

1st National Bank in Wichita

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August 23, 1995

cc: Bill Suggs, 106 Noname Rd., Dexter, NM 88230  
Furr's/Bishop Inc., 6901 Quaker Ave., Lubbock, TX 79413  
Everett Fettis, 120 S. Market, Wichita, KS 67202  
Randy Sparkman, OCI  
Paul Hays, OCI  
Ray Sledge, OCI  
Pat Burnett, Deputy City Clerk  
Yolanda Anderson, MAPD



METROPOLITAN AREA PLANNING  
DEPARTMENT

CITY HALL — TENTH FLOOR  
455 NORTH MAIN STREET  
WICHITA, KANSAS 67202-1688  
(316) 268-4421  
FAX (316) 268-4390

August 23, 1995

1st National Bank in Wichita  
Trustee of Bales Revocable Trust  
c/o K-Mart Corp.  
Joe Ferdo  
703 S. Industrial Blvd.  
Eules, TX 76040

**RE: BZA 11-95 - Variance to increase the height of a sign from 25 feet to 39 feet on property generally located at the northeast corner of Tracy and Kellogg Drive (4200 West Kellogg).**

Dear Mr. Ferdo:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on August 22, 1995. This resolution reflects the official action of the Board to deny your request to increase the height of a sign from 25 feet to 39 feet, but to approve increasing the height of the sign from 25 feet to 30 feet and sets out the conditions of approval. It is forwarded to you for your information and files.

This is a reminder that the zoning adjustment signs should now be removed from the property. If you have any questions, please call our office.

Sincerely yours,

Lawrence P. Mitchell  
Assistant Secretary  
Board of Zoning Appeals

Enclosure  
LPM/hm

**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 cannot be found to exist for a 39-foot tall pole sign, but can be found to exist for a 30-foot tall pole sign.

**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 height of a pole sign from 25 feet to 39 feet on property zoned the "E" Light Industrial District and legally described as follows:

Lot 1, Bales Addition and Lot 2, GMC Addition, Wichita, Kansas.  
Generally located at the northeast corner of Tracy and Kellogg Drive  
(4200 West Kellogg).

be denied, but that a variance to increase the height of a pole sign from 25 feet to 30 feet on this same property be approved, subject to the following conditions:

1. Prior to installing the requested pole sign, the applicant shall obtain a sign permit and shall comply with all sign code requirements except that the height of the sign may be up to 30 feet.
2. No more than three pole or ground signs shall be permitted on the Kellogg Drive frontage of this application lot and only one shall be taller than provided for in the sign code.
3. The pole sign may be illuminated but shall not have flashing or moving lights or any parts which move or create the illusion of movement.
4. The 30 foot pole sign shall be limited to 154 square feet in area and shall be located in a single cabinet at the top of the pole.
5. The requested pole sign shall be located to provide for a minimum separation of 150 feet from any other pole sign on the site.
6. The sign shall be installed within one year or the resolution granting this variance shall become null and void.

ADOPTED AT WICHITA, KANSAS, this 22nd day of August 1995.

  
\_\_\_\_\_  
Keith A. Alter, President

ATTEST:

  
\_\_\_\_\_  
Lawrence P. Mitchell, Assistant Secretary

**BZA RESOLUTION NO. 11-95**

**WHEREAS**, 1st National Bank in Wichita, Trustee of Bales Revocable Trust, pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to increase the height of a sign pole from 25 feet to 39 feet and legally described as follows:

Lot 1, Bales Addition and Lot 2, GMC Addition, Wichita, Kansas.  
Generally located at the northeast corner of Tracy and Kellogg Drive  
(4200 West 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 22, 1995, 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 owners or the applicant inasmuch as Kellogg is elevated south and east of the property, which reduces the visibility of normal height signage along this property from west bound traffic and the present 25-foot-tall pole sign pre-existed the flyover; 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 there are no other owners on this block frontage and the sign can be located to provide at least 150 feet of separation from any other business sign and should not block the view of any signs in the area; and

**WHEREAS**, the Board of Zoning Appeals has found that the strict application of the provisions of the sign code of which variance is requested may constitute unnecessary hardship upon the property owners represented in the application inasmuch as a 25-foot tall sign has reduced visibility due to the Kellogg "flyover" and other area signs; and

**WHEREAS**, the Board of Zoning Appeals has found that the requested variance to a 39-foot tall sign would adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, inasmuch as a 39 foot sign would impact the visual quality of the area and would not protect the public and private investment in buildings and open space in the area, but the Board of Zoning Appeals has found that the granting of a variance to a 30-foot tall sign would not adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare due to the fact that the site contains an existing 30-foot tall sign and there are other signs in the area that are at this height; and

**WHEREAS**, the Board of Zoning Appeals has found that the granting of the variance to a 39-foot tall sign as requested would be opposed to the general spirit and intent of the sign ordinance inasmuch as a taller sign than provided for in the sign code when other alternatives for identifying the location of the business are available, would not be preserving the visual qualities of the community or eliminating excessive signage, but the Board of Zoning Appeals has found that the granting of a variance to a 30-foot tall sign would not be opposed to the general spirit and intent of the sign code inasmuch as a 30-foot tall sign would not be excessive and would harmonize with the surrounding uses and signs; and

3. This pole sign may be illuminated but shall not have flashing or moving lights or any parts which move or create the illusion of movement.
4. The 39 foot pole sign shall be limited to 154 square feet in area and shall be located in a single cabinet at the top of the pole.
5. The requested pole sign shall be located to provide for a minimum separation of 150 feet from any other pole sign on the site.
6. The sign shall be installed within one year or the resolution granting this variance shall become null and void.

SECRETARY'S REPORT

CASE NUMBER: BZA 11-95

OWNER/APPLICANT: 1st National Bank in Wichita, Trustee of Bales Revocable Trust.

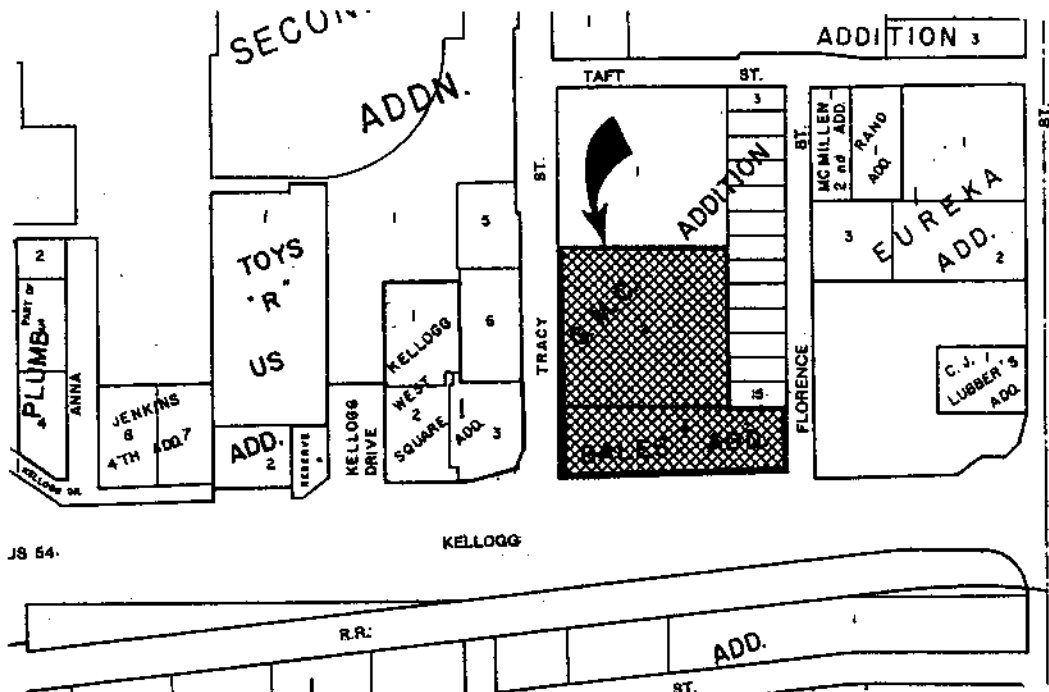
AGENT: Everett Fettis

REQUEST: Variance to increase the height of a sign from 25 feet to 39 feet.

CURRENT ZONING: "E" Light Industrial

SITE SIZE: 6.5 Acres

LOCATION: North of Kellogg Drive between Tracy and Florence.



**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, 1st National Bank in Wichita Trustee of Bales Revocable Trust, is requesting that Furr's Cafeterias be allowed to increase the height of an existing sign from 25 feet to 39 feet. It is also the intent of Furr's to replace the existing logo with their new circular designed logo on a single pole which will reduce the sign's size from 184 square feet to 154 square feet. The existing Furr's sign is one of three signs located on the applicant's site with frontage along Kellogg Drive between Tracy and Florence. The other two business signs located along the Kellogg Drive frontage are for K-mart and ZigeFields Adult Videos.

The applicant's site has 600 feet of frontage along Kellogg Drive. This amount of frontage per the current sign code would permit up to four signs and the maximum area of any one sign cannot exceed 300 square feet and a separation of 150 feet must be maintained between signs. Kellogg Drive is considered part of the expressway which permits 0.8 square foot of total signage for every lineal foot of street frontage. This provides this site with the potential of 480 square feet of total signage. Existing current signage along the frontage is 472 square feet (Furr's = 184 ft<sup>2</sup> + K-Mart = 144 ft<sup>2</sup> + Video Store = 144 ft<sup>2</sup>). The sign code also requires that signs shall not exceed 25 feet in height unless permitted signs are not utilized which will allow for an increase in height of 5 feet for each sign not utilized to a height not to exceed 35 feet.

The height of existing signage on the applicant's site is currently: Furr's = 25 feet, K-Mart = 30 feet, and Video Store = 22 feet. Since the K-Mart sign is at 30 feet, the right of a height increase has been utilized for an additional fourth permitted sign.

The applicant has indicated that the height increase is necessary to inform the driving public of the location of the business due to raised height of Kellogg along the front of the property. Several signs in the general area namely GMC, Willie C, and Days Inn are presently at 40 feet in height or above.

The Board has in the past granted variances to increase the height of signs along the elevated portions of Kellogg particularly for highway dependent uses such as motels. These variances were granted prior to the new KDOT sanctioned program which now permits business logos to be located at the exits on grade-separated interchanges. This new sign program is being made available by the Kansas Department of Transportation (KDOT) on the KDOT maintained portions of US-54 (Kellogg) and K-96. KDOT has hired "Kansas Travel Signs" to implement the program. The City of Wichita was notified of the availability of this program in November of 1994. It is the opinion of staff that this KDOT roadway signage is a better alternative to alert the driving public to business locations rather than have each business place signage above the elevated portions of roadways. If each business adjacent to an elevated portion of Kellogg were permitted a sign above the elevated portion of the roadway, the view from the roadway would quickly become cluttered and driver's safety compromised.

## **ADJACENT ZONING AND LAND USE:**

**NORTH:** "E" - Retail (K-Mart)  
**SOUTH:** "C" - Kellogg Expressway & Building Supplier  
**EAST:** "E" - Truck Sales and Service (Sauder-Lygrisse Truck)  
**WEST:** "E" - Retail (Blockbuster Music)

**UNIQUENESS:** It is the opinion of staff that this property is unique inasmuch as Kellogg is elevated in front of the property, which reduces the visibility of normal height signage along this property from west bound traffic.

**ADJACENT PROPERTY:** It is the opinion of staff that the granting of the variance requested will not adversely affect the rights of adjacent property owners inasmuch as the sign can be located to provide at least 150 feet of separation from any other business sign and should not block the view of any signs in the area.

**HARDSHIP:** It is the opinion of staff that the strict application of the provisions of the zoning ordinance will NOT constitute an unnecessary hardship upon the applicant inasmuch as there is an alternative to alerting the driving public along Kellogg as to the location of the business without increasing the height of the on-site sign.

**PUBLIC INTEREST:** It is the opinion of staff that the requested variance WOULD adversely affect the public interest inasmuch as the visual quality of the area would be diminished and the public and private investment in buildings and open space would not be protected. If this and other sign variances are approved, the proliferation of business signs will distract motorists on Kellogg and reduce roadway safety.

**SPIRIT AND INTENT:** It is the opinion of staff that the granting of the variance requested WOULD be opposed to the general spirit and intent of the sign ordinance inasmuch as a taller sign than provided for in the sign code when other alternatives for identifying the location of the business are available, would not be preserving the visual qualities of the community or eliminating excessive signage.

**RECOMMENDATION:** Since all five conditions necessary to the granting of a variance cannot be found to exist, it is the recommendation of the Secretary that the variance in sign height NOT be granted. However, should the Board be able to justify all five conditions, the following conditions of approval should be considered:

1. Prior to installing the requested pole sign, the applicant shall obtain a sign permit and shall comply with all sign code requirements except that the height of the sign may be up to 39 feet.
2. No more than three pole or ground signs shall be permitted on the Kellogg Drive frontage of this application lot and only one shall be taller than provided for in the sign code.