign at the corner would hinder rather than improve visibility of the sign.

**WHEREAS**, the Board of Zoning Appeals has found that the granting of the variances will not adversely affect the rights of adjacent property owners or residents. It is the opinion of the Board that the granting of the variances will not adversely affect the rights of adjacent property owners, inasmuch as all adjacent properties are zoned for commercial uses and the conditions of the variances will ensure that signage on the subject property is of a similar scale as permitted for adjoining businesses.

**WHEREAS**, the Board of Zoning Appeals has found that the strict application of the provisions of the zoning ordinance of which variance is requested will constitute unnecessary hardship upon the property owners represented in the application. It is the opinion of the Board that the strict application of the provisions of the sign regulations will constitute an unnecessary hardship upon the applicant, inasmuch as the lack of visibility of the property was created by the construction of the freeway overpass and designation of the Main Street as a one way street that blocks the view of the applicant's property.

**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. It is the opinion of the Board that the variances would not adversely affect the public interest, inasmuch as the conditions of the variances will ensure that signage on the subject property is tasteful in design, is of an appropriate scale, and has minimal lighting.

**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 the zoning ordinance. It is the opinion of the Board that the granting of the variances would not oppose the general spirit and intent of the Sign Code inasmuch as a stated intent of the Sign Code is to provide an opportunity to achieve a reasonable balance between the need for a sign and preserving the visual qualities of the community. In this instance, the need for an increase in sign height, to angle to the sign towards the direction of traffic, and to face the sign only towards Kellogg in order to provide visibility from the freeway will provide a reasonable balance with the visual qualities of the community.

**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.

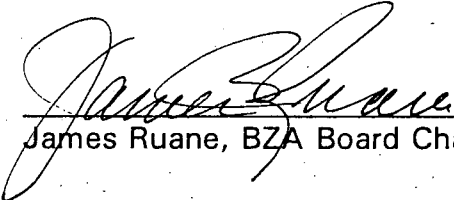
**NOW, THEREFORE, BE IT RESOLVED** by the Board of Zoning Appeals, pursuant to Section 2.12.590.B, Code of the City of Wichita, that 1) a variance to Section 24.04.221.3 of the Sign Code to increase the maximum permitted height of a pole sign from 25 feet to 39 feet; 2) a variance to Section 24.04.221(m) of the Sign Code to increase the maximum three foot distance allowed between the two faces of a sign that triggers the requirement to count both sides of the same sign as two signs instead of a single sign be granted; and 3) Variance to Section 24.04.221.1 to allow a corner sign to face a single street frontage instead of being angled to face both street frontages on property zoned "GC" General Commercial and "B" Multi-family Residential and legally described as follows:

Lots 1 and 2, Flaming Steer Addition, Wichita, Sedgwick County, Kansas and Lot 27 and the north 9 feet of Lot 29, Dieters Addition, Wichita Sedgwick County, Kansas. Generally located at the southeast corner of Kellogg and Main.

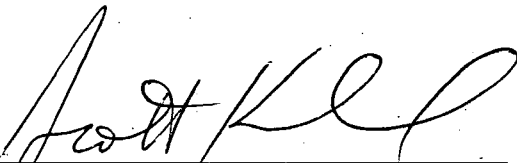
The variances are hereby GRANTED, subject to the following conditions:

1. A pole sign along the Kellogg frontage of the subject property shall be permitted that complies with all regulations of the Sign Code, except that variances are granted to permit the sign to be a maximum of 39 feet in height, to permit the separation of the sign faces up to a maximum of 7-feet 10-inches on the southern edge of the sign while allowing the square footage of the double-faced sign to be counted as a single sign face for the purpose of calculating the size of sign permitted, and to allow a corner sign to face only the Kellogg frontage instead of being angled to face both the Kellogg and Main frontages.
2. The pole sign permitted by the variances shall be the only ground-mounted sign permitted on the subject property.
3. Prior to the issuance of a sign permit, the applicant shall submit illustrations and a site plan showing the sign permitted by the variances for review and approval by the MAPD to ensure the conditions of the variances and the still applicable provisions of the Sign Code are met.
4. The applicant shall obtain all permits necessary to construct the sign, and the sign shall be erected within one year of the granting of the variances, unless such time period is extended by the Board.
5. The resolution authorizing the variances may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.

ADOPTED AT WICHITA, KANSAS, this 23rd DAY of SEPTEMBER 2003.

  
James Ruane, BZA Board Chair

ATTEST:

  
Scott Knebel, BZA Secretary

**SECRETARY'S REPORT**

CASE NUMBER: BZA2003-00040

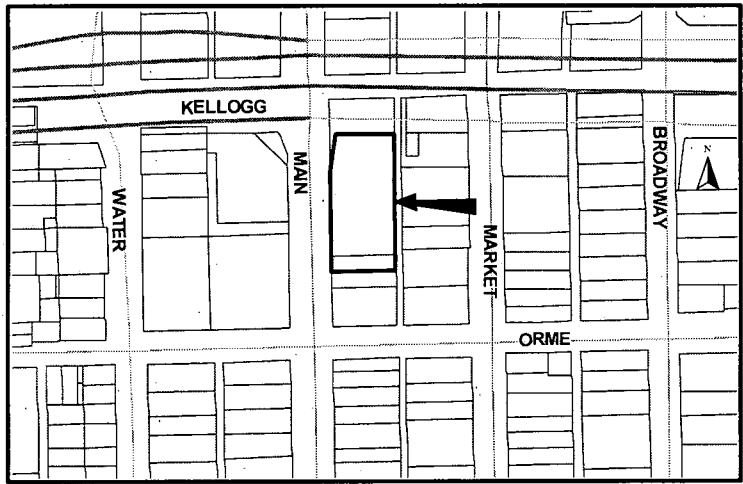
OWNER/APPLICANT: Conway Bank c/o Chris Anderson (Owner/Applicant), Ferris Consulting c/o Greg Ferris (Agent)

- REQUEST:
1. Variance to Section 24.04.221.3 of the Sign Code to increase the maximum permitted height of a pole sign from 25 feet to 42 feet;
  2. Variance to Section 24.04.221(m) of the Sign Code to increase the maximum three foot distance allowed between the two faces of a sign that triggers the requirement to count both sides of the same sign as two signs instead of a single sign; and
  3. Variance to Section 24.04.221.1 to allow a corner sign to face a single street frontage instead of being angled to face both street frontages.

CURRENT ZONING: "GC" General Commercial and "B" Multi-family Residential

SITE SIZE: 1.20 acres

LOCATION: Southeast corner of Kellogg and Main



**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 application area is located southeast of the intersection of Main and Kellogg at 121 E. Kellogg, and is currently developed with a branch office of the Conway Bank. At this location, Kellogg is an elevated freeway segment that is approximately 27 feet in height to the top of the retaining rail. The subject property is zoned "GC" General Commercial and "B" Multi-family Residential.

The applicant proposes to locate a 229.86 square foot, "V" shaped, 42-foot tall pole sign 35 feet east and 20 feet south of the northwest corner of the property. The proposed sign is proposed to contain an LED reader board located just below the main sign face of the sign (see attached site plan and drawings). In order to install the desired design for the pole sign, the applicant is seeking approval of three variances to the Sign Code as follows: (1) variance to Section 24.04.221.3 to increase the maximum permitted height of a pole sign from 25 feet to 42 feet; (2) variance to Section 24.04.220(m) to increase the maximum three foot distance allowed between the two faces of a "V" shaped sign that triggers the requirement to count both sides of the same sign as two individual signs instead of a single sign; and (3) variance to Section 24.04.221.1. to allow a corner sign located closer than 50 feet of the right-of-way to face a single street frontage instead of being angled to face both street frontages.

The applicant is seeking the 42-foot height in order to allow for the bottom of the LED portion of the sign (at 30 feet) to be located three feet above the 27-foot high retaining rail of the Kellogg overpass. That makes the overall sign approximately 12 feet tall, from the bottom of the LED reader board to the top of the sign (see attached drawing of the sign). The Sign Code permits a sign height of 25 feet at this location.

The sign is proposed to be a "V" shaped design with 7 feet 10 inches separating the two angled sign faces. The "open" end of the "V" shape is to face south (see top view diagram). The sign code permits a three-foot separation between the angled sign faces of this design. If the width is greater than three feet, then the code requires each face of the sign to be treated as separate signs, and both sides count against the total signage allowed. If the applicant were placing signs along each street frontage, the code permits 112.11 square feet of signage for the Kellogg frontage and 268 square feet along Main Street, provided they were appropriately placed along those two street frontages, however, if the sign is to be placed on the corner, then 50% of the allowable square footage along one frontage has to be given up which results in 237 square feet of signage permitted at the location requested, assuming the sign is a corner sign. The applicant is seeking a 230 square foot sign on each sign face, or a total of 460 square feet of signage since the sign faces are proposed to be separated by more than three feet.

The third variance requested deals with a corner sign that does not face the direction of travel of one of the streets (Main Street). Signs located within 50 feet of the intersection of two streets on a corner lot may be placed so that it faces both directions of travel. When this occurs, it shall be considered a sign adjacent to each street, and one-half of the sign area shall be charged against the total permitted sign area of each street

frontage. The applicant states he will give up his right to a second pole sign facing Main Street in return for this variance.

Cambridge Suites Hotel is located west of the application area, and has a 105 square foot sign that was granted a height variance from 25 feet to 35 feet (see attached simulated photograph). An existing off-site billboard sign is located 160 feet east of the proposed sign location.

The applicant has submitted an extensive justification statements (attached) for the requested variances. The applicant's justification for the variances requested is that the variances are needed for the sign to be visible prior to the freeway exits serving the subject property, which are located more than 1,000 feet prior to the subject property.

**ADJACENT ZONING AND LAND USE:**

NORTH	"CBD"	Retail
SOUTH	"LC"	Residence
EAST	"GC"	Vacant, billboard
WEST	"LC"	Vacant, motel

The following findings apply to the variances that planning staff recommends be granted. The variances that planning staff recommends to be granted are different than the variances requested by the applicant. Therefore, findings different than those contained in the Secretary's Report will be needed if the Board is to grant the applicant's requested variances.

**UNIQUENESS:** It is the opinion of staff that this property is unique, inasmuch as the property is located adjacent to an elevated segment of a freeway overpass and signage of the height permitted by the Sign Code would not sufficiently relay the location of the business on the subject property to the traveling public.

**ADJACENT PROPERTY:** It is the opinion of staff that the granting of the variances will not adversely affect the rights of adjacent property owners, inasmuch as all adjacent properties are zoned for commercial uses and the conditions of the variances will ensure that signage on the subject property is of a similar scale as permitted for adjoining businesses.

**HARDSHIP:** It is the opinion of staff that the strict application of the provisions of the sign regulations will constitute an unnecessary hardship upon the applicant, inasmuch as the lack of visibility of the property was created by the construction of the freeway overpass that blocks the view of the applicant's property.

**PUBLIC INTEREST:** It is the opinion of staff that the variances would not adversely affect the public interest, inasmuch as the conditions of the variances will ensure that signage on the subject property is tasteful in design, is of an appropriate scale, and has minimal lighting.

**SPIRIT AND INTENT:** It is the opinion of staff that the granting of the variances would not oppose the general spirit and intent of the Sign Code inasmuch as a stated intent of the Sign Code is to provide an opportunity to achieve a reasonable balance between the need for a sign and preserving the visual qualities of the community. In this instance, the need for an increase in sign height and to angle to the sign towards the direction of traffic to provide visibility from the freeway will provide a reasonable balance with the visual qualities of the community.

**RECOMMENDATION:** It is staff's opinion that the signage requested is excessive for the purpose of relaying the location of the bank from the freeway, especially in comparison to other on-site signage in the area. It is staff's opinion that the applicant's intended purpose of the sign is to provide general advertising for the applicant's business rather than for relaying the location of the branch bank on the subject property, hence the similarities between the applicant's requested sign design and that of off-site signs or billboards. It is not the intent of the Sign Code to provide visibility of signs for businesses along freeways prior to exits. Given the distance businesses along freeways are located from an exit, it is often impossible to provide visibility of a sign from an exit while still preserving visual qualities of the community. It is the opinion of planning staff that permitting a sign on the subject property that is visible from the freeway exits will detract from the visual qualities of the community. It is the opinion of planning staff that the size and height of sign requested is excessive and that the location of the business can be relayed to travelers along Kellogg with a shorter and smaller sign than requested. Therefore, planning staff recommends that a variance be granted to permit an increase in the height of the sign from 25 feet to 35 feet, rather than the 42 feet requested by the applicant. Such a variance is consistent with the sign height variance granted for the hotel property located west of the subject property. Since the intent of the sign in question is to relay the location of the business on the subject property to traveler's along Kellogg, planning staff recommends that the variance for the 7-foot 10-inch separation between sign faces be granted. Since the variances to increase the height of the sign and to angle the sign faces towards traffic along Kellogg are needed only provide visibility of the sign from Kellogg, planning staff recommends that the requested variance to allow a corner sign face only Kellogg rather than being angled to face both Kellogg and Main be denied and that the size of the sign be limited to the size permitted by the subject property's frontage along Kellogg. It is the opinion of planning staff that permitting such a variance would circumvent the intent of the Sign Code pertaining to corner signs. Staff's recommendations are intended to ensure that signage on the subject property meets the intent of the sign code to balance the visual qualities of the community with the need for identification of the business on the property. Should the Board determine that the five conditions necessary for the granting of the variances exist, then it is the recommendation of the Secretary that the following variances be GRANTED, subject to the following conditions:

1. A pole sign along the Kellogg frontage of the subject property shall be permitted that complies with all regulations of the Sign Code, except that variances are granted to permit the sign to be a maximum of 35 feet in height and to permit the

separation of the sign faces up to a maximum of 7-feet 10-inches on the southern edge of the sign while allowing the square footage of the double-faced sign to be counted as a single sign face for the purpose of calculating the size of sign permitted.

2. The pole sign permitted by the variances shall be limited in area to the size permitted by the subject property's Kellogg frontage.
3. A corner sign shall not be permitted on the subject property unless it is angled to face both Kellogg and Main, per the corner sign requirements of the Sign Code.
4. Prior to the issuance of a sign permit, the applicant shall submit illustrations and a site plan showing the sign permitted by the variances for review and approval by the MAPD to ensure the conditions of the variances and the still applicable provisions Sign Code are met.
5. The applicant shall obtain all permits necessary to construct the sign, and the sign shall be erected within one year of the granting of the variances, unless such time period is extended by the Board.
6. The resolution authorizing the variances may be declared null and void upon findings by the Board that the applicant has failed to comply with any of the foregoing conditions.



93" x 246" Conway Bank Cabinet



51" x 187" Message center cabinet

39'

14" x 3/8" steel

2 3/4" ring plates

BZA2003-00040  
**SITE PLAN**

APPROVED 10-15-03 BY SK

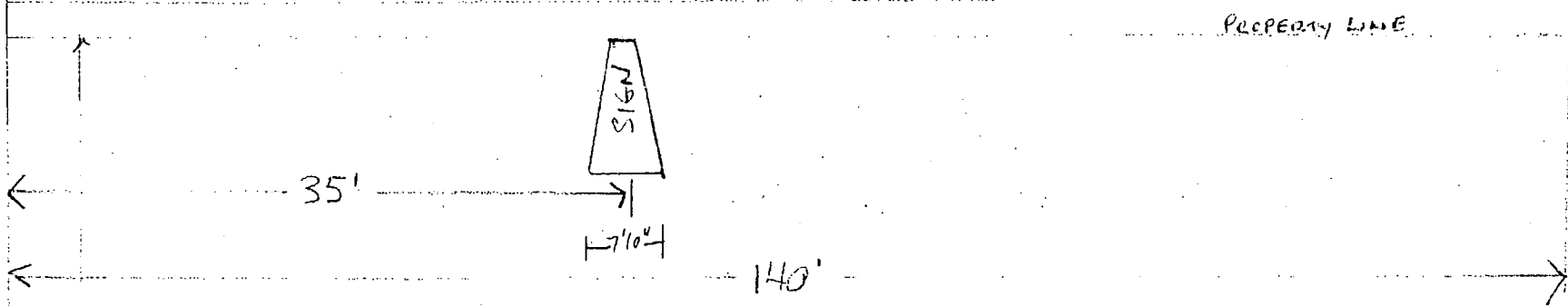
36" x 16' round foundation

24" x 3/8" round pipe steel

MAIN

STREET

321'



KELLOGG



140'

35'

10'

PROPERTY LINE

ALLEY

CONWAY BANK

B2A2003-00040

# SITE PLAN

APPROVED 10-15-03 BY SK