



STAFF REPORT

ON AN APPLICATION FOR: A VARIANCE request under the terms of the *Zoning and Land Use Regulations for the Unincorporated Territory of Douglas County, Kansas*, from Matt Herynk of Fastsigns Lawrence requesting a variance to allow an internally illuminated sign, eight feet in height, to be located at 1628 Highway 40.

APPLICANT/OWNER:	Matt Herynk of Fastsigns Lawrence, applicant; AWA, Inc. and Davidson Investments, LLC, owners
LOCATION:	1628 Hwy 40 (Plate № 300107-01B)
AREA:	1.63 acres
DATE OF PUBLIC HEARING:	January 21, 2025, 10:00 AM.
DATE PUBLIC NOTICE PUBLISHED:	December 31, 2024
PRESENT ZONING AND LAND USE:	LI – Light Industrial District and ASO – Airspace Overlay District, used as a roofing, siding, and windows business.

SECTION AND REQUIREMENT OF ORDINANCE PERMITTING VARIANCE:

- 12-314-1.12(e)(2)(ii and iv) Sign Regulations in the LI District: Establishes a maximum height of four feet from the ground, prohibits internally illuminated signs.

DESCRIPTION OF VARIANCE REQUESTED:

Matt Herynk, of Fastsigns Lawrence, has submitted an application to allow an internally illuminated sign, eight feet in height, to be located at 1628 Hwy 40, in Grant Township. The subject property is used as a roofing, siding, and window business known as Mesler Roofing. The building on the property was built in 1952. The applicant is seeking to replace an existing legal nonconforming sign with a new one that would be lower to the ground. The existing sign is approximately 15 feet in height with a 30 ft² area and the proposed sign would be 8 feet in height with a 32 ft² area. The sign regulations, found in Section 12-314-1 of the Zoning Code, allow for a maximum height of four feet and a maximum area of 32 ft² in the LI District. Said section also prohibits internally illuminated signs and mandates a 10-foot setback from the right-of way of locally maintained roads. The existing sign appears to be within the 10-foot setback, but because Highway 40 is a State-maintained road, setbacks are per requirements by the Kansas Department of Transportation. The applicant intends to build the proposed sign in the same location as the existing sign. Staff reached out to KDOT to solicit comment but has not received a response.

Per Section 12-314-1.12(e)(2)(iv) of the Zoning Code, internally illuminated signs are prohibited in the LI District. While internally illuminated signs are uncommon in the unincorporated area, a legal-nonconforming illuminated sign is located nearby. Heinen Outdoor Power Equipment, or HOPE, approximately 1.4 miles to the west, has an illuminated sign that was originally built for the former Airport Motel. While the former motel has been demolished, the sign remained on-site.

As part of the review of this application, staff noted that the current business use on the property was not approved per the site planning process. It appears a site plan application was submitted in 2016, though the process was not completed. Code enforcement staff have notified the applicant of this several times. Prior to obtaining a sign permit, a site plan for the roofing, siding, and window business must gain approval.

VICINITY MAPS (2024)



STANDARDS FOR VARIANCES:

Criteria supporting approval:

- A. **That the variance requested arises from such condition which is unique and which is not ordinarily found in the same zoning district; and is created by this Resolution and not by an action or actions of the property owner or the applicant**
The subject property is located on a busy state highway with a 55 mile per hour speed limit. The speed of the moving vehicles and the size of the lettering on the existing sign limit its legibility. Additionally, nearby there is another legal-nonconforming internally illuminated sign for Heinen Outdoor Power Equipment, formerly used as the sign for the Airport Motel.
- B. **Granting the variance would not adversely affect the rights of adjacent property owners or residents**
The location of the proposed sign would reduce the nonconformity with respect to height. A sign of eight feet in height is not anticipated to adversely affect the rights of adjacent property owners or residents. With respect to internal illumination, staff is recommending a stipulation on the variance that would require the illumination to be switched off outside of business hours.
- C. **The strict application of the regulations for which the variance is requested would constitute unnecessary hardship upon the property owner represented in the application**
The strict application of the sign regulations limits the business owner's ability to attract business in a manner similar to that of a nearby property.
- D. **The variance desired would not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare**
The applicant has stated that due to the limited space for lettering on the existing sign, customers travelling at high speeds often miss the business or need to brake suddenly because it is easy to miss. Allowing the new sign, as proposed, may improve traffic safety in front of the business.

Criteria supporting denial:

- E. **That the variance requested arises from such condition which is unique and which is not ordinarily found in the same zoning district; and is created by this Resolution and not by an action or actions of the property owner or the applicant**
Similar businesses, also zoned LI, are often located along busy highways. The location on a busy highway does not necessarily constitute a unique condition.
- F. **Granting the variance would not adversely affect the rights of adjacent property owners or residents**
A neighboring residence may be adversely impacted by the internal illumination unless screening is proposed or the sign is turned off at night.
- G. **Granting the variance desired would not be opposed to the general spirit and intent of these Regulations**
The sign regulations are intended to reduce roadside distractions and promote rural character. Internally illuminated signs are prohibited for these reasons and are uncommon in the unincorporated area. Maintaining dark skies and limiting outdoor illumination and light pollution is part of the goal of maintaining rural character.

PUBLIC COMMENTS:

None received as of January 10, 2025.

AGENCY COMMENTS:

Staff reached out to several agencies seeking comment regarding the granting of this request. No concerns have been raised. Additional comments may be pending.

STAFF RECOMMENDATION

County Staff recommend approval of the variance request to allow to allow an internally illuminated sign, eight feet in height, to be located at 1628 Highway 40.with the following stipulations:

1. This variance shall apply only for a 32 ft² sign, eight feet in height. Any other structures shall comply with the County's adopted zoning regulations or another variance shall be obtained;
2. The sign shall comply with all other applicable regulations;
3. Approval of a site plan for the current business use shall be obtained prior to issuance of a sign permit, and;
4. The internal illumination of the sign shall be switched off outside of business hours.

Prepared by: Karl Bauer, AICP – Planner II

Date: January 10, 2025

APPENDIX I:

Applicant Responses (Verbatim)

1. Describe the proposed project and explain why a Variance is requested. The explanation should be in sufficient detail for the BZA to completely and clearly understand the project.

We will replace the current sign with a new monument sign. The current sign is approximately 15' tall and made from old telephone poles. The face of the sign is approximately 30 square feet. We propose to replace this sign with a new monument sign that is lower to the ground and is more visually and aesthetically pleasing while still maintaining a similar face size. The proposed sign is more similar to other signs in the area (HOPE, Pine Landscape Center, and the new Airport Sign). The new design would be more in line with other signs in the area, be more visually appealing, and more accurately reflect the changing and growing business.

2. Explain why the granting of the Variance will not adversely affect the rights of adjacent property owners or residents.

Adjacent property owners are more than 100 feet away from the proposed sign. Immediately to the East is pasture land while a residence sits to the west. This will not adversely affect the adjacent property owners 1) light should be similar to what currently exists since we are proposing a similar sized face., 2) light to the adjacent property owners may be less since we are proposing a sign that is much closer to the ground, 3) the older sign with telephone poles will be removed.

3. Explain why the Variance requested arises from a condition, or conditions which are unique to the property in question and which are not ordinarily found in the same zoning district, and is not created by an action or actions of the property owner or the applicant.

Current zoning allows for a sign with a 32 square foot face but only 4' from grade to the top of the sign. This is a business with a showroom in the county. Few businesses exist in the county and the majority are agriculture related. A sign that is only 4' from grade will not be easily seen by passersby as well as a sign that is 8' from grade. Having a slightly taller sign will bring better visibility to the showroom and reduce people braking quickly or turning around on hwy 40 because they almost missed it. Thus increasing business as well as the safety of travelers on the road.

While the current sign is grandfathered in, within the sign code we are allowed to replace the faces. We would like to go a step further and replace the current sign with a more visually appealing sign and one that is more similar to other signs in the area.

4. Explain why the strict application of the provisions from which a Variance is requested will constitute unnecessary hardship upon the property owner represented in the application.

(The BZA cannot consider economic hardship).

Strict application of the Douglas county sign code probably won't result in reduced traffic to the showroom, it will increase the amount of cars quickly braking and turning around on hwy 40 because they missed their turn.

Additionally, the new owners would like to upgrade the facilities with new paint, gravel, etc, to make the entire complex more appealing to potential customers and passersby. If the sign code is strictly adhered to, the current sign will remain in place and will look like the old, rural sign that it currently is instead of a new upgraded look that will go with the rest of the facilities.

5. Explain how the Variance will not adversely affect the public health, safety, morals, order, convenience, prosperity, or general welfare.

The upgraded sign will have similar information that the current sign has, it will just look better doing it.

6. Explain why granting the Variance will not be contrary to the general spirit and intent of the Zoning Regulations.

The general spirit of the zoning regulations is to maintain a pleasing atmosphere for all involved while still allowing businesses to mark their location. Allowing this variance will enable Mesler Roofing to upgrade their sign thereby furthering the general spirit of the zoning regulations.

APPENDIX II: Site Plan



RECEIVED

MAR -7 2016

City County Planning Office
Lawrence, Kansas

APPENDIX III: Existing Sign



APPENDIX IV: Proposed Sign

Polycarbonate + Translucent Vinyl (qty 2)

