

BZA RESOLUTION NO. 19-95

WHEREAS, McDonald's Restaurant (Lane Enterprises) & Golden Arch Limited Partnership, pursuant to Section 2.12.590.B, Code of the City of Wichita, request a variance to increase the height of a sign from 35 feet to 45 feet on property zoned "E" Light Industrial and legally described as follows:

Lot 5, Block 1, I-135 Power Center, an addition to the City of Wichita, Sedgwick County, Kansas. Generally located in an area north of I-135 and east of Hydraulic (3430 S. Hydraulic).

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 November 28, 1995, and December 19, 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 the property is a triangle shaped lot located adjacent to an expressway off-ramp and an elevated portion of I-135; and

WHEREAS, the Board of Zoning Appeals has found that the requested variance to a 45-foot tall sign would adversely affect the rights of adjacent property owners or residents inasmuch as a 45-foot tall sign would not improve the visual quality of the area, but the Board of Zoning Appeals has found that the granting of a variance to a 40-foot tall sign would not adversely affect the rights of adjacent property owners or residents inasmuch as the site is located in an industrially zoned area and there will be adequate separation between the location of the sign and other properties 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 owner represented in the application inasmuch as, without a taller sign than provided by the sign code, the business would not be able to adequately inform the I-135 traveler of the service available on the site; and

WHEREAS, the Board of Zoning Appeals has found that the requested variance to a 45-foot tall sign would adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, inasmuch as a 45-foot tall sign would impact the visual quality of the area and would be in excess of the height needed to provide adequate visibility, but the Board of Zoning Appeals has found that the granting of a variance to a 40-foot tall sign would not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare but is in the public interest in terms of informing the public as to the location of the business; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance to a 45-foot tall sign as requested would be opposed to the general spirit and intent of the sign ordinance inasmuch as a 45-foot sign would be excessive signage for this situation, but the Board of Zoning Appeals has found that the granting of a variance to a 40-foot tall sign would not be opposed to the general spirit and intent of the sign code inasmuch as no additional pole, monument or off-site signs will be permitted on the site. Therefore, signage on the site will be more attractive and functional; 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 cannot be found to exist for a 45-foot pole sign, but can be found to exist for a 40-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 sign from 35 feet to 45 feet is not approved but that the variance to increase the height of a sign from 35 feet to 40 feet be approved on property zoned "E" Light Industrial and legally described as follows:

Lot 5, Block 1, I-135 Power Center, an addition to the City of Wichita, Sedgwick County, Kansas. Generally located in an area north of I-135 and east of Hydraulic (3430 S. Hydraulic).

subject to the following conditions:

1. Prior to increasing the height of the existing sign, the applicant shall obtain a sign permit and shall comply with all sign code requirements, unless a variance is granted by the Board, except that the height of the sign may be up to 40 feet.
2. This sign may be illuminated but shall not have flashing or moving lights or any parts which move or create the illusion of movement.
3. The location, orientation and design of this 40-foot tall pole sign shall be in accordance with the site plan and sign elevation drawing submitted with this variance application. The top of the reader board portion of the sign shall not exceed 12 feet above ground.
4. No other pole or monument signs shall be permitted along the I-135 or Hydraulic Avenue frontages of this lot.
5. No "off-site" billboard type signs shall be allowed on this 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 19th day of December 1995.



Keith Alter, President

ATTEST:



Lawrence P. Mitchell, Assistant Secretary

Mr. Bob Lane

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December 21, 1995

John Lay, 1016 N. Waco, Wichita, KS 67213

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

December 21, 1995

Mr. Bob Lane
McDonalds Restaurant
115 W. 6th
El Dorado, KS 67042

RE: BZA 19-95 - Variance to increase the height of a pole sign from 35 feet to 45 feet (3430 S. Hydraulic).

Dear Mr. Lane:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on December 19, 1995. This resolution reflects the official action of the Board to deny your request to increase the height of the sign from 35 feet to 45 feet, but to approve increasing the height of the sign from 35 feet to 40 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 concerning this matter, please call our office.

Sincerely yours,

Lawrence P. Mitchell
Assistant Secretary
Board of Zoning Appeals

Enclosure
LPM/hm

cc: Golden Arch Limited Partnership, One McDonald's Plaza, Oak Brook, IL 60521

3. The location, orientation and design of this 45-foot-tall pole sign shall be in accordance with the site plan and sign elevation drawing submitted with this variance application. The top of the reader board portion of the sign shall not exceed 12 feet above ground.
4. No other pole or monument signs shall be permitted along the I-135 frontage of this lot.
5. The sign shall be installed within one year of the resolution granting this variance shall become null and void.

SECRETARY'S REPORT

CASE NUMBER: BZA 19-95

OWNER/APPLICANT: McDonald's Restaurant (Lane Enterprises) & Golden Arch Limited Partnership.

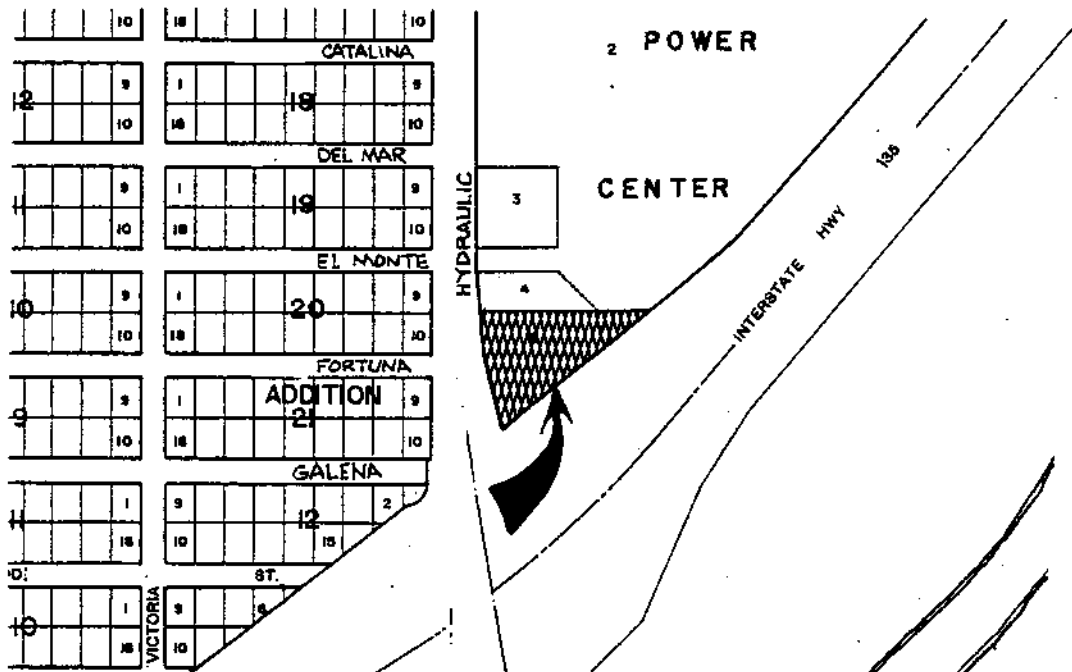
AGENT: John Lay

REQUEST: Variance to increase the height of a sign from 35 feet to 45 feet.

CURRENT ZONING: "E" Light Industrial.

SITE SIZE: 1.45 acres.

LOCATION: North of I-135 and east of Hydraulic (3430 S. Hydraulic)



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, Lane Enterprises, is operating a McDonald's restaurant at 3430 S. Hydraulic. This site is a triangle shaped lot with frontage on Hydraulic Avenue and Interstate 135. Access to the site is only from Hydraulic. An existing sign in the southwest corner of the site is presently 30-feet tall and 300 square feet in overall size. A 3' x 8' reader board is attached to the pole with the bottom at approximately 8 feet above ground level.

The applicant is requesting to increase the height of the current sign at its present location to 45 feet. It is the contention of the applicant that the height of the existing sign on the site is not adequate to alert the driving public, along I-135, in time to exit the interstate in order to locate the restaurant. The applicant's request and justification are based entirely on the need for signage on I-135.

The applicant's site has 470.75 feet of frontage along Interstate 135. This amount of frontage per the sign code would permit up to 4 signs with 150 feet of separation between signs. Interstate 135 is considered an expressway which permits 0.8 square foot of total signage for every lineal foot of street frontage. This would provide 376 square feet of total signage along I-135 while the maximum area of any one sign cannot exceed 300 square feet. The applicant's site also has 305.37 feet of frontage along Hydraulic which according to the sign code would permit, adjacent to this frontage up to 2 signs with a total of no more than 244 square feet. The sign code also permits applicants to increase the height of signs from the standard 25-foot height limit to a maximum height of 35 feet by not utilizing permitted signs. For each sign not utilized, the sign may be increased 5 feet in height. Therefore, the applicant is eligible under the sign code to increase the height of the existing sign along the I-135 frontage to 35 feet without a variance.

The applicant has indicated that they are participating in the KDOT "Kansas Travel Sign" program, which permits business logos to be located at the exits on grade separated interchanges. It is the opinion of staff that the sign code provides for adequate signage for the applicant's site and that the Kansas Travel Sign program provides for adequate notification to the driving public on I-135 as to the availability of businesses served by the interchange.

ADJACENT ZONING AND LAND USE:

NORTH:	"E"	Undeveloped Land
SOUTH:	"E"	Interstate 135
EAST:	"E"	Interstate 135
WEST:	"A" & "RB"	Church and Two-Family Dwellings

UNIQUENESS: It is the opinion of staff that this property is not unique inasmuch as many commercial properties located on major roadways adjacent to elevated roadways and developed with businesses catering to the traveling public have signs which do not exceed the height required by the sign code. The flexibility of the sign code and other sign options (Kansas Travel Sign Program) provides for adequate signage for sites adjacent to elevated roadways.

ADJACENT PROPERTY: It is the opinion of staff that the granting of the variance requested will adversely affect the rights of adjacent property owners inasmuch as this requested sign height is 29% higher than maximum height permitted by code for adjacent properties with similar street frontage.

HARDSHIP: It is the opinion of staff that the strict application of the provisions of the sign ordinance will not constitute an unnecessary hardship upon the applicant inasmuch as the 35-foot sign height provided for in the sign code for this site should be adequate to be viewed by the traveling public at a sufficient distance so that the public will be able to identify the location of the business and would be able to make safe movement onto the site.

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 may distract motorists on I-135 and Hydraulic 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 would not be preserving the visual qualities of the community or eliminating excessive signage.

RECOMMENDATION: Since all five factors 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 factors, the following conditions of approval should be considered:

1. Prior to increasing the height of the existing sign, the applicant shall obtain a sign permit and shall comply with all sign code requirements, unless a variance is granted by the Board, except that the height of the sign may be up to 45 feet.
2. This sign may be illuminated but shall not have flashing or moving lights or any parts which move or create the illusion of movement.