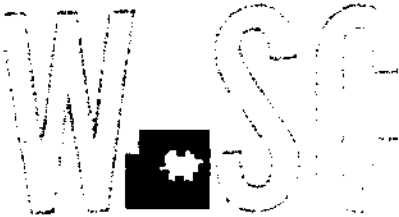


cc: Everett C. Fettis, 120 S. Market, Suite 504, Wichita, KS 67202
Randy Sparkman, OCI
Paul Hays, OCI
Ray Sledge, OCI
Pat Burnett, Deputy City Clerk
Yolanda Anderson, MAPD

WICHITA — SEDGWICK COUNTY



METROPOLITAN AREA PLANNING
DEPARTMENT

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

March 1, 1996

Ganesh Inc.
4848 S. Laura
Wichita, KS 74601

RE: BZA 26-95 Variance to increase the size of a sign from 140 square feet to 340.2 square feet.

Dear Sir:

Enclosed is a signed copy of the above-referenced BZA Resolution adopted by the Board of Zoning Appeals on February 27, 1996. This resolution reflects the official action of the Board to deny your request to increase the size of the sign from 150 square feet to 340.2 square feet, but to approve increasing the size of the sign from 150 square feet to 270 square feet and sets out the conditions of approval. It is forwarded to you for your information and files.

The applicants agent withdrew the request for the sign height and separation variance. Therefore, the Board took no formal action on those requests.

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/le

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 size of a pole sign from 150 square feet to 340.2 square feet is not approved but that the variance to increase the size of a pole sign from 150 square feet to 270 square feet be approved on property zoned "E" Light Industrial and legally described as follows:

Lots 3,4,& 5, Block 2, I-135 Turnpike Business Park, Wichita, Sedgwick County, Kansas. Generally located 1/8 mile south of 47th Street South on the east side of Laura. (4848 S. Laura).

Subject to the following conditions:

1. Prior to installing this 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 size of one pole sign may be up to 270 square 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 sign shall be installed within one year or the resolution granting this variance shall become null and void.

ADOPTED AT WICHITA, KANSAS, this 27th day of February 1996.



Keith A. Alter, President

ATTEST:



Louise Olivarez, Secretary

BZA RESOLUTION NO. 26-95

WHEREAS, Ganesh Inc., pursuant to Section 2.12.590.B, Code of the City of Wichita, requests a variance to increase the size of a pole sign from 150 square feet to 340.2 square feet on property zoned "E" Light Industrial and legally described as follows:

Lots 3,4,& 5, Block 2, I-135 Turnpike Business Park, Wichita, Sedgwick County, Kansas. Generally located 1/8 mile south of 47th Street South on the east side of Laura. (4848 S. Laura).

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 January 23, 1996 and February 27, 1996, 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 zoning district; and is not created by an action or actions of the property owners or the applicant inasmuch as the property is located on an interior street of an industrial park which is adjacent to the Kansas Turnpike; and

WHEREAS, the Board of Zoning Appeals has found that the granting of the variance will not adversely affect the rights of adjacent property owners or residents inasmuch as the area is zoned industrial and a larger sign in such an area should not be detrimental to other uses that exist or may develop in the area; and

WHEREAS, the Board of Zoning Appeals has found that the strict application of the provisions of the sign ordinance of which variance is requested may constitute unnecessary hardship upon the property owners represented in the application inasmuch as the identification of a highway oriented use that depends, to some extent, on the traveling public needs sufficient visibility to allow the public to locate the site from the adjacent turnpike exit gate; and

WHEREAS, the Board of Zoning Appeals has found that the requested variance to a 340.2 square foot sign would adversely affect the public health, safety, morals, order, convenience, prosperity or general welfare, inasmuch as a 340.2 square foot sign would impact the visual quality of the area and would be in excess of the size needed to provide adequate visibility, but the Board of Zoning Appeals has found that the granting of a variance to a 270 square foot 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 desired to a 340.2 square foot sign as requested would be opposed to the general spirit and intent of the sign ordinance inasmuch as a 340.2 square 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 270 square foot sign would not be opposed to the general spirit and intent of the sign code and would be preserving the visual qualities of the community.

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 340.2 square foot pole sign, but can be found to exist for a 270 square foot pole sign.

in sign separation 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 installing the 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 separation of the two signs indicated on the site plan may be reduced to 122 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 sign shall be installed within one year or the resolution granting this variance shall become null and void.

BACKGROUND: The applicant, Ganesh, Inc. is developing property 1/8 mile south of 47th Street South on the east side of Laura as a site for a Holiday Inn Express Motel. The applicant has indicated that due to the location of their business, they are requesting three variances to the sign ordinance in order to make their location known to the traveling public. Primary access to this site is from 47th Street South even though the site is visible to vehicles exiting the Kansas Turnpike.

Request No. 1 - Increase the size of a pole sign from 150 square feet to 340.2 square feet. The sign code provides for the maximum area of individual signs permitted adjacent to undesignated streets when the undesignated street is located in an area such that both sides of the street are zoned entirely industrial district to be 150 square feet. The total frontage of the application area is 866.65 feet which would permit by code 433 square feet of signage along the frontage, but no one sign can be greater than 150 square feet. The applicant has indicated that the larger sign is necessary for the sign to be viewed by the traveling public exiting the Kansas Turnpike.

Request No. 2 - Increase the height of a pole sign from 35 feet to 50 feet. The sign code requires that no ground or pole sign in the "E" Light Industrial District shall exceed a height of 25 feet unless permitted signs along a street frontage of the zoning lot are not fully utilized. In this case with 886.65 feet of frontage, the applicant has the rights to six signs and by giving up the rights to two of those signs one sign may be placed at the 35 foot height. Therefore, the applicant is requesting at this time that one sign be permitted to increase another 15 feet in height to make it more visible from the turnpike.

Request No. 3 - Reduce the distance separation between ground and/or pole signs from 150 feet to 122 feet. The sign code requires that when more than one ground or pole sign is permitted on a zoning lot that there shall be a minimum distance of 150 feet along the same street frontage between the signs. The applicant is requesting to place the larger and taller sign 122 feet from a permitted pole sign which is located between the entrance drives.

The property (Comfort Inn) to the west has an existing 50 foot high, 290 square foot pole sign. This sign was granted height and size variances in 1985 to increase from a 40 foot high, 150 square foot sign. These variances were granted under the old sign code before the current sign code was adopted in May 1990. Another pole sign exists on the Coastal site which is located north of the applicant's property. This sign is currently 30 feet in height. In 1989, Coastal requested a variance from the BZA to increase the height of their sign from 30 feet to 50 feet. That request was denied.

ADJACENT ZONING AND LAND USE:

NORTH: "E" Restaurant & Auto Service - Pot Belly & Coastal
SOUTH: "E" Warehouse - Sheplers Distribution Center
EAST: "E" Warehouse - Roadway Package System
WEST: "E" Motel - Comfort Inn

REQUEST NO. 1: variance to increase the size of a pole sign from 150 square feet to 340.2 square feet.

UNIQUENESS: It is the opinion of staff that this property is not unique inasmuch as it is industrially zoned property within an industrial park which is in close proximity to major trafficways while not having frontage on the major trafficways. This is typical of industrial park properties.

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 size is 125% larger than permitted by the current code and would exceed the amount for a single sign permitted for adjacent properties which have similar size frontages on this industrial street.

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 the sign provided for in the sign code is of sufficient size to be viewed by the traveling public to direct them toward 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 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 sign larger 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 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 installing this 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 size of the sign may be up to 340.2 square 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 sign shall be installed within one year or the resolution granting this variance shall become null and void.

REQUEST NO. 2 - Variance to increase the height of a pole sign from 35 feet to 50 feet.

UNIQUENESS: It is the opinion of staff that this property is not unique inasmuch as it is located on an interior street of an industrial park and is more than 800 feet (measured along a straight line) from the grade-separated 47th Street/I-235 intersection.

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 43% greater than height permitted by code and would exceed the height for new signs permitted for adjacent properties which have similar size frontages.

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 the sign provided for in the sign code is of sufficient height to be viewed by the traveling public on Laura, and at the Turnpike exit gate to direct them toward 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.

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 sign taller 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 installing this 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 50 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 sign shall be installed within one year or the resolution granting this variance shall become null and void.

REQUEST NO. 3 - Variance to reduce the distance between signs from 150 feet to 122 feet.

UNIQUENESS: It is the opinion of staff that his property is not unique inasmuch as there are no physical features which would not permit the proper separation between signs and there is also ample frontage which would allow for the separation.

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 proposed signs will not block the view of any signs on adjacent properties.

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 a sufficient amount of frontage that the signs can be spaced to maintain the required 150 feet of separation.

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 investments in buildings and open space would not be protected.

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 zoning ordinance inasmuch as signs placed closer together than provided for in the sign code without justification based on physical characteristics of the property or adjacent properties 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