

It is expected that a Quorum of the Personnel Committee, Board of Public Works, and Common Council will be attending this meeting: (although it is not expected that any official action of any of those bodies will be taken)

**CITY OF MENASHA
BOARD OF APPEALS
Room 132, Menasha City Center
100 Main Street, Menasha
April 5, 2019
9:00 AM**

AGENDA

- A. CALL TO ORDER
- B. ROLL CALL
- C. PUBLIC HEARING
 - 1. Request of Bethel Lutheran Church to allow an Electronic Message Center (EMC) at 829 Appleton Road, Menasha.
- D. MINUTES TO APPROVE
 - 1. Board of Appeals, 1/9/19.
- E. ACTION ITEMS
 - 1. Request of Bethel Lutheran Church to allow an Electronic Message Center (EMC) at 829 Appleton Road, Menasha.
- F. ADJOURNMENT

**City of Menasha
Board of Zoning Appeals
Public Hearing**

A Public Hearing will be held by the Board of Zoning Appeals on April 5, 2019 at 9:00am in Room 132 Menasha City Center, 100 Main Street, Menasha, WI to hear a request of Bethel Lutheran Church to allow an electronic message center at 829 Appleton Road, Menasha.

Absent a variance this action would constitute a violation of Section 13-1-67(d), which prohibits an electronic message centers.

All interested persons objecting to or supporting this appeal are requested to be present. Written comments may be considered by the Board.

Deborah A. Galeazzi, WCMC
City Clerk

Publish: March 29, 2019

CITY OF MENASHA
BOARD OF APPEALS
Room 133, Menasha City Center
100 Main Street, Menasha
January 9, 2019
MINUTES

A. CALL TO ORDER

Meeting called to order by Chairman Ellis at 2:10 p.m.

B. ROLL CALL

PRESENT: Commissioners Ryan Ellis, Jim Koslowski, Ken Kubiak, Joanne Roush

ALSO PRESENT: CDD Schroeder, AP Stephenson, Clerk Galeazzi.

C. PUBLIC HEARING

1. Request of Harold and Debra Gast for a covered patio on their home at 916 De Pere Street, Menasha.

No one spoke.

D. MINUTES TO APPROVE

1. Board of Appeals, 11/29/18.

Moved by Comm. Koslowski seconded by Comm. Kubiak to approve minutes of 11/29/18.

Motion carried on voice vote.

E. ACTION ITEMS

1. Request of Harold and Debra Gast for a covered patio on their home at 916 De Pere Street, Menasha.

AP Stephenson explained the request of Harold and Debra Gast to build a covered porch on the front of their house at 916 De Pere Street. The covered porch will encroach into the front yard setback. City Zoning Code states a single family residence district shall have a front yard setback of a minimum of twenty-five (25) feet or the prevailing setback. He stated no hardship has been demonstrated since the property owners have the ability to construct up to an eight (8) foot uncovered porch/deck/patio without violating City code. There is no uniqueness to the property. The property is a single family dwelling similar to the rest of homes in the neighborhood. While the addition would increase the home's value, it is staff's opinion that the purpose of the variance is not based upon a desire to increase the value of the home. Zoning code restricts property owners from building within the setback in order to provide adequate green space and a pleasing aesthetic environment conforming to the neighborhood. Allowing the building within a setback may have a negative impact on the surrounding properties.

PP Stephenson stated staff recommends denial of the variance as the requirements for granting a variance have not been satisfied.

CDD Schroeder reminded Board members of the City ordinance and State Statute when granting a variance.

Commissioners discussed:

- Prevailing setback for this property and neighborhood is eighteen (18) feet
- Type of overhang could be obstruction and have negative impact
- Houses in the neighborhood are uniformed to setback
- Ramps are allowed without additional permits
- Will covered porch be temporary or permanent

Moved by Comm. Ellis seconded by Comm. Roush to deny the request for a variance as it does not meet the requirements for granting a variance.

Motion carried on roll call 4-0.

F. ADJOURNMENT

Moved by Comm. Ellis seconded by Comm. Roush to adjourn at 2:33 p.m.

Motion carried on voice vote.

Deborah A. Galeazzi, WCMC
City Clerk



To: Board of Appeals

From: Kristi Heim, Community Development Coordinator

Date: April 5, 2019

RE: **Variance Request for Bethel Lutheran Church, 829 Appleton Road, Menasha**

OVERVIEW

Property Address: 829 Appleton Road

Property Owner: Bethel Lutheran Church

Applicant: Bethel Lutheran Church, 829 Appleton Road, Menasha.

Property Zoning: R-1 – Single Family Residence District, permitted as a Special Use.

Surrounding Zoning:

North: R-1 – Single Family Residence District

South: R-1 – Single Family Residence District

East: R-1 – Single Family Residence District

West: R-1 – Single Family Residence District, and R-2 – Two-Family Residence District

Variance Requested: Section 13-1-67(d)(1) of the City of Menasha Code of ordinances states, in part, “Electronic message centers are permitted in the C-1, C-3, C-4, I-1, and I-2 districts.” The applicant is requesting allowance for an electronic message center as part of a new internally illuminated monument sign within the R-1 Single Family Residence District.

Reason for Variance: To allow Bethel Lutheran Church to incorporate an electronic message center (EMC) to a proposed new internally illuminated monument sign (see attached site plan and sign rendering) within a property zoned R-1 Single Family Residence District.

REGULATIONS FOR GRANTING A VARIANCE

Per Section 13-1-153(d), the Board of Appeals must find the following five items to be true prior to granting a variance:

- 1) Hardship to the Property Owner due to Physiographical Considerations
- 2) Unique Property Conditions
- 3) Not an Exclusive Desire to Increase Property Value or Income
- 4) Will not be Detrimental to the Neighborhood
- 5) Will not Undermine the Spirit of the Zoning Code

ANALYSIS OF VARIANCE REQUEST

Below is staff's analysis of each of the five required items per Section 13-1-153(d) as they pertain to the variance requested by Bethel Lutheran Church.

1. *Hardship to the Property Owner due to Physiographical Considerations*

SEC 13-1-153(D)1: "Denial of variation may result in hardship to the property owner due to physiographical consideration. There must be exceptional, extraordinary or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties or uses in the same district and the granting of the variance would not be of so general or recurrent nature as to suggest that the Zoning Code should be changed."

ANALYSIS: Bethel Lutheran Church owns two parcels along Appleton Road. The main parcel, which contains the church and school, abuts Appleton Road and is where the requested sign will be placed. Current signage along the frontage consists of a monument sign and a metal frame-type sign which contains banners throughout the year. The applicant has proposed removal of both of the existing signs and installation of the monument sign, which incorporates an electronic message center.

The subject parcel is zoned R-1, Single Family Residence District. Churches are permitted as a special use within the R-1 District. The Zoning Ordinance allows monument signs for special uses within the R-1 District; however electronic message centers are not allowed within that district. The proposed sign does meet Zoning Ordinance standards for size, height, setbacks, and materials. It, however, as proposed does not meet the illumination standard, as the sign calls out for internal illumination, which is also not permitted within this zoning district.

Absent a variance, the applicant has the ability to erect an externally illuminated monument sign. The Zoning Ordinance allows signage by right that the property owner could install to display information to the community and its members to exercise their right of religious freedom and therefore not granting the variance would not hinder the religious freedom of the organization to practice their faith. Based on this, it is staff's opinion a hardship, as defined, is unfounded.

2. Unique Property Conditions

SEC 13-1-153(D)2: The conditions upon which a petition for a variation is based are unique to the property for which variation is being sought and that such variance is necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.

ANALYSIS: The property can be described as a campus for Bethel Lutheran which includes Bethel Lutheran Church as well as Shephard of the Valley School. It can be argued that multiple uses existing on a single parcel is unique. Religious organizations and schools exist within residential zoned properties throughout the city. There are fourteen religious institutions and fifteen schools located throughout the city within this specific zoning designation; therefore this does not create a unique property condition specific to this property.

3. Not an Exclusive Desire to Increase Property Value or Income

SEC 13-1-153(D)3: The purpose of the variation is not based exclusively upon a desire to increase the value or income potential of the property.

ANALYSIS: Per the applicants response (attached), the primary reason for requesting the variance is to display information to the community and its members. The applicant is a not for profit organization and would gain no financial incentive to install the sign as proposed.

4. Will Not be Detrimental to the Neighborhood

SEC 13-1-153(D)4: The granting of the variation will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located.

ANALYSIS: The Zoning Ordinance does not allow incorporation of electronic messages centers and internally illuminated signs within residential districts in order to provide a pleasing aesthetic environment for residents. It can be argued that allowing internally illuminated and electronic message centers within residentially zoned districts may have negative impacts to the surrounding properties.

Will not Undermine the Spirit of the Zoning Code

SEC 13-1-153(D)5: The proposed variation will not undermine the spirit and general and specific purposes of the Zoning Code.

ANALYSIS: The overall purpose the Zoning Code is to ensure compatible neighboring uses within a district. By allowing electronic message centers and internally illuminated within residentially zoned districts undermines the objectives of the ordinance and character of the neighborhood.

STAFF RECOMMENDATION

Staff recommends the variance to allow the inclusion of the electronic message center and internal illumination, as requested, be denied by the Board of Appeals. Per the analysis presented above, staff deems that the requirements for granting a variance have not been satisfied. It should also be noted that each variance request brought before the Board of Appeals should be heard on its own merit and the decision to approve or deny the request must be decided on the case presented.

920-728-3963
PO Box 180551
Delafield, WI 53018

PROJECT



CUSTOMER APPROVAL

DATE

AUTHORIZED SIGNATURE

REPRESENTATIVE
CHARLIE STUBBLEFIELD

DRAWN BY
CHARLIE STUBBLEFIELD

SCALE
1/2" = 1'

DATE
3/21/17

SHEET
1 of 1

COLORS

All colors on this drawing are only representations and Stubblefield Services is not responsible for any misinterpretation of the actual colors

DISCLAIMER

We are not responsible for unforeseen below grade obstructions other than municipal utilities; this includes, but is not limited to: back fill debris, water and sewer laterals, pre-existing foundations, sprinkler systems, and electrical service.

We are not responsible for damage caused by machinery or equipment during excavation and installation; this includes, but is not limited to: Ruts in landscape or potholes caused by machinery, damage to vegetation and broken or cracked paving.

Any repairs or expenses are in addition to all prior contracts and agreements. Please inform our SERVICE DEPT. of all known conditions.



(1) 2' 6" x 7' 10" +/- Double Faced Internally Illuminated Sign Cabinet

Construction: Welded Aluminum
Faces: Aluminum Faces, Backed up w/ White LEXAN, Decorated As Shown
Illumination: Internal Illumination w/ White LED's w/ Low Voltage Power Supplies
Trim Cap: Decorative fabricated aluminum trim cap as shown
Paint: Oil Based As Shown
Mounting: Mounted above digital display

(1) Double Faced 1' 6" x 7' 10" +/- LED Digital Display

Construction: Fully Enclosed Aluminum Cabinets w/ Controlled Air Management
Matrix: 18 x 132
Pixel Spacing / Pitch: 20mm +/-
Color: Monochrome - Red w/ 4,032 Shades of Red & Display Dimming Technology
Ambient Light Dimming: Automatic
Viewing Angle: 140 Degrees
Contrast Enhancement: Horizontal Louvers & Matte Finish
Graphic Capabilities: Text, Graphics, Logos, Animations & Video
Communication Options: Wireless Ethernet Bridge Radios
Training: On-site Training & Secondary Communication Installation
Parts Warranty: 5 Year Parts Warranty w/ unlimited phone tech support
Labor Warranty: 5 Year Labor Warranty
Mounting: Mounted to Steel Pole Structure

(1) 2' 6" Tall Aluminum Pole Cover As Shown

Construction: Welded Aluminum
Decoration: Decorated w/ White 3M Vinyl Logo As Shown
Paint: Oil Based Paint As Shown

Mounting: Mounted to underground concrete and steel structure
Excavation and Concrete by: Stubblefield
Removal of Existing Pole Mounted Sign by: Stubblefield
Delivery and Installation (All of the Above) by: Stubblefield
Primary Electrical Hook-up by: Stubblefield
Permitting by: Stubblefield
Total Square Feet: 32 Sq. Ft.







January 10, 2019

Bethel Evangelical Lutheran
829 Appleton Road
Menasha, WI 54952

To whom it may Concern:

It has come to the Community Development Department's attention that a pole sign with an electronic message center has been installed at 829 Appleton Road (Parcel #6-00132-00) in violation of multiple City of Menasha ordinances (pictures attached). The pole sign was installed without a sign permit in violation of Sec. 13-1-64. In addition, pole signs are prohibited in this location per Sec. 13-1-63(e), and electronic message centers are prohibited on properties zoned R-1 per Sec. 13-1-67(d). For your reference, the ordinance sections above have been enclosed.

You are hereby ordered to bring the property into compliance with city ordinance requirements by removing the sign, including all frames, poles, wiring, and supports, by February 10, 2018. Failure to comply with this order may result in legal action and/or removal of the sign by the city to enforce compliance.

Please note that any new or replacement signs require approval of a sign permit from the Community Development Department. If you have any questions regarding this notice, please contact our office. Thank you for your prompt attention to this matter.

Sincerely,

Kristi Heim
Community Development Coordinator

Enclosures (3)

c: City Attorney Pam Captain
Community Development Director Sam Schroeder
Associate Planner Joe Stephenson



City of Menasha Application Appeal or Variance

SUBMIT TO:
City of Menasha
Dept. of Com. Development
100 Main Street, Suite 200
Menasha, WI 54952-3190
PHONE: (920) 967-3650

APPLICANT INFORMATION

Petitioner: Bethel Lutheran Church Date: 2/28/19
Petitioner's Address: 829 Appleton Rd. City: Menasha State: WI Zip: 54952
Telephone #: (920) 728-3963 Fax: () Other Contact # or Email: charlie@wisconsinsign.com
Status of Petitioner (Please Circle): Owner Representative Tenant Prospective Buyer
Petitioner's Signature (required): [Signature] Date: 2/28/19

OWNER INFORMATION

Owner(s): Bethel Lutheran Church Date: 2/28/19
Owner(s) Address: 829 Appleton Rd. City: Menasha State: WI Zip: 54952
Telephone #: (920) 728-3963 Fax: () Other Contact # or Email: charlie@wisconsinsign.com
Ownership Status (Please Circle): Individual Trust Partnership Corporation Religious / Non-Profit

Property Owner Consent: (required)

By signature hereon, I/We acknowledge that City officials and/or employees may, in the performance of their functions, enter upon the property to inspect or gather other information necessary to process this application. I also understand that all meeting dates are tentative and may be postponed by the Community Development Dept. for incomplete submissions or other administrative reasons.

Property Owner's Signature: [Signature] Date: 2/28/19

APPEAL OR VARIANCE INFORMATION

Address/Location of Appeal/Variance Request: 829 Appleton Rd.

Tax Parcel Number(s): 760013200, 760013300

Reason for Appeal/Variance Request: Bethel Lutheran Church desires to erect a 32 sq. ft. monument sign with a digital sign that is 30% of said total square footage. They desire to display information for religious purposes.

Zoning Adjacent to the Site: North: 760043400
South: 760004300
East: 740053800, 740053900, 740054000, 740054100
West: N/A

Staff [Signature] Date Rec'd 3-11-2019

City of Menasha Variance Application Questionnaire

Applicant: Bethel Lutheran Church

Site Address: 829 Appleton Rd.

Menasha Ordinance 13-1-53(d) provides that the Board of Appeals shall evaluate a variance request based on the foregoing criteria. Before granting such a request, the Board must find that all of the criteria enumerated apply to the variance requested. Please address each statement; use additional sheets if necessary.

Describe the hardship to the property owner that would result if the variance were not granted and the exceptional, extraordinary, or unusual circumstance or conditions applying to the lot or parcel, structure, use, or intended use that do not apply generally to other properties or uses in the same district:

Bethel Lutheran Church desires to display information to the community and its members to exercise their right
of religious freedom. If Bethel were not granted this variance it would dramatically reduce its ability to practice
their religion publically and freely. Also, if not granted this variance, it would put Bethel at a strong disadvantage
to other religious organizations who have been granted similar variances.

Explain why the conditions upon which the petition for the variance is based are unique to the property and necessary for the preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity:

The conditions are unique because Bethel is a religious organization that physically exists in a residential zone,
where other churches in the same zone and vicinity have been granted variances for digital signage. Furthermore,
Bethel believes that it is its right to be allowed digital signage per the federal laws according to The Religious Land
Use And Institutionalized Persons Act. This act allows that local municipalities treat organizations, such
as Bethel, with the least restrictive means possible, regardless of their zoning. Practically speaking, the law says
even though Bethel is in a residential zone, it should be treated if it were in the least restrictive zone in the
community, i.e. commercial, industrial, etc.

Provide evidence demonstrating that the purpose of the variance is not based exclusively upon a desire to increase the value or income potential of the property:

Bethel does not believe that this variance will cause the property of increase in value or make more revenue.
Bethel is a not for profit organization, organized under the law of the state of Wisconsin as a 501(c)(3), therefore,
cannot and does not have the ability or desire to make more income or profit.

Describe how the granting of the variance will not be detrimental to the public welfare or injurious to the other property or improvements in the neighborhood in which the property is located:

Bethel desires that no harm or detriment it done to its neighbors or anyone in the community. The sign in question is single color, small in size and ultimately, very low impact. The sign will be dimmed in the evening hours and shut off or blank during the nighttime after 10pm.

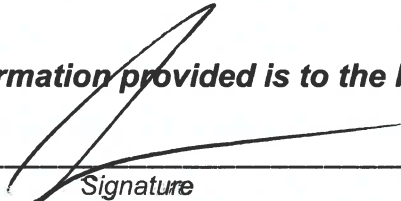
Explain why the proposed variance will not undermine the spirit and general or specific purposes of the zoning code:

As stated earlier, The Religious Land Use And Institutionalized Persons Act, we believe, actually enhances the current zoning code, which makes it possible for Bethel to operate appropriately inside of The Constitution of The United States of America. Furthermore, Bethel is asking for the same variance to be granted that has been granted for other churches which has already established precedent.

Please submit a site plan showing an accurate depiction of the property and any other relevant or required documents.

I certify that all information provided is to the best of my knowledge accurate and true.

Property Owner:


Signature

Date:

2/28/19

