

Case No. BZA 55-78 Kau Kau Take Home No. 1, Inc. request for variance to permit relocation of existing nonconforming sign to new location on property zoned "E" located at the southeast

POSTED
11-22-78
MAY 11
E.S.
11-22-78

ACTION

DATE 12-19-78

approved

COMMITTEE

M.A.P.C.

B.C.C./B. CO. C.

BZA
55-78

Map No. 4946
 Sec. 28
 Twp. R7
 Range 1W

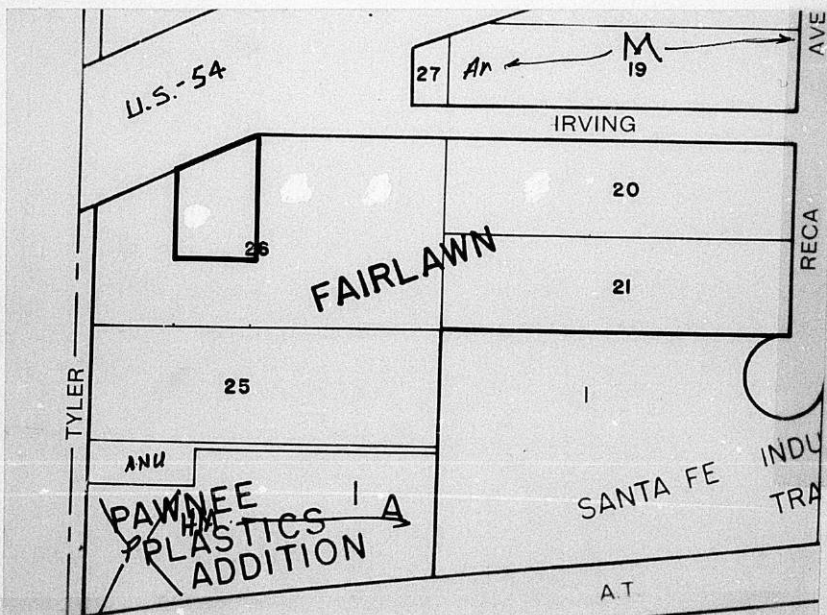
BZA- 55-78
 SCZ- _____
 CU- _____
 Filed _____

AREA DATA:

1. Acres: 0.68 (155 ft. by 192 ft.)
2. Adjoining Zoning: E _____ S _____ W _____ N _____
3. Land Use: East SINGLE FAM South UNDEVELOPED
 West UNDEVELOPED North 115-54 HI-WAY
4. Sketch Plan Land Use is for: _____
5. Present Land Use if for: SINGLE FAM
6. Area (is) (is not) platted.

PHOTO DATA:

Taken by _____ Date _____ Time _____



HASTING, MI. LOS ANGELES
 LODAN ON - MCGREGOR, TX U. S. A.

No. 2153C
 Smead

January 5, 1979

Douglas L. Hansen
1540 North Broadway
Wichita, Kansas 67214

Re: Case No. BEA 55-78
Request for Variance

Dear Mr. Hansen:

Enclosed is a signed copy of the Resolution adopted by the Board of Zoning Appeals on December 19, 1978, in connection with your request for a variance to increase the permitted height of an on-site pole sign from 30 feet to 37 feet and to permit an increase in the gross surface area of the sign from 150 square feet to 222.5 square feet on property zoned the "E" Light Commercial District and located south of U.S. 54 Highway in an area east of Tyler Road.

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

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

Sincerely,

Larry Dobson
Assistant Secretary

LD:bbc
Enclosure

cc: Kau Kau Take Home No. 1, Inc., 322 Laura 67211
Robert Feldner, Superintendent of Central Inspection
Joe Donnelly, Housing and Zoning Administrator
Don Gisick, City Clerk

RESOLUTION NO. BZA 55-78

WHEREAS, Kau Kau Take Home No. 1, Inc., 322 Laura, Wichita, Kansas, requests a variance as provided in Section 2.12.590.B, Code of the City of Wichita, to increase the permitted height of an on-site pole sign from 30 feet to 37 feet and to permit an increase in the gross surface area of the sign from the permitted 150 square feet to 222.5 square feet on property zoned the "E" Light Industrial and legally described as follows:

The North 221 feet of the east 140 feet of the west 290.11 feet of Lot 26, Fairlawn Acres, except that part condemned for U.S. Highway 54, Sedgwick County, Kansas. Generally located south of U.S. 54 Highway in an area east of Tyler Road.

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 December 19, 1978, 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 relocation damages payable to the applicant covers the expense to relocate the sign, but does not take into consideration the fact that the sign cannot legally be erected at the new site; 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 degree of non-conformity is not particularly excessive when compared to many of the existing signs along major arterial streets in the city; and also, surrounding adjacent properties are undeveloped; 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 he would be denied the reasonable use of an existing sign, created by a relocation not of his choosing; 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 granting of the variance will simply move a legal non-conforming sign from one location to another site one mile west; 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 necessary relocation of this sign was not initiated by the applicant, but due to needed road improvements deemed to be in the best interest of the public, the applicant has been paid an amount sufficient to relocate his existing sign, not for the alteration or replacement of the sign; 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.

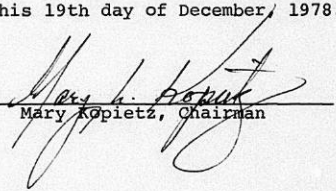
NOW, THEREFORE, BE IT RESOLVED by the Board of Zoning Appeals of the City of Wichita that this request for a variance to increase the permitted height of an on-site sign from 30 feet to 37 feet and to permit an increase in the gross surface area of the sign from the permitted 150 square feet to 222.5 square feet on property zoned the "E" Light Industrial and legally described as follows:

The North 221 feet of the east 140 feet
of the west 290.11 feet of Lot 26, Fairlaw
Acres, except that part condemned for U.S.
Highway 54, Sedgwick County, Kansas.
Generally located south of U.S. 54 Highway
in an area east of Tyler Road.

be approved subject to the following conditions:

1. The non-conforming aspects of the existing sign shall be transferred along with the relocation of the sign to subject property. All applicable provisions of Sections 24 and 28 of the City Code shall continue to be applied to the sign at its new location, including the time limitation for conformance or removal of the sign.
2. A permit for the relocation of the sign shall be obtained from the Office of Central Inspection.
3. The relocation of the sign shall not permit any increase over the existing non-conformity of the sign.

ADOPTED AT WICHITA, KANSAS this 19th day of December, 1978.

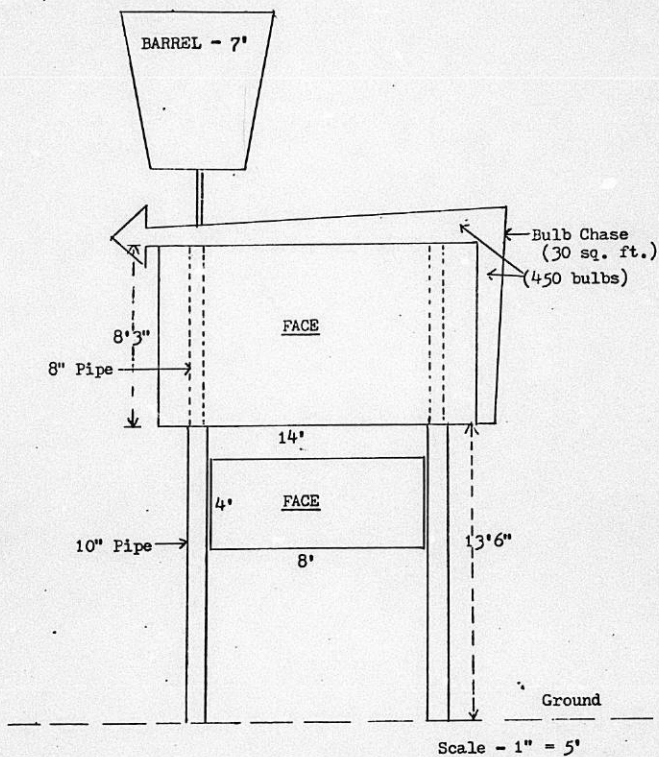

Mary Kopietz, Chairman

ATTEST:

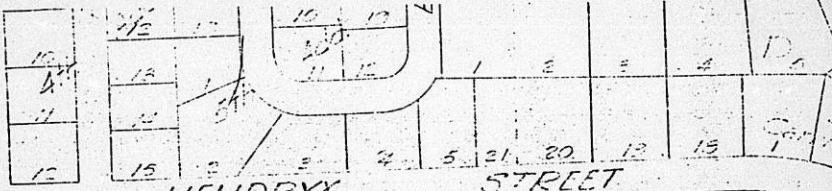
Larry Dobson, Assistant Secretary

(TO BE USED, AS NEEDED, FOR FURTHER EXPLANATION ANY DETAIL APPRAISAL—PHOTOS, PLOTS)

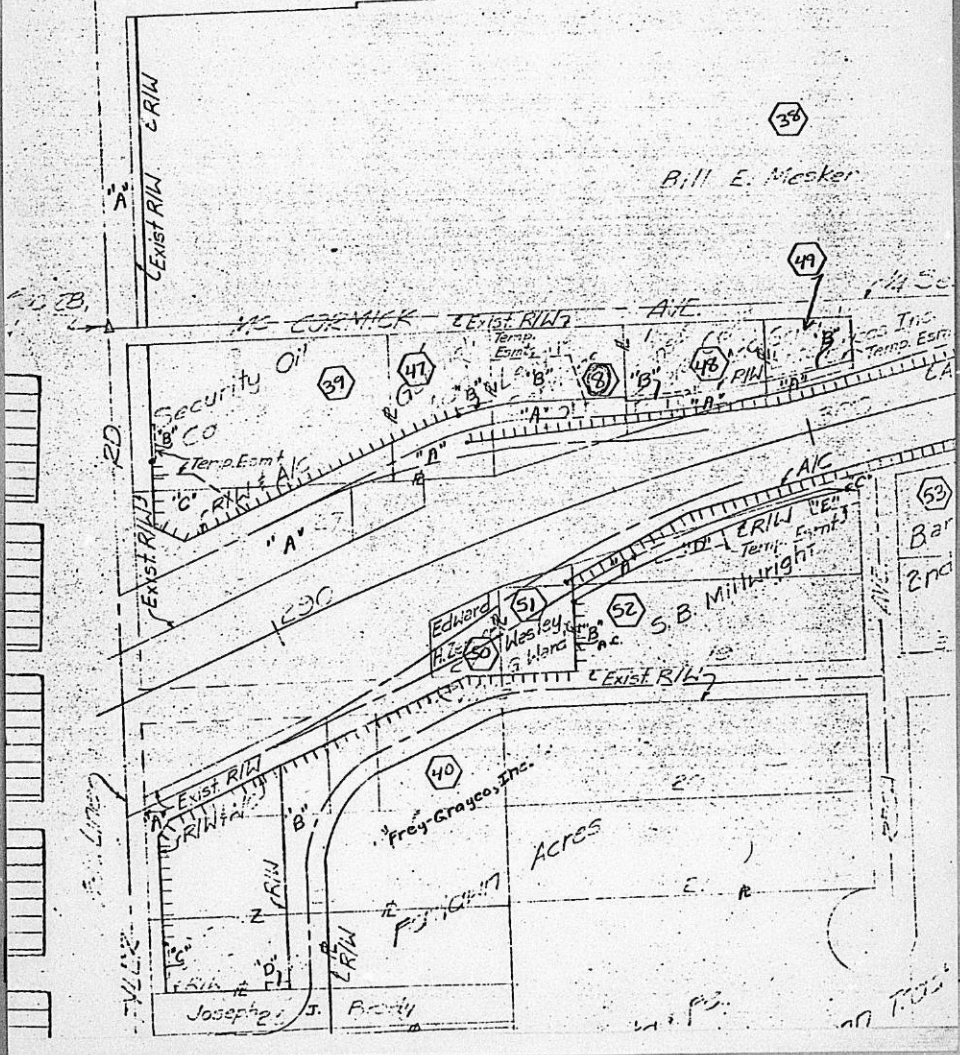
Sketch of Kentucky Fried Chicken sign located on subject tract No. 77, in Sedgwick Co., City of Wichita. Project No. (BC)54-87 F 038-3(35)



Scale - 1" = 5'



HENDRYX STREET



December 21, 1978

Douglas L. Hansen
1540 North Broadway
Wichita, Kansas 67214

Re: Case No. BZA 55-78
Request for Variance

Dear Mr. Hansen:

At the regular meeting of the Board of Zoning Appeals on Tuesday, December 19, 1978, your request for a variance to increase the permitted height of an on-site pole sign from 30 feet to 37 feet and to permit an increase in the gross surface area of the sign from 150 square feet to 222.5 square feet on property zoned the "E" Light Commercial District and located south of U.S. 54 Highway in an area east of Tyler Road, was considered.

It was the action of the Board to approve this request subject to the following conditions:

1. The non-conforming aspects of the existing sign shall be transferred along with the relocation of the sign to subject property. All applicable provisions of Sections 24 and 28 of the City Code shall continue to be applied to the sign at its new location, including the time limitation for conformance or removal of the sign.
2. A permit for the relocation of the sign shall be obtained from the Office of Central Inspection.
3. The relocation of the sign shall not permit any increase over the existing non-conformity of the sign.

Page 2
December 21, 1978
Douglas L. Hansen
Re: BZA 55-78

A Resolution setting forth the official action of the Board is being prepared and you will be mailed a copy as soon as the signatures of the Chairman and Secretary have been obtained.

If you have any questions, please call our office.

Sincerely,

Larry Dobson
Assistant Secretary

LD:bbc

cc: Kau Kau Take Home No. 1, Inc., 322 Laura 67211
Robert L. Copeland, Urban Renewal Agency,
1743 N. Hillside 67214
Robert Feldner, Superintendent of Central Inspection
Joe Donnelly, Housing and Zoning Administrator
Don Gisick, City Clerk

THE CITY OF WICHITA

OFFICE OF CITIZEN PARTICIPATION

DATE December 8, 1978

TO Larry Dobson, Board of Zoning Appeals

FROM Gail Williams, CPO Administrative Aide

SUBJECT BZA 55-78: Tyler and U.S. 54

On December 6, CPO Council "A" discussed the captioned case and voted 5-0 to recommend denial of the requested variance, on the grounds that approval of this request would contribute to a trend toward increasingly larger signs.

Please provide this information to the Board of Zoning Appeals when they consider the case on December 19.

Gail Williams

Gail Williams
CPO Administrative Aide

GW:ml

NOTED:

David L. Furnas
David Furnas
Citizen Participation Coordinator



SECRETARY'S REPORT
CASE NO. BZA 55-78

APPLICANT: Kau Kau Take Home No. 1, Inc., 322 Laura,
Wichita, Kansas

AGENT: Douglas L. Hansen, 1540 N. Broadway,
Wichita, Kansas

REQUEST: Variance pursuant to Section 2.12.590.B,
Code of the City of Wichita, to increase
the permitted height of an on-site pole
sign from 30 feet to 37 feet and to permit
an increase in the gross surface area of
the sign from 150 square feet to 222.5
square feet.

GENERAL
LOCATION: South of U.S. 54 Highway in an area east of
Tyler Road.

ZONING: Subject property is zoned the "E" Light
Industrial District as are properties to
the east, south and west. North is the "LC"
Light Commercial District.

LAND USE: Subject property is undeveloped as are properties
to the east, south and west. North is a service
station.

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 23 (zoning ordinance).

COMMENTS BY THE SECRETARY:

The applicant is requesting a variance to permit an increase to the permitted height and gross surface area of an on-site pole sign.

The applicant's business, a fast-food restaurant, is being relocated due to State Highway and City of Wichita condemnation of his present location at the southwest corner of U.S. Highway 54 and Ridge Road for major improvements to this intersection. The existing sign at this Ridge Road and U.S. 54 location was erected in 1969, prior to the current zoning regulations governing signs. The sign is 37 feet in height and 222.5 square feet in size and is the personal property of the applicant. In the condemnation process, the sign appraisal department for the State evaluates both the cost to relocate the sign and to acquire the sign. Damages are then assessed on the lesser of these two figures. In this case the cost to relocate the sign was considerably less than the value of the sign. However, this process seems to overlook the question of whether the sign can legally be relocated at another site, but simply pays on the basis of this relocation whether or not the sign is relocated. If the sign cannot be relocated at a new site, the applicant can, of course, apply the relocation money to the purchase of a new sign, which in this case would be several thousand dollars more.

The applicant has purchased a new site, just east of the southeast corner of U.S. 54 and Tyler Road where he proposes to build a new restaurant and requests permission to relocate his sign thereon. The property is zoned the "E" Light Industrial District with a frontage of approximately 155 feet. Section 23.04.139 (K) limits the permitted size of a pole sign under these circumstances to 30 feet in height and 150 feet in gross surface area. Subject sign is the familiar Kentucky Fried Chicken sign with the recognized symbol of the "bucket" on top. The excess height and size of the sign could conceivably be eliminated with the elimination of the bucket. However, the proposed new building on subject property will be designed with a new motif created for a more aesthetic appearance. This reinforces the applicant's desire to use his existing familiar sign so that the traveling public can readily identify his business.

This is a rather unusual situation in that the applicant did not choose to leave his present location, but since he is being forced to relocate he desires to minimize the inconvenience and hardship of doing so. The Urban Renewal Agency, contracted to the State to aid in the relocation process, agrees that it would seem unreasonable to deny the applicant the continued use of a sign which he could have legally used until 1989, when the non-conforming rights would have expired.

The applicant's agent has submitted a rather complete statement of justification which is attached for the Board's review.

UNIQUENESS:

It is the opinion of the Secretary that this may be a unique situation inasmuch as the relocation damages payable to the applicant covers the expense to relocate the sign, but does not take into consideration the fact that the sign cannot legally be erected at the new site.

ADJACENT PROPERTY:

It is the opinion of the Secretary that it is difficult to determine the effect of such a variance on adjacent property owners who would not be permitted to erect a sign of comparable size and height. However, the degree of non-conformity is not particularly excessive when compared to many of the existing signs along major arterial streets in the city; and also, surrounding adjacent properties are undeveloped.

HARDSHIP:

It is the opinion of the Secretary that the strict application of the provisions of the zoning ordinance would constitute an unnecessary hardship upon the applicant inasmuch as he would be denied the reasonable use of an existing sign, created by a relocation not of his choosing.

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 granting of the variance will simply move a legal non-conforming sign from one location to another site one mile west.

Case No. BZA 5808
December 19, 1978
Page 4

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 the necessary relocation of this sign was not initiated by the applicant, but due to needed road improvements deemed to be in the best interest of the public, the applicant has been paid an amount sufficient to relocate his existing sign, not for the alteration or replacement of the sign.

RECOMMENDATION:

Based upon the condemnation action and legal non-conformity of the existing sign, it is the opinion of the Secretary that the five conditions necessary to the granting of a variance can be found to exist and therefore, it is recommended that a variance be granted subject to the following conditions:

1. The non-conforming aspects of the existing sign shall be transferred along with the relocation of the sign to subject property. All applicable provisions of Sections 24 and 28 of the City Code shall continue to be applied to the sign at its new location, including the time limitation for conformance or removal of the sign.
2. A permit for the relocation of the sign shall be obtained from the Office of Central Inspection.
3. The relocation of the sign shall not permit any increase over the existing non-conformity of the sign.

BZA CASE NO. 55-78

2 NOTICES SENT TO APPLICANT/AGENT

10 NOTICES SENT TO MAPC

1 NOTICES SENT TO CPO

2 NOTICES SENT TO ADJOINING PROPERTY OWNERS

15 TOTAL NOTICES SENT 11-27-78

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

November 27, 1978

NOTICE TO ADJOINING PROPERTY OWNERS:

Case No. BZA 55-78

An application has been filed by Kau Kau Take Home No. 1, Inc., 322 Laura, Wichita, Kansas, pursuant to Section 2.12.590.B, Code of the City of Wichita, requesting a variance to increase the permitted height of an on-site pole sign from 30 feet to 37 feet and to permit an increase in the gross surface area of the sign from the permitted 150 square feet to 222.5 square feet on property zoned the "E" Light Industrial and legally described as follows:

The North 221 feet of the east 140 feet
of the west 290.11 feet of Lot 26, Fairlawn
Acres, except that part condemned for U.S.
Highway 54, Sedgwick County, Kansas.
Generally located south of U.S. 54 Highway
in an area east of Tyler Road.

This application has been assigned case No. BZA 55-78 and will be considered by the Board of Zoning Appeals at its meeting on Tuesday, December 19, 1978, at 1:30 p.m., in the Board Room, First Floor, City Hall, 455 North Main, Wichita, Kansas, at which time you may appear if you so desire, 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.

Jack H. Galbraith
Secretary

BOARD OF ZONING APPEALS

CASE NO. 55-78

CITY OF WICHITA, KANSAS

FILED _____

APPLICATION FOR VARIANCE

I. Name of Applicant Kau Kau Take Home No. 1, Inc.

Mailing Address 322 Laura (reg. office) // Phone 262-6842

Name of Authorized Agent Douglas L. Hansen

Mailing Address 1540 North Broadway (67214) Phone 263-1021

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

II. The variance requested is To permit relocation of an existing non-
conforming sign - 37 Feet in height; double-faced with both faces
parallel; 14 inches between the faces; 222.5 square feet gross surface
area - to Kau Kau's new location
for property located near Kellogg and Tyler Road

and legally described as: The North 221 feet of the east 140 feet
of the west 290.11 feet of Lot 26, except that part condemned for
U.S. Highway 54 right-of-way (Case A-38302) in Fairlawn Acres,
Sedgwick County, Kansas
in the City of Wichita; and which is presently zoned E.

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. 24-606); 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.

Kau Kau Take Home No. 1, Inc.
Charles T. Schoenhofer

Applicant
Douglas L. Hansen
Authorized Agent Douglas L. Hansen

OFFICE USE ONLY: Received in office of Secretary, Board of Zoning Appeals 4:20 (a.m. - (p.m.)), 11/20 1978
together with appropriate fee of \$50.00.

SE Corner U.S. 54 &
Tyler

Larry Johnson
Signed

T9-402

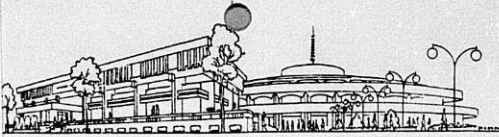


Preserving the past,
building the future
for a better Wichita

ROBERT L. COPELAND
Relocation Division

THE URBAN RENEWAL AGENCY
OF THE
WICHITA, KANSAS METROPOLITAN AREA

FIELD OFFICE
1743 N. HILLSIDE
WICHITA, KANSAS 67214
(316) 683-5692



KENNETH H. KITCHEN
EXECUTIVE DIRECTOR

November 14, 1978

Board of Zoning Appeals
City of Wichita, Kansas

The City of Wichita purchased the tract of land known as 7261 West Kellogg on November 2, 1978. This tract of land was purchased as a part of required land for project (BC) 54-87F 038-3 (35) for the purposes of reconstruction of West Kellogg.

It is the request of this Agency that Mr. Schoenhofer be granted the variance for relocation of his sign as described in his application. If this cannot be done it will be a considerable expense to Mr. Schoenhofer which could cause a financial hardship to his business that we feel is unnecessary if we can relocate his present sign.

We will surely appreciate your granting of this variance. If I can be of any help please call me at 683-5692.

Sincerely,

Robert L. Copeland
Robert L. Copeland
Senior Relocation Specialist

RLC:sm

*Agenda + fee
not sent 12-11-78*



COL. SANDERS RECIPE

Kentucky Fried Chicken

General Office & Catering
322 Laura
Wichita, Kansas 67211
316 - 262-6843

C. T. Schoenhofer

November 16, 1978

City of Wichita
Board of Zoning Appeals
455 N. Main
Wichita, KS 67202

Gentlemen,

My Kentucky Fried Chicken Store at 7261 W. Kellogg Drive has been condemned by the Kansas Department of Transportation and the City of Wichita for expansion of 54 Highway. Therefore, I must relocate the store to Tyler Road and 54 Highway. This location has been approved by Kentucky Fried Chicken Corporation. Almost 50 percent of my customers are in transit, so I need to relocate my present sign that I now have in front of our building.

I wish you would please grant me this request.

Respectfully,


C. T. Schoenhofer

CIS:dsc

STATEMENT IN CONNECTION WITH APPLICATION
FOR ZONING VARIANCE FOR KAU KAU TAKE HOME #1, INC.

DESCRIPTION OF THE PROBLEM

This appeal involves an existing Wichita business, forced to relocate by an Urban Renewal Agency condemnation. The Business involved is in the food service industry, affiliated with the Kentucky Fried Chicken Corporation. As with any fast-food service establishment, visibility to travelers and potential local patrons is critical. At its present location (now condemned by URA) such visibility was accomplished through the display of the highly recognizable symbols and trade marks of Kentucky Fried Chicken upon a pole sign. The permit for the erection of this sign was issued on October 24, 1969, Permit #9853. Obviously, the capital investment in this sign was substantial, as is evidenced by its replacement price tag in excess of \$20,000.00. Equally obvious, it would seem, is that Mr. Schoenhofer (owner of this establishment) reasonably expected, at that time, to recover this investment through long-term display of this sign.

Unfortunately, a strict application of Article 28 of the City Code, coupled with the action of the Urban Renewal Agency, works to deny Mr. Schoenhofer of this very expectation. In addition, though hard to assess in precise economic terms, Mr. Schoenhofer is deprived of his presently available right to maintain an advertising display of greater visibility than current City regulations permit.

REQUIREMENTS OF TITLE 28 OF THE WICHITA CITY CODE

The new site (the subject of this appeal) is presently zoned "E"; light industrial district. Subparagraph H of Paragraph 28.04. 139, incorporating subparagraph K of the same paragraph of the Wichita City Code, provides that where, as here, the zoning lot has a frontage on a public right-of-way less than 250 feet, one sign is permitted not exceeding a height of 30 feet and an area not exceeding 150 square feet.

PROPOSED VARIANCE

A variance is hereby requested to allow Kau Kau Take Home #1, Inc., to relocate their existing sign to their new location (approximately Kellogg and Tyler Road, legally described in the application). This sign is 37 feet in height and is a double faced pole sign with both faces parallel--distance between the faces being 14 inches, and a gross surface area of 222.5 square feet.

PROPOSED VARIANCE MEETS ALL OF THE CRITERIA OF 2.12.590.B OF THE CODE OF THE CITY OF WICHITA

A. The variance requested arises from a condition which is unique to the property and property owner in question which is not ordinarily found in the same zone or district; and such condition is not created by an action or actions of the property owner/applicant. It should be apparent that the forced relocation of a business by the actions of Urban Renewal is not an ordinary condition incident to any piece of property or zone. This forced relocation is particularly unique to this applicant and this piece of property. It should be equally self evident that the applicant did not create this situation, but it was wholly the result of the actions of the Urban Renewal Agency.

B. The granting of this variance will not adversely affect the rights of adjacent property owners or residents. Given the character of the surrounding area and the light industrial zoning covering the area, this requested variance will, in no way, detract from the quality of the immediate environment, offend the eye or diminish the uses or the beneficial enjoyment of nearby premises. It should be noted at this point that the owner/applicant herein intends to erect a far more aesthetically appealing building than that which existed at the previous location. (See photos submitted and attached to this application.) In terms of aesthetic appeal, it seems far preferable to permit this minor sign variance, rather than to deny the same and force Mr. Schoenhofer to erect a building like

his present one, purposely designed to be a "sore-thumb" type structure to attract attention and recognition. It should also be noted that the bucket--the symbol of Kentucky Fried Chicken--is in large measure the source of the excess height and area of this sign. This is not a case where the requested variance is for a "billboard type" sign which would mask large areas of space, and set off a "war" to see who can get the highest sign and largest sign in the area. In point of fact, the non-conformity created by the bucket only occupies approximately 35 square feet of visual space. Surely it cannot be said that such will materially diminish the beneficial enjoyment of nearby premises or have any material affect on the beauty of the community.

C. It is apparent that the strict application of Title 28 in this case would work an unfair, inequitable and unnecessary hardship upon the applicant, Mr. Schoenhofer. If he is denied the opportunity to relocate the existing sign, he will be forced to expend in excess of Twenty Thousand Dollars (\$20,000.00) for the purchase and erection of a new sign. In addition, he will be denied a reasonable amortization period for his investment in his existing sign. Enough hardship has been created by the very fact of forced relocation with its attendant inconvenience and loss of hare-earned business and loss of good-will developed at the old location. To deny this variance would only heap additional problems upon Mr. Schoenhofer by requiring substantial new capital investment; all to preserve only 35 square feet of visual space.

D. It is inconceivable that this requested variance will adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare of the community. The entire substance of this appeal consists of the conviction that none of those factors are served to any substantial degree while at the same time, a substantial individual hardship is created. It is conceded that a community beautification plan is both desirable and

appropriate. However, in balancing the interests, some de minimus rule surely applies. In addition, no new non-conformity will be created by the granting of this variance. Rather, what is requested is a relocation of the non-conforming structure to the new location. The net change, in terms of the effect upon the public and community beautification efforts, is zero.

E. Clearly the general spirit and intent of Title 28 will not be opposed to the granting of the requested variance. If anything, the spirit and intent of Title 28 will be enhanced. No invasion of obtrusive structures or uses into an otherwise carefully preserved environment is contemplated or requested. No personal or property rights will be invaded or diminished. The character and the quality of the surroundings will be unaffected. No "sore-thumb" unsightliness would be created. No creeping fundamental or even superficial change is effected or enhanced. The only purpose served by denying this requested variance is strict, literal and inflexible enforcement of Title 28 for its own sake. Such a purpose is obviously contrary to the intent of the City Commission in the establishment of the Board of Zoning Appeals, which establishment was designed to mitigate the harshness of such strict, literal and inflexible enforcement.

Another gauge of the intent of the City Commission with respect to sign regulation is provided by Title 24 of the City Code. Therein, the Commission declares its purpose of sign regulations:

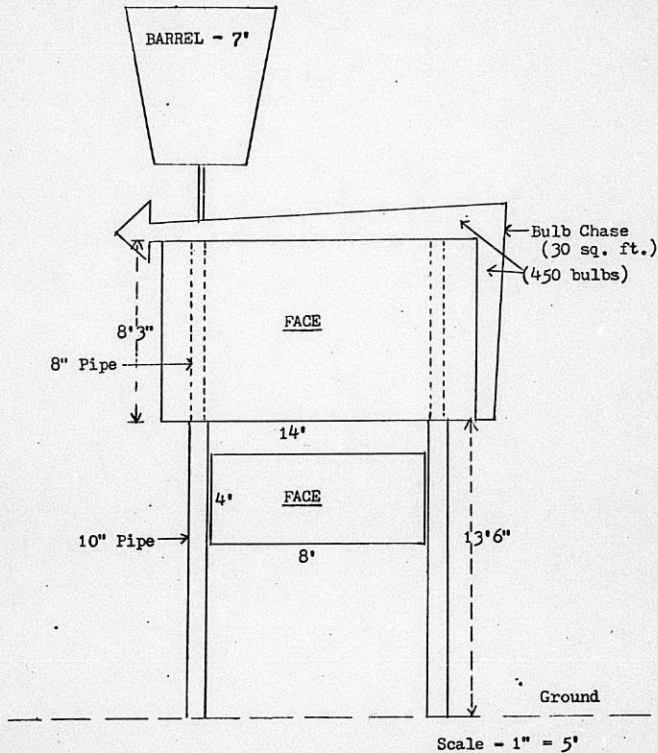
" . . . to eliminate potential hazards to motorists and pedestrians; to encourage signs which, by their location and design, are harmonious to the buildings and sites which they occupy, and which eliminate excessive and confusing sign displays; to provide an opportunity to achieve reasonable balance between the need of the sign and outdoor advertising industries while improving and preserving the visual qualities of the community; to protect public and private investment in buildings and open spaces; to provide for the administration of regulations imposed and set forth in the zoning ordinances of the City; and to promote the public health, safety and general welfare." (Ord.No. 33-589 (part.)) (Emphasis supplied)

The above quoted statement of City regulatory policy very well summarizes applicant's position as advanced herein. The re-

quested variance would be in furtherance of the policy objectives declared by the City Commission and listed above. As such, the intent of the City Commission is best served by the granting of this variance.

(TO BE USED, AS NEEDED, FOR FURTHER EXPLANATION ANY DETAIL APPRAISAL—PHOTOS, PLOTS)

Sketch of Kentucky Fried Chicken sign located on subject tract No. 77, in Sedgwick Co., City of Wichita. Project No. (BC)54-87 F 038-3(35)



WILLIAM L. KORBER
BAUGHMAN CO.
SURVEYORS

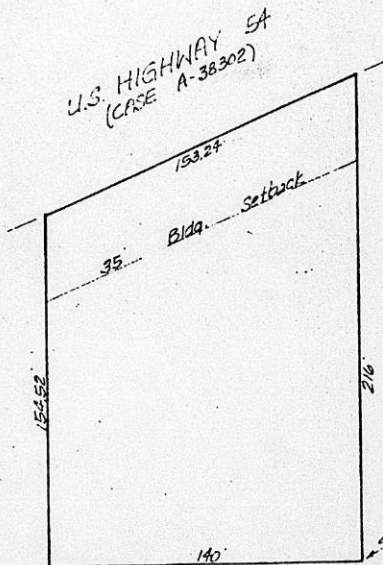
PHONE 316/262-7271

330 LAURA

WICHITA, KANSAS 67211

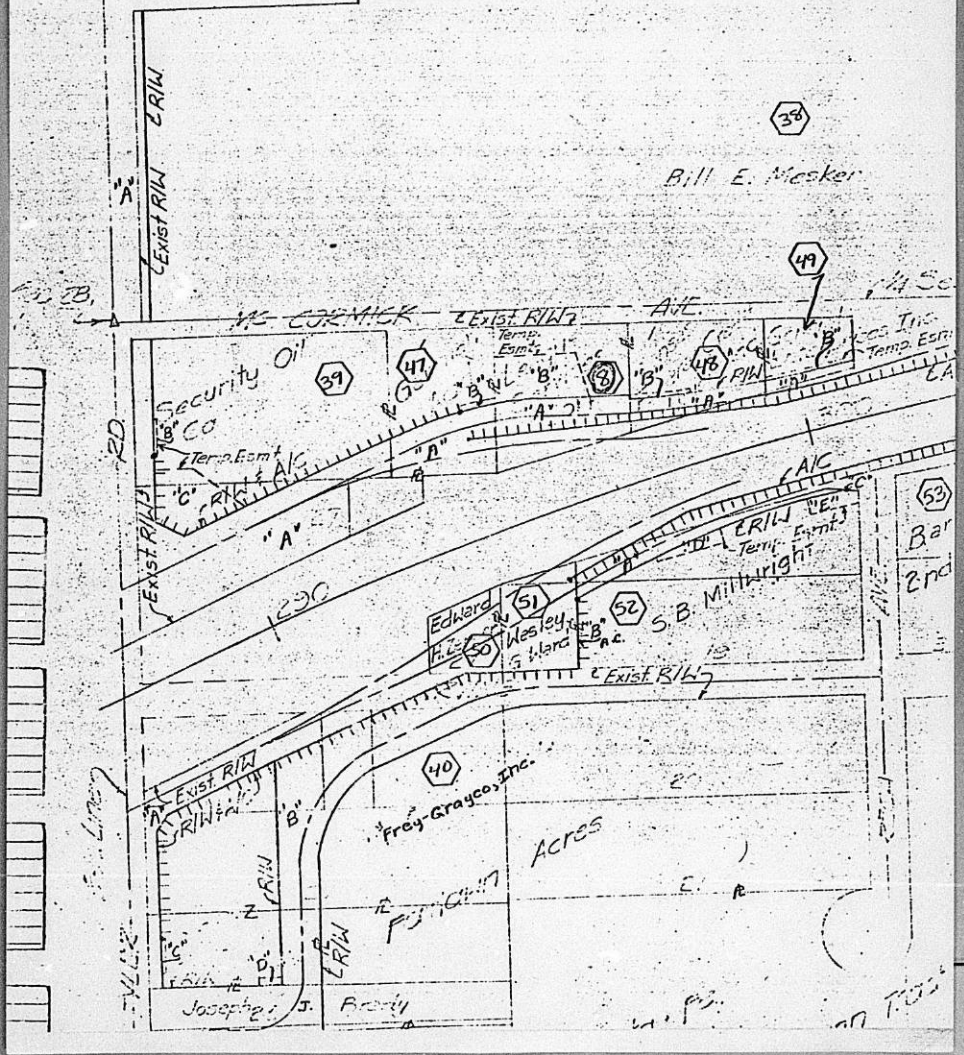
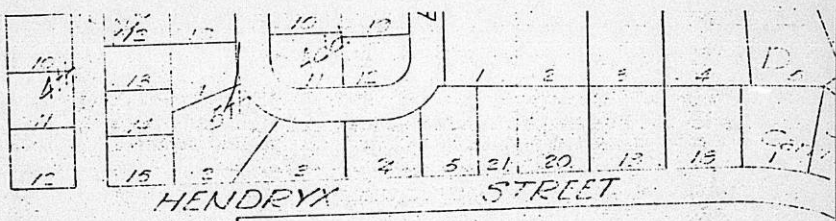
LOT SPLIT

The north 221 feet of the east 140 feet of the west 290.11 feet of Lot 26, except that part condemned for U.S. 54 Highway right-of-way (Case A-38302) in Fairlawn Acres, Sedgwick County, Kansas.



221' E. of 221' S.
of the NW Cor. of
Lot 26, Fairlawn Acres
Sedgwick County, Kansas

9-1-78



WILLIAM L KORBER
BAUGHMAN CO.
SURVEYORS

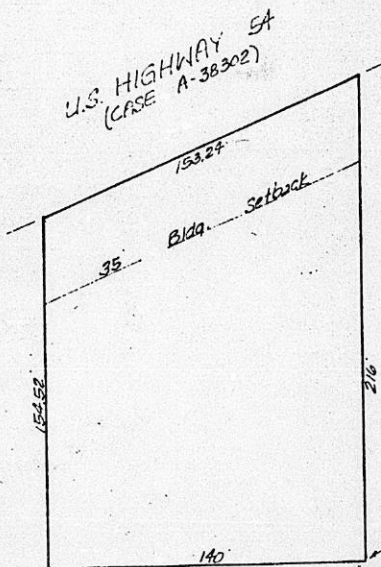
PHONE 316/262-7271

330 LAURA

WICHITA, KANSAS 67211

LOT SPLIT

The north 221 feet of the east 140 feet of the west 290.11 feet of Lot 26, except that part condemned for U.S. 54 Highway right-of-way (Case A-38302) in Fairlawn Acres, Sedgwick County, Kansas.



200.11 E. & 221.5'
of the NW Cor. of
Lot 26, Fairlawn Acres
Sedgwick County, Kansas

9-1-78

NEW



OLD





434 NORTH MAIN
WICHITA, KANSAS 67202
267-8371

OWNERSHIP LIST

Tract	Property Owner
North 221 feet of the East 140 feet of the West 290.11 feet of lot 26, Fairlawn Acres, except that portion condemned for Hiway	☞ Kau Kau Take Home No. 1, Inc. 322 Laura 67211
The West Half of the North 138 feet of lot 25, Fairlawn Acres	☞ Frey-Garvco Inc. now Frey Inc., Rt. 1 Augusta, Kansas 67010
Lot 26, except the North 221 feet of the East 140 feet of the West 290.11 feet and except that portion condemned for Hiway, Fairlawn Acres	☞ Frey-Garvco Inc. now Frey Inc., Rt. 1 Augusta, Kansas 67010
The East Half of the North 138 feet of lot 25, Fairlawn Acres	☞ Joseph Brady and Catherine P. Brady 11500 West Kellogg 67209

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

A 200 foot radius of: the North 221 feet of the East 140 feet of the West 290.11 feet of Lot 26, Fairlawn Acres, except that portion condemned for U. S. Hiway 54

as shown by the last deeds of record on file in the Office of the Register of Deeds of Sedgwick County, Kansas, on the 13th day of November, 1978 at 7:00 o'clock A.M.

THE SECURITY ABSTRACT & TITLE COMPANY, INC.

By

Mary Gable

Vice President

Order No. 271043
wh

FORM 021

PAYMENT NOTICE
City of Wichita

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

DESCRIPTION	AMOUNT
32A Planning Dept. fee	450.00

NAME *J. H. Hannon*

ADDRESS *1645 N. Grand*

FUND *1100000-40071* DUE DATE *10/1/71*

COMMENTS

DATE *10/1/71* BY *[Signature]*