

POSTED 7-25-84 a.e.l.

ACTION

BZA 50-84 Approved 8-28-84
DATE

200'4 Sec. 9-7-84

Shel 9-15

Recorded ✓

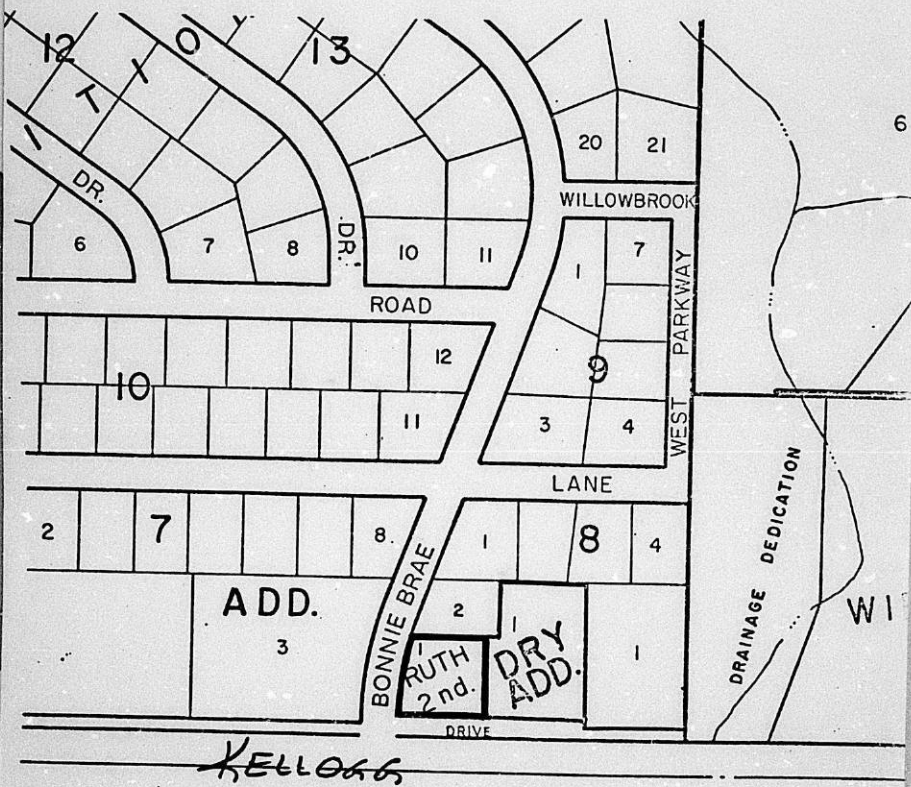
BZA Case No. 50-84 - D & M Investments, Inc. - requests a variance to permit the location of a ground or pole sign to be constructed within 10' of the east property line in lieu of 15 feet, on property located in the

Map No. 6047C

BZA 50-84
Filed _____

AREA DATA:

1. Acres: _____ (_____ ft. by _____ ft.)
2. Adjoining Zoning: E LC S LC W LC N LC
3. Land Use: East Rest. South Auto sales
West Motel North Off
4. Area (is) (~~is not~~) platted.



Steed
No. 2-153C
HASTINGS, MN
LOS ANGELES, CHICAGO, LOGAN, OH
MORNINGTON, TULLOCH GROVE, GA
USA

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

August 7, 1984

NOTICE TO ADJOINING PROPERTY OWNERS:

CASE NO. BZA 50-84

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 D. & M. Investments, & T. C. Davis, Jr., P. O. Box 18047, Wichita, 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 permit the location of a ground or pole sign at 10' from the east property line on property zoned the "LC" Light Commercial District. A legal description of the applicant's property is as follows:

Lot 1, Ruth 2nd Addition to Wichita, Sedgwick County, Kansas.
Generally located on the northeast corner of Kellogg and Bonnie
Brae (8402 East Kellogg).

This application has been assigned Case BZA 50-84. It will be considered by the Board of Zoning Appeals on August 28, 1984 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

August 31, 1984

D. & M. Investments
§ T. G. Davis, Jr.
P. O. Box 18047
Wichita, Ks.

Re: BZA 50-84 - Request for Variance

Dear Mr. Davis:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on August 28, 1984.

This Resolution reflects the official action of the Board to approve your request, and sets out the condition of approval. It is forwarded to you for your information and files.

If you have questions concerning this matter, please call our office.

Sincerely,

Glen E. Lytle
Assistant Secretary

CEL:sad
Encl.

cc: Sam Mobley, 420 South Ridge Road, Wichita
Robert Feldner, Superintendent of Central Inspection (2)
Don Gisick, City Clerk

RESOLUTION NO. BZA 50-84

WHEREAS, D. & M. Investments, & T. G. Davis, Jr., P. O. Box 18047, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to permit the location of a ground or pole sign within 10 feet of the side property line in lieu of 15 feet on property zoned the "LC" Light Commercial District and legally described as follows:

Lot 1, Ruth 2nd Addition to Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of Kellogg and Bonnie Brae (8402 East 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 August 28, 1984, 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 sign location will be not less than 100 feet to the nearest ground or pole sign on the adjacent property and the sign will be located adjacent to the parking lot serving the property to the east; 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 separation between signs on the two properties will exceed 100 feet and should in no way create any site interference to the existing sign; 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 applicant would be required to install new foundations for the support of a sign a distance of 5 feet to the west; 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 location of the sign 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 the separation between signs on adjoining properties will exceed the minimum separation of 30 feet established by the regulations; 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.

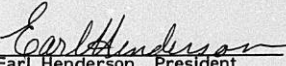
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to permit the location of a ground or pole sign within ten feet of the side property line in lieu of 15 feet on property zoned the "LC" Light Commercial District and legally described as:

Lot 1, Ruth 2nd Addition to Wichita, Sedgwick County, Kansas. Generally located on the northeast corner of Kellogg and Bonnie Brae (8402 East Kellogg).

be approved subject to the following condition:

1. The sign may be located within 10 feet of the east property line but shall not exceed a height of 30 feet or exceed a gross surface area of 300 square feet.

ADOPTED AT WICHITA, KANSAS, this 28th day of August, 1984.


Earl Henderson, President

ATTEST:


Jack H. Calbrath, Secretary

THE CITY OF WICHITA

OFFICE OF CITIZEN RIGHTS & SERVICES DATE August 23, 1984

TO Glen Lytle, Special Assistant for Zoning

FROM Cindy Entriken, Administrative Aide III

SUBJECT BZA 50-84
 GENERALLY LOCATED ON THE NORTH-
 EAST CORNER OF KELLOGG AND BON-
 NIE BRAE (8402 E. KELLOGG)

On Monday August 20, CPO Council H considered the above captioned case. The Council voted 7-0 to recommend that the variance be approved subject to the requirements of the current sign ordinance, but to recommend that the sign be placed on the poles where the sign would not interfere with the sign for the adjoining business, Steak & Ale.

Sam Mobley, agent, was present to discuss this case with the Council. He stated that he would advise the applicant of the Council's request regarding placement of the sign and felt that there would be no problem. No area residents were present.

Please present the Council's recommendations to the BZA when it meets on August 28 to consider this case.

Cindy Entriken
Cindy Entriken
Administrative Aide III

CE/glw

Noted: *Annie K. Montgomery*
Annie K. Montgomery

RECEIVED

AUG 23 1984

METROPOLITAN PLANNING
ROUTE _____

RE: AGENDA ITEM NO. 3

SECRETARY'S REPORT CASE NO. BZA 50-84

APPLICANT: D. & M. Investments, & T. G. Davis, Jr.,
P. O. Box 18047, Wichita, Kansas.

AGENT: Sam Mobley, 420 South Ridge Road, Wichita,
Kansas.

REQUEST: Variance pursuant to Section 2.12.590.B,
Code of the City of Wichita, to permit the
location of a ground or pole sign within 10
feet of the side property line in lieu of the
required 15 feet as set forth in Section
28.04.139 of the Zoning Ordinance.

GENERAL LOCATION: On the northeast corner of Kellogg and Bonnie
Brae (8402 East Kellogg).

ZONING: Subject property is zoned the "LC" Light
Commercial District as are all adjacent
properties.

LAND USE: Subject property is a former service station
that is being converted to an automobile sales
lot. All adjacent properties are developed
with commercial uses.

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 permit the use of the existing sign base on the property to be reused. The base is located ten feet from the east property line and a sign has been located on the base since before the present regulations were adopted. However, since the use of the property is changing, the location is required to comply as if it were a new development.

It should be noted that the sign location is adjacent to the parking lot of the restaurant to the east. The location of the identification sign on that property is located approximately 100 feet to the east. The purpose of the distance requirement from a side property line is to prevent interference by one property owner of the adjacent property owners sign by providing at least 30 feet between signs.

UNIQUENESS:

It is the opinion of the Secretary that this property is unique inasmuch as the sign location will be not less than 100 feet to the nearest ground or pole sign on the adjacent property and the sign will be located adjacent to the parking lot on the property to the east.

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 separation between signs on the two properties will exceed 100 feet and should in no way create any site interference to the existing sign.

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 the applicant would be required to install new foundations for the support of a sign a distance of 5 feet to the west.

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 the sign will 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 not be opposed to the general spirit and intent of the zoning ordinance inasmuch as separation between signs on adjoining properties will far exceed the minimum separation of 30 feet established by the regulations.

RECOMMENDATION:

Should the Board determine that all five conditions necessary to the granting of a variance can be found to exist, then it is the recommendation of the Secretary that the variance be granted subject to the following condition:

1. The sign may be located within 10 feet of the east property line but shall not exceed a height of 30 feet or exceed a gross surface area of 300 square feet.

BZA CASE NO. 50-84

<u>2</u>	NOTICES SENT TO APPLICANT/AGENT
<u>10</u>	LEGAL ADVERTISEMENT SENT TO MAPC
<u>1</u>	NOTICES SENT TO CPO
<u>11</u>	NOTICES SENT TO ADJOINING PROPERTY OWNERS
<u>14</u>	TOTAL NOTICES SENT <u>89-84</u>

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

August 7, 1984

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CASE NO. BZA 50-84

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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

CASE NO. 50-84

CITY OF WICHITA, KANSAS

FILED 7-23-84

APPLICATION FOR VARIANCE

I. Name of Applicant D & M Investments Inc.

Mailing Address 6215 E Kellogg Phone _____

Name of Authorized Agent Sam L Mobley - *Retired Road Bldg Dept 8-15-84*

Mailing Address 4205 Ridge Rd Phone 943 5480

Relationship of applicant to property is that of Owner
(Owner, Tenant, Lessee, Other)

II. The variance requested is to reduce the distance from a side property line from 15 feet to 10 feet for a pole sign
for property located on the northeast corner of Kellogg & Bonnie Pkwy (8402 E. Kellogg).
and legally described as: Lot 1, Ruth 2nd Addition to Wichita, Sedg. Co., KS.

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 _____

Authorized Agent Sam L Mobley

OFFICE USE ONLY: Received in Office of Secretary, Board of Zoning Appeals, 11:30 (a.m.), July 23, 1984 together with appropriate fee of 150.00.

Signed [Signature]

Sam L. Mobley

July 25, 1984

ARCHITECT
420 SOUTH RIDGE ROAD
WICHITA, KANSAS 67209
943-5480

S T A T E M E N T

TO: Board of Zoning Appeals, City of Wichita, Kansas

FROM: D & M Investments (Owner)
9901 East Kellogg, Wichita, Kansas

As required, the following is the owner's statement justifying the variance requested:

- A. The Zoning Ordinance (Section 28.04.139-K-6.) requires that a pole sign be located not less than fifteen feet from adjacent property lines.
- B. As indicated by the attached site plan, there are three existing large poles located ten feet from the property line, one of which the owner wishes to re-use (the other two will be removed) as a single pole sign for a Used Car Lot.
 1. The unique situation arises from the fact that 12" round sturdy poles installed 20 years ago for a Texaco sign visible from the Turnpike are still sound and useable. The cost of removal and re-installation 5 feet further from the property line is not cost effective.
 2. The requested variance will not adversely affect the rights of the adjoining property owner since the sign will be over 100 feet from their structure (Steak & Ale Restaurant).
 3. The variance requested will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare -- and the granting will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance).

In view of the foregoing, it is respectfully requested that the variance be granted.

Signed:

Sam L. Mobley
D & M Investments
by Authorized Agent

Sam L. Mobley

July 25, 1984

ARCHITECT
420 SOUTH RIDGE ROAD
WICHITA, KANSAS 67209
943-5480

S T A T E M E N T

TO: Board of Zoning Appeals, City of Wichita, Kansas
FROM: D & M Investments (Owner)
9901 East Kellogg, Wichita, Kansas

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 3. The variance requested will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare -- and the granting will not be opposed to the general spirit and intent of Title 28 (Zoning Ordinance).

In view of the foregoing, it is respectfully requested that the variance be granted.

Signed: *Sam L. Mobley*
D & M Investments
by Authorized Agent

OWNERSHIP LIST

Property Description

Property Owner

Lot 1, Ruth 2nd Addition

D D & M Investments
6215 E. Kellogg
67218

Lot 3, except the north 100 feet, Ruth Addition & except the west 155.7 feet.

✓ Gary K. Edminster
5908 S. 107th E
Derby, Kansas
67037

Lot 3, except the west 155 feet & the west 155 feet of lot 3, & all of lot 4, Ruth Addition

✓ Ramona Inc.
8300 E. Kellogg
67207

Lot 1, Dry Addition

J. R. Dry
Verda S. Dry
J. R. Dry, Jr.
Address unknown

Lot 1, Ruth Addition

✓ United Life & Accident
Insurance Co.
2 White St.
Concord, New Hampshire
03301

Beginning 174.7 feet West and 150 feet north of the southeast corner of said Lot 2, Ruth Addition' thence west parallel to the south line of said lot to the East line of Bonnie Brae Street; thence northeasterly along the east line of said Bonnie Brae Street to the Northwest corner of said Lot 2; thence East along the north line of said lot to a point 164.4 feet west of the Northeast corner of said Lot; thence south to the point of beginning; and Beginning at a point established as follows: From the Southeast corner of Lot 2, Ruth Addition, measured west along the south line of said lot 174.4 feet; thence north parallel to the east line of said lot 150 feet; thence northeasterly along a line which would intersect the north line of said lot at a point 164.4 feet west of the northeast corner of said lot to a point which is 92 feet south of the north line of said lot for the point of beginning; thence from said point of beginning northeasterly to a point on the North line of lot 2, which is 164.4 feet west of the northeast corner of said lot; thence east 9 feet; thence south parallel to the east line of said lot a distance of 92 feet; thence west 19 feet, more or less to the point of beginning.

✓ C. L. Finley
Jane Finley
7700 E. 13th
67206

✓ (Affadavit of Interest)
Larry D. Fleming
160 S. Rock Rd.
67207

Property Description

Property Owner

Lot 7, Block 7, Bonnie Brae Addition

Charles B. Myers
Hazel G. Myers
8321 Peach Tree
67207

Lot 8, Block 7, Bonnie Brae Addition

Joseph Bruce-Bryan
Cynthia Marie Bryan
405 Bonnie Brae
67207

Lot 1, Block 8, Bonnie Brae Addition

Union National Bank of
Wichita, Kansas, trustee
for Cy L. Finley
150 N. Main
67202

Lot 2, Block 8, Bonnie Brae Addition

Steve H. Longan
Ronda S. Longan
8407 Peach Tree
67207

Lot 3, Block 8, Bonnie Brae Addition

Douglas J. Moshier
Carolyn S. Moshier
8415 Peach Tree
67207

Lot 1, Block 1, Replat of Block 1,
Sunny-brook Addition

William Levitt
address unknown

Beginning at the intersection of the south line of the frontage road to the south side of Kellogg and the east line of Mansfield Drive; thence south-westerly along the east line of Mansfield Drive, 75 feet; thence southeasterly to a point on the west line of Eastern Avenue which point is 120 feet south of the south line of said frontage road; thence north along west line of eastern Ave., 120 feet; thence west along south line of said frontage road to the point of beginning, being part of Block 2, Sunny-brook Addition.

D & M Investments
6215 E. Kellogg
67218

Lot 1, Weaver-Reimold Addition

Executive Inn Inc.
8401 E. Kellogg
67207

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

(continued on next page)

Page 3

Lot 1, Ruth 2nd Addition to Wichita, Kansas,
Sedgwick County, Kansas

as shown by the last deed of record on file in the Office of
the Register of Deeds of Sedgwick County, Kansas, on this
23rd day of May, 1984, at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE CO. INC.

By

Mary Seale

Sr. Vice President

Order No: 334516
cf

**MICROFILMED
FROM THE BEST
AVAILABLE COPY**

FORM 2021

PAYMENT NOTICE
City of Wichita

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

Planning

DESCRIPTION	AMOUNT

NAME _____
ADDRESS _____
FUND _____ DUE DATE _____
COMMENTS _____
DATE _____ BY _____

*

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

Roll # 2