



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

May 28, 2015

Trimark  
Attn: Tyler McFadden  
318 S. Osage  
Wichita, KS 67213

Brian and Tara Wilbert  
8320 E. Oxford Cir.  
Wichita, KS 67226

**RE: BZA2015-00012** – City Variance request to the sign code to increase the sign area to 389 total square feet, to locate the sign perpendicular/parallel to frontages and to adjust the sign height to 40 feet next to an elevated roadway in LC Limited Commercial (“LC”) zoning, located south of Kellogg, on the east side of Hydraulic Avenue (530 S. Hydraulic Ave.)

Dear Applicants:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on May 7, 2015. This resolution reflects the official action of the Board, it is forwarded for your information and files.

If you have any questions concerning this matter, please call our office at 268-4421.

Sincerely,

A handwritten signature in black ink, appearing to read 'Derrick Slocum', written over the word 'Sincerely,'.

Derrick Slocum  
Asst. BZA Secretary

cc: Tom Stolz, MABCD  
Mike Gable, MABCD  
JR Cox, MABCD  
Lavonta Williams, WCC I CM  
Julie Scott, CL I

City Hall • 10th Floor • 455 North Main • Wichita, Kansas 67202-1688

T 316.268.4421 F 316.268.4390

[www.wichita.gov](http://www.wichita.gov)

## **BZA RESOLUTION NO. BZA2015-00012**

**WHEREAS**, Kenneth Brasled, Brian and Tara Wilbert (Owner(s)/Applicant(s)), Trimark Signs c/o Tyler McFadden (Agent), pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to the sign code to increase the sign area to 389 total square feet, to locate the sign perpendicular/parallel to frontages and to adjust the sign height to 40 feet next to an elevate roadway in LC Limited Commercial ("LC") zoning; generally located south of Kellogg, on the east side of Hydraulic Avenue (530 S. Hydraulic Ave.)

### **Legal Description:**

Lot 1, Pennypower Addition to Wichita, Sedgwick County, Kansas.

**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 May 7, 2015, 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 this property is unique inasmuch that it does not have direct access from Kellogg or I-135 and the current location of the site makes it difficult to identify and access.

**WHEREAS**, the Board of Zoning Appeals has found that the requested variance to the sign code to increase the sign area to 389 total square feet, to locate the sign perpendicular/parallel to frontages and to adjust the sign height to 40 feet next to an elevate roadway will not adversely affect the rights of adjacent property owners, inasmuch as adjacent properties are zoned OW and B, with Kellogg and I-135 to the north and east of the site. The B zoned properties south of the subject site are blocked from viewing the sign by the principal structure on the subject site.

**WHEREAS**, the Board of Zoning Appeals has found that the strict application of the provisions of the code would constitute a hardship upon the applicants, inasmuch that without the requested variance requests, the applicants sign would continue to not be visible from I-135, both directions. Also, the unique position of the site places it with three frontage streets and no matter if it's a two-sided or a four-sided sign, like the sign in question, the sign would be parallel to one or more street frontages. The overall location of the subject site and sign constitutes a hardship due to its limited accessibility and visibility. These sign improvements does, at least, improve the visibility of the subject site.

**WHEREAS**, the Board of Zoning Appeals has found that the requested variance to the sign code to increase the sign area to 389 total square feet, to locate the sign perpendicular/parallel to frontages and to adjust the sign height to 40 feet next to an elevate roadway will not adversely affect the public interest, inasmuch as permitting a variance to an existing on-site sign to improve its visibility from Kellogg and I-135, which are limited access highways, is in the public interest.

**WHEREAS**, the Board of Zoning Appeals has found that granting the variance requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch that the spirit and intent of the Sign Code is for adequate visibility of signs without negative impacts on surrounding properties. The variance request simply allows an existing on-site sign, with no apparent impact on surrounding properties, to continue to exist.

**WHEREAS**, each of the five conditions required by Section 2.12.590.B, Code of the City of Wichita, are found to be present for a variance to be granted.

**NOW, THEREFORE, BE IT RESOLVED** by the Board of Zoning Appeals, pursuant to Section 2.12.590.B, Code of the City of Wichita, a variance of the sign code to increase the sign area to 389 total square feet, to locate the sign perpendicular/parallel to frontages and to adjust the sign height to 40 feet next to an elevate roadway in LC Limited Commercial ("LC") zoning; generally located south of Kellogg, on the east side of Hydraulic Avenue (530 S. Hydraulic Ave.)

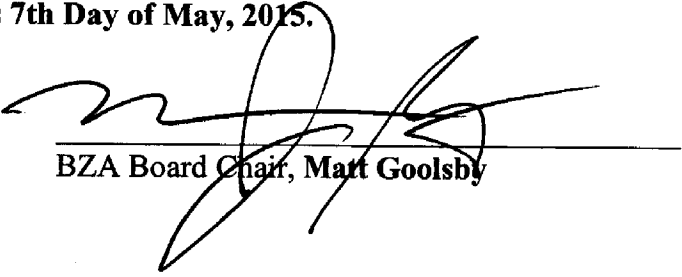
**Legal Description:**

Lot 1, Pennypower Addition to Wichita, Sedgwick County, Kansas.

The variance is hereby **GRANTED**, subject to the following conditions:

1. The sign shall be developed in conformance with the approved site plan and elevation drawing.
2. The variance shall be to increase the sign area to 389 total square feet, to locate the sign perpendicular/parallel to frontages and to adjust the sign height to 40 feet next to an elevate roadway only; the sign shall conform to all other Sign Code requirements unless a separate variance or adjustment is granted.
3. The applicant shall obtain all permits necessary to update the sign and the sign shall be completed within one year of the variance granting, unless such time period is extended by the BZA.
4. The above conditions are subject to enforcement by any legal means available to the City of Wichita.

**ADOPTED AT WICHITA, KANSAS, this 7th Day of May, 2015.**

  
BZA Board Chair, Matt Goolsby

ATTEST:

  
Derrick Slocum  
Asst. BZA Secretary



**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 applicant requests a variance to increase the sign area to 389 total square feet, to locate the sign perpendicular/parallel to frontages and to adjust the sign height to 40 feet next to an elevated roadway on property zoned LC Limited Commercial ("LC"). The applicant has been at this location for more than 30 years and has plans to revamp their current on-site sign. The subject site is in a unique position without any direct highway access to the site. In order to reach the site from the two highways, one has to either exit at Lincoln Street or Washington Avenue. When exiting at Lincoln Street (on I-135), a person would have to get on Hydraulic and travel a half mile north to the site. From exiting at Washington Avenue, a person would have to go south to Indianapolis Street for a half mile and then north on Hydraulic. Already, access to the subject site is ~~already~~ challenging and the on-site sign, while difficult, is only visible from eastbound and westbound Kellogg. It is not visible from I-135, with the best visibility being from the Kellogg/I-135 ramp. The sign is currently four-sided to take advantage of its unique position and the current square footage of the sign is 300 square feet, total. Currently the sign is 30 feet 6 inches above grade and 7 feet 6 inches above the overpass. The request for the height increase would bring the height above the overpass to around 18 feet. This is a common pole sign height throughout the City on commercial properties along arterial streets.

The proposed variance is to increase the sign area by 89 square feet, or around 23 square feet per side (four-sided sign). The other variance request is to allow the sign(s) to run parallel to the frontage. It is a four-sided sign and the unique location allows the site to have three frontages, thus, while the signs do run perpendicular to their respective frontages, the sign is also parallel to some of its frontage streets. Being wrapped up into these variance requests is an adjustment to the height of the sign by 9 feet 6 inches to bring the total sign height to 40 feet or 17 feet above the overpass ramp.

The subject site has commercial development to the west and residential development to the south, however to the north and east of the site is I-135 and Kellogg and their respective entrance and exit ramps. The property to the west is zoned OW Office Warehouse and is developed with a warehouse/storage facility (according to Sedgwick County's appraisal page), however at this time, the property appears to be vacant. Property to the south is zoned B Multi-family residential and is currently developed with a single-family residence on one site and a quadraplex the other site.

**ADJACENT ZONING AND LAND USE:**

NORTH:	Kellogg (US-54)
SOUTH:	B Single-family and Multi-family Residences
EAST:	I-135 Ramp
WEST:	OW Warehouse/Storage Facility

*The five criteria necessary for approval as they apply to the requested variance.*

**UNIQUENESS:** It is staff's opinion that this property is unique inasmuch that it does not have direct access from Kellogg or I-135 and the current location of the site makes it difficult to identify and access.

**ADJACENT PROPERTY:** It is staff's opinion that granting the requested sign variances will not adversely affect the rights of adjacent property owners, inasmuch as adjacent properties are zoned OW and B, With Kellogg and I-135 to the north and east of the site. The B zoned properties south of the subject site are blocked from viewing the sign by the principal structure on the subject site.

**HARDSHIP:** It is staff's opinion that the strict application of the provisions of the code would constitute a hardship upon the applicants, inasmuch that without the requested variance requests, the applicants sign would continue to not be visible from I-135, both directions. Also, the unique position of the site places it with three frontage streets and no matter if it's a two-sided or a four-sided sign, like the sign in question, the sign would be parallel to one or more street frontages. The overall location of the subject site and sign constitutes a hardship due to its limited accessibility and visibility. These sign improvements does, at least, improve the visibility of the subject site.

**PUBLIC INTEREST:** It is staff's opinion that the requested sign variances will not adversely affect the public interest, inasmuch as permitting a variance to an existing on-site sign to improve its visibility from Kellogg and I-135, which are limited access highways, is in the public interest.

**SPIRIT AND INTENT:** It is staff's opinion that granting the variance requested would not be opposed to the general spirit and intent of the zoning regulations, inasmuch that the spirit and intent of the Sign Code is for adequate visibility of signs without negative impacts on surrounding properties. The variance request simply allows an existing on-site sign, with no apparent impact on surrounding properties, to continue to exist.

**RECOMMENDATION:** Should the Board determine that all five conditions necessary to the granting of the Variance can be found to exist, then it is the recommendation of the Secretary that the Variance to the sign code to increase the sign area to 389 total square feet, to locate the sign perpendicular/parallel to frontages and to adjust the sign height to 40 feet next to an elevate roadway be GRANTED, subject to the following conditions:

1. The sign shall be developed in conformance with the approved site plan and elevation drawing.
2. The variance shall be to increase the sign area to 389 total square feet, to locate the sign perpendicular/parallel to frontages and to adjust the sign height to 40 feet next to an elevate roadway only; the sign shall conform to all other Sign Code requirements unless a separate variance or adjustment is granted.
3. The applicant shall obtain all permits necessary to update the sign and the sign shall be completed within one year of the variance granting, unless such time period is extended by the BZA.
4. The above conditions are subject to enforcement by any legal means available to the City of Wichita.