

## **WINNEBAGO COUNTY BOARD OF ADJUSTMENT -- DELIBERATIVE SESSION**

Thursday, March 7, 2013 – 7:30 a.m.

3rd Floor Conference Room, County Administration Building

112 Otter Ave, Oshkosh, Wisconsin

**Members Present:** Arden Schroeder, Dan Mingus, Greg Kargus, Tom Verstegen, and David Weiss

**Excused:** None

**Absent:** James Forbes

**Also Present:** Candace Zeinert, zoning, Karen Fredrick, court reporter, Eric Rasmussen, zoning, and Brent Jalonen, planning/zoning.

The meeting was called to order at approximately 7:30 a.m.

### **Approval of Minutes**

Motion by G. Kargus, second by T. Verstegen, to approve meeting minutes for February 7, 2013.

Motion to approve carried by unanimous voice vote.

Decisions were made on the following requests:

### **Richard Gabert & Tom Rusch – Town of Oshkosh – Variance**

D. Weiss asked if there was a precedent set because of the decision made recently for the HJ Martin sign. A. Schroeder clarified that a precedent is not supposed to be set and that each individual request is different.

G. Kargus pointed out that the sign is pre-existing and that the hardship was not self created because you can't see part of the sign. T. Verstegen inquired if this just wasn't a part of being nonconforming? Limiting a structure's expansion helps the nonconforming structure eventually go away. There was some discussion regarding the sign's nonconformities and when it became nonconforming.

D. Mingus inquired if Act 170 could play a part in this if the request was denied. C. Zeinert specified that Act 170 and NR 115 pertains mostly to principal structures, of which this sign would not be considered.

T. Verstegen added that if, when the sign was originally built legally, that if the median was constructed back then, the sign would have been raised at that point.

D. Mingus said that the grade of the signs is lower than other properties along the highway and that the highway generally is higher than surrounding properties. He offered that perhaps the County should address how height is measured in the ordinance; from the road's grade and not the grade of the property?

A. Schroeder added that some relief should be given because the sign is pre-existing. G. Kargus contributed that if relief is not given then the billboard value would diminish. A. Schroeder further added that they should look at what the new highway did to the property. It has changed some of the characteristics of the property.

G. Kargus motioned, seconded by D. Mingus to approve the variance as requested to change the height of the sign from 25ft to 35ft.

Vote on the motion: G. Kargus, aye; A. Schroeder, aye; T. Verstegen, aye; D. Mingus, aye. D. Weiss, aye. Motion passed by a 5-0-1 vote (Forbes). **Motion approved; variance granted.**

Findings for granting:

1. The existing sign is a legal nonconforming structure and its use is allowed to continue. The addition of the median was outside the property owner's control and does not allow the entire sign to be seen by northbound traffic.
2. The lower elevation of the subject parcel is compounded by the construction of the median wall of the highway which diminishes the use of the existing sign.
3. The increased height would not be against the purposes of the sign portion of the Zoning Code and the increased height is not an unreasonable height for a sign of this nature.

**Based upon the above findings**, it is the opinion of the Board that all criteria of Article 7, Division 12, Section 23.7-234, Town/County Zoning Code have been met.

### **Bergstrom Paperland (sign #1) – Town of Vinland – Variance**

A. Schroeder inquired if the signs were going to be moved. C. Zeinert answered that yes, technically the location of the sign will change slightly. A. Schroeder added that he felt this was new construction rather than a modification of the existing sign. C. Zeinert added that Larry Sidman (applicant's agent) had mentioned that the DOT has spacing requirements for the signs.

A. Schroeder asked if the sign is proposed within an easement or road right-of-way. C. Zeinert answered that it could not be determined from the map submitted but that she doubted the DOT would allow the sign to be placed within the road right-of-way of the highway.

G. Kargus inquired why the signs had to be moved. The signs may need to meet additional spacing requirements of the DOT and also need to be placed on new poles to structurally support it.

A. Schroeder added that his problems with the sign is that it is considered a new sign and that the request seemed very high. There was discussion regarding the current signs location and height.

D. Mingus added that he was not excited about the "scientific" method that was used to determine the required height of the new sign. A. Schroeder agreed and said that the height request seemed very high. D. Mingus pointed out that he felt the 10ft granting of the last variance was reasonable.

The Board discussed the possibility of requiring the sign to remain on the same pedestal and whether or not that would structurally compromise the project. C. Zeinert explained that if the Board wanted the sign to stay in the same location, but a new, structure capable pole was required, that it could be treated similar to how replacement foundations on homes is permitted.

D. Weiss pointed out that even in a small car only the few feet of the bottom of the sign are missed.

A. Schroeder inquired with the other members if they agreed the construction is planned for the new pole. Most of the Board agreed but some members were not sure. The Board inquired if the property owner would have enough time to go through another request before the interstate designation was established. The date of that is unknown at this time.

G. Kargus motioned, seconded by A. Schroeder to approve a variance of 35 ft to the existing sign and structure (pad).

Findings for granting:

1. The existing sign is a legal nonconforming structure and its use is allowed to continue. The addition of the median was outside the property owner's control and does not allow the entire sign to be seen by southbound traffic.
2. The lower elevation of the subject parcel is compounded by the construction of the median wall of the highway which diminishes the use of the existing sign.
3. The increased height would not be against the purposes of the sign portion of the Zoning Code and the increased height of 10ft is not unreasonable.

**Based upon the above findings**, it is the opinion of the Board that all criteria of Article 7, Division 12, Section 23.7-234, Town/County Zoning Code have been met.

### **Bergstrom Paperland (sign #2) – Town of Vinland – Variance**

The Board discussed their main issues with the request.

G. Kargus motioned, seconded by T. Versteegen to approve a variance of a 10ft extension of the existing sign on the existing pad.

Findings for granting:

1. The existing sign is a legal nonconforming structure and its use is allowed to continue. The addition of the median was outside the property owner's control and does not allow the entire sign to be seen by southbound traffic.
2. The lower elevation of the subject parcel is compounded by the construction of the median wall of the highway which diminishes the use of the existing sign.
3. The increased height would not be against the purposes of the sign portion of the Zoning Code and the 10 ft extension is not unreasonable.

**Based upon the above findings**, it is the opinion of the Board that all criteria of Article 7, Division 12, Section 23.7-234, Town/County Zoning Code have been met.

### **Discussion on Floodplain Fill Variance Application & Requirements**

Eric Rasmussen, Code Enforcement Officer and Brent Jalonen, Erosion Control Technician joined C. Zeinert and the Board members to discuss a new application requirement for floodplain fill variance requests. The new requirement is to require the applicant submit a form showing calculations for depth and distance of fill, method of mitigating drainage concerns, and other setbacks/distances. Mr. Jalonen also offered his experience in that swales are a good method for dealing with small lake front properties such as those typical with these requests. He also mentioned that requiring downspouts and sump pump lines to drain directly to the water body takes care of the concern for drainage off the main impervious surfaces of the lot (the home). Board members agreed with staff that use of the form should better facilitate the application and variance process.

Upon conclusion of the agenda items, the meeting was adjourned at 8:30 a.m.

Respectfully submitted,

*Candace M. Zeinert*

Candace M. Zeinert  
Recording Secretary