

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
1st Floor Conference Rooms
100 Main Street
Wednesday, March 9, 2022
1:00 PM
AGENDA**

A. CALL TO ORDER

B. ROLL CALL

C. PUBLIC HEARING

1. Variance Request – Monument and Electronic Message Center Sign – CoVantage Credit Union – 1305 Oneida Street, Menasha

D. MINUTES TO APPROVE

1. Board of Appeals, 11/12/20

E. ACTION/DISCUSSION ITEMS

1. Review of Variance Requirements per UW Extension
2. Variance Request – Monument and Electronic Message Center Sign – CoVantage Credit Union – 1305 Oneida Street, 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 March 9, 2022 at 1:00 p.m. at the Menasha City Center, 100 Main Street (Room 133), Menasha, WI to hear the request of:

Lisa Pliska with CoVantage Credit Union, 1305 Oneida Street, Menasha – the applicant is requesting a monument and electronic message center sign variance.

Absent a variance the proposed sign is in violation of:

1. Section 13-1-65(c)(2). Where internal illumination of signs is permitted, signs shall be designed to minimize the amount the light that is transmitted through the sign panel. The display of white light shall be limited to the sign copy. If lighting the sign copy only is not an option the display of internal illumination through the background shall be controlled by one or more of the following:
 1. limiting the illuminated background to 30% of the sign area;
 2. changing the shape of the sign to reduce the limited surface area,
 3. using a dark color;
 4. using an opaque screen.
2. Section 13-1-67(d)(4) the proposed EMC is greater than 30% of the sign face and is not located within in the lower one half of the sign.
3. Section 13-1-67(e)(3) the proposed sign base exceeds the maximum allowable height.

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

Haley Krautkramer
City Clerk

Publish: February 28, 2022

CITY OF MENASHA
BOARD OF APPEALS
TEL-WEB CONFERENCE
NOVEMBER 12, 2020
MINUTES

A. CALL TO ORDER

Meeting called to order by Chairman Galeazzi at 1:03 p.m.

B. ROLL CALL

PRESENT: Commissioner Ellis, Rouch, Galeazzi, Maxymek

ALSO PRESENT: PP Stephenson and Clerk Krautkramer

C. PUBLIC HEARING

1. Request of Request of Cindy Pietrich, 801 London Street, Menasha – the applicant is requesting a front home addition

Chairman Galeazzi opened the public hearing and provided an opportunity for both the applicant and City Staff to make any opening comments.

Cindy Pietrich, 801 London Street, Menasha. She explained that depth of the roof is used for shading purposes.

Joe Stephenson, Principal Planner. He provided an overview of the applicants' appeal.

Chairman Galeazzi closed the public hearing.

D. MINUTES TO APPROVE

1. Board of Appeals, 5/29/19

Moved by Comm. Rouch seconded by Comm. Ellis to approve the minutes.

Motion carried on voice vote.

E. ACTION ITEMS

1. Request of Cindy Pietrich, 801 London Street, Menasha – the applicant is requesting a front home addition.

Cindy Pietrich, 801 London Street, Menasha. She explained the roof needs to be replaced that due to leakage in the structure.

PP Stephenson reported that Ms. Pietrich is requesting allowance to place an addition, also known as a covered porch, in the front yard setback. The front home addition is not permitted in an R-1 Single Family Residence District. He reviewed the regulations for granting a variance and explained that Ms. Pietrich's residence does not meet those regulations.

Chairman Galeazzi explained the role of the Board of Appeals.

PP Stephenson explained Ms. Petrich does not meet the requirements to grant a variance. He stated staff's analysis for requirement of a variance:

- The applicant has not demonstrated a hardship since the proposed addition could be modified to accommodate the setback requirement.
- There are no unique characteristics to the property. The home and yard layout are not exclusive to this property. The site presents no uniqueness and no site elements that diminish the property rights of the owner.
- The proposed addition will increase the value of the property, however the applicant has stated the main reason for the addition is to provide shade for her child while outdoors.
- Allowing variances to these established standards undermines the objective of the zoning code in place.

General discussion ensued on roof pitch requirements, alternative shade options, lot size, uniqueness of the property, state variance guidelines, and retractable awning set-back requirements.

PP Stephenson stated staff would like to see action by the Board to deny the request for a variance from the applicant.

Moved by Comm. Galeazzi seconded by Comm. Rouch to deny the variance for a front home addition due in part that the applicant did not satisfy the core variance factors; Hardship to the Property Owner due to Physiographical Considerations, Unique Property Conditions, Not an Exclusive Desire to Increase Property Value or Income, Will Not be Detrimental to the Neighborhood, Will not Undermine the Spirit of the Zoning Code.

Motion carried on roll call 4-0.

F. ADJOURNMENT

Moved by Comm. Rouch seconded by Comm. Maxymek to adjourn at 1:46 p.m.

Motion carried on voice vote.

Haley Krautkramer
City Clerk

Variances



Whereas permitted and conditional uses allow a property to be used in a way expressly listed in the ordinance, a variance allows a property to be used in a manner forbidden by the zoning ordinance.¹⁴⁰ Two types of zoning variances are generally recognized: **Area variances** provide an increment of relief (normally small) from a physical dimensional restriction such as a building height or setback.¹⁴¹ **Use variances** permit a landowner to put a property to an otherwise prohibited use.¹⁴² Though not specifically restricted by statute or case law,¹⁴³ use variances are problematic for reasons discussed on page 102. Variance decisions related to zoning are always heard by the zoning board of adjustment or appeals.

¹⁴⁰ *Fabyan v. Waukesha County Bd. of Adjustment*, 2001 WI App 162, 246 Wis. 2d 851, 632 N.W.2d 116

¹⁴¹ *State ex rel. Ziervogel v. Washington County Bd. of Adjustment*, 2004 WI 23, 269 Wis. 2d 549, 676 N.W.2d 401

¹⁴² *State ex rel. Ziervogel v. Washington County Bd. of Adjustment*, 2004 WI 23, 269 Wis. 2d 549, 676 N.W.2d 401

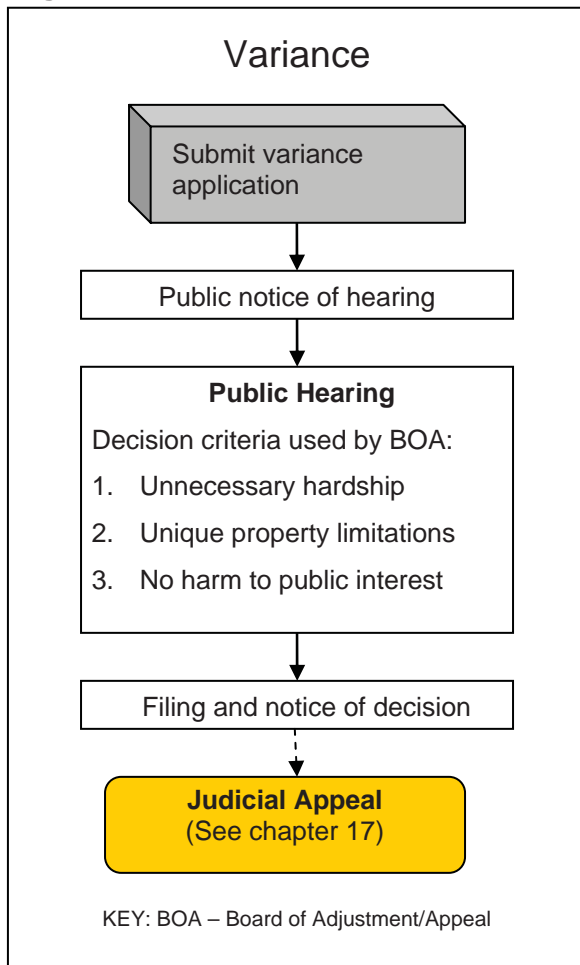
¹⁴³ In the past, it was doubtful that zoning boards of adjustment in Wisconsin had the authority to grant use variances [see *State ex rel. Markdale Corp. v. Bd. of Appeals of Milwaukee*, 27 Wis. 2d 154, 133 N.W.2d 795 (1965)]. Now, the Supreme Court has determined that boards of adjustment do have the authority to issue use variances [see *State ex rel. Ziervogel v. Washington County Bd. of Adjustment*, 2004 WI 23, 269 Wis. 2d 549, 676 N.W.2d 401 and *State v. Waushara County Bd. of Adjustment*, 2004 WI 56, 271 Wis. 2d 547, 679 N.W.2d 514].

What are the criteria for granting a variance?

To qualify for a variance, an applicant has the burden of proof to demonstrate that all three criteria defined in state statutes and outlined below are met.¹⁴⁴

- Unnecessary hardship
- Unique property limitations
- No harm to public interests

Figure 24: Variance Process



Local ordinances and case law may also specify additional requirements. The zoning department can assist a petitioner in identifying how these criteria are met by providing clear application materials that describe the process for requesting a variance and the standards for approval (*see the sample application form in Appendix D*).

1. Unnecessary Hardship

The Wisconsin Supreme Court distinguishes between area and use variances when applying the unnecessary hardship test:

For a **use variance**, unnecessary hardship exists only if the property owner shows that they would have no reasonable use of the property without a variance.¹⁴⁵ What constitutes *reasonable use* of a property is a pivotal question that the board must answer on a case-by-case basis. If the property currently supports a reasonable use, the hardship test is not met and a variance may not be granted. If a variance is required to allow reasonable use of a property, only that variance which is essential to support reasonable use may be granted and no more. A proposed use may be *reasonable* when it:

¹⁴⁴ *State v. Kenosha County Bd. of Adjustment*, 218 Wis. 2d at 420, 577 N.W.2d 813 (1998); *Arndorfer v. Sauk County Bd. of Adjustment*, 162 Wis. 2d at 254, 469 N.W.2d 831 (1991).

¹⁴⁵ *State v. Kenosha County Bd. of Adjustment*, 218 Wis. 2d 396, 413-414, 577 N.W.2d 813 (1998).

- does not conflict with uses on adjacent properties or in the neighborhood,
- does not alter the basic nature of the site (e.g., conversion of wetland to upland),
- does not result in harm to public interests, and
- does not require multiple or extreme variances.

For an **area variance**, unnecessary hardship exists when compliance would unreasonably prevent the owner from using the property for a permitted purpose (leaving the property owner without any use that is permitted for the property) or would render conformity with such restrictions “unnecessarily burdensome.”¹⁴⁶ To determine whether this standard is met, zoning boards should consider the purpose of the zoning ordinance in question (see the appendix for information about the purposes of shoreland and floodplain zoning), its effects on the property, and the short-term, long-term, and cumulative effects of granting the variance.¹⁴⁷

Courts state that “unnecessarily burdensome” may be interpreted in different ways depending on the purposes of the zoning law from which the variance is being sought. For example, the purpose of a shoreland district to *protect water quality, fish, and wildlife habitat and natural scenic beauty for all navigable waters in Wisconsin* would be interpreted differently from the purpose of a residential district to *protect the character of established residential neighborhoods*. In light of increased focus on the purposes of a zoning restriction, zoning staff and zoning boards have a greater responsibility to explain and clarify the purposes behind dimensional zoning requirements.

2. Hardship Due to Unique Property Limitations

Unnecessary hardship must be due to unique physical limitations of the property, such as steep slopes or wetlands that prevent compliance with the ordinance.¹⁴⁸ The circumstances of an applicant (growing family, need for a larger garage, etc.) are not a factor in deciding variances.¹⁴⁹ Property limitations that prevent ordinance compliance and are common to a number of properties

¹⁴⁶ *Snyder v. Waukesha County Zoning Bd. of Adjustment*, 74 Wis. 2d at 475, 247 N.W.2d 98 (1976) (quoting 2 Rathkopf, *The Law of Zoning & Planning*, § 45-28, 3d ed. 1972).

¹⁴⁷ *State ex rel. Ziervogel v. Washington County Bd. of Adjustment*, 2004 WI 23, 269 Wis. 2d 549, 676 N.W.2d 401

¹⁴⁸ *State ex rel. Spinner v. Kenosha County Bd. of Adjustment*, 223 Wis. 2d 99, 105-6, 588 N.W.2d 662 (Ct. App. 1998); *State v. Kenosha County Bd. of Adjustment*, 218 Wis. 2d 396, 410, 577 N.W.2d 813 (1998); *Arndorfer v. Sauk County Bd. of Adjustment*, 162 Wis. 2d 246, 255-56, 469 N.W.2d 831 (1991); *Snyder v. Waukesha County Zoning Bd. of Adjustment*, 74 Wis. 2d 468, 478, 247 N.W.2d 98 (1976)

¹⁴⁹ *Snyder v. Waukesha County Zoning Bd. of Adjustment*, 74 Wis. 2d 468, 478-79, 247 N.W.2d 98

should be addressed by amending the ordinance.¹⁵⁰ For example, an ordinance may, in some cases, be amended to provide reduced setbacks for a subdivision that predates the current ordinance and where lots are not deep enough to accommodate current standards.

3. No Harm to Public Interests

A variance may not be granted which results in harm to public interests.¹⁵¹ In applying this test, the zoning board should review the purpose statement of the ordinance and related statutes in order to identify public interests. These interests are listed as objectives in the purpose statement of an ordinance and may include:

- Promoting and maintaining public health, safety, and welfare
- Protecting water quality
- Protecting fish and wildlife habitat
- Maintaining natural scenic beauty
- Minimizing property damages
- Ensuring efficient public facilities and utilities
- Requiring eventual compliance for nonconforming uses, structures, and lots
- Any other public interest issues

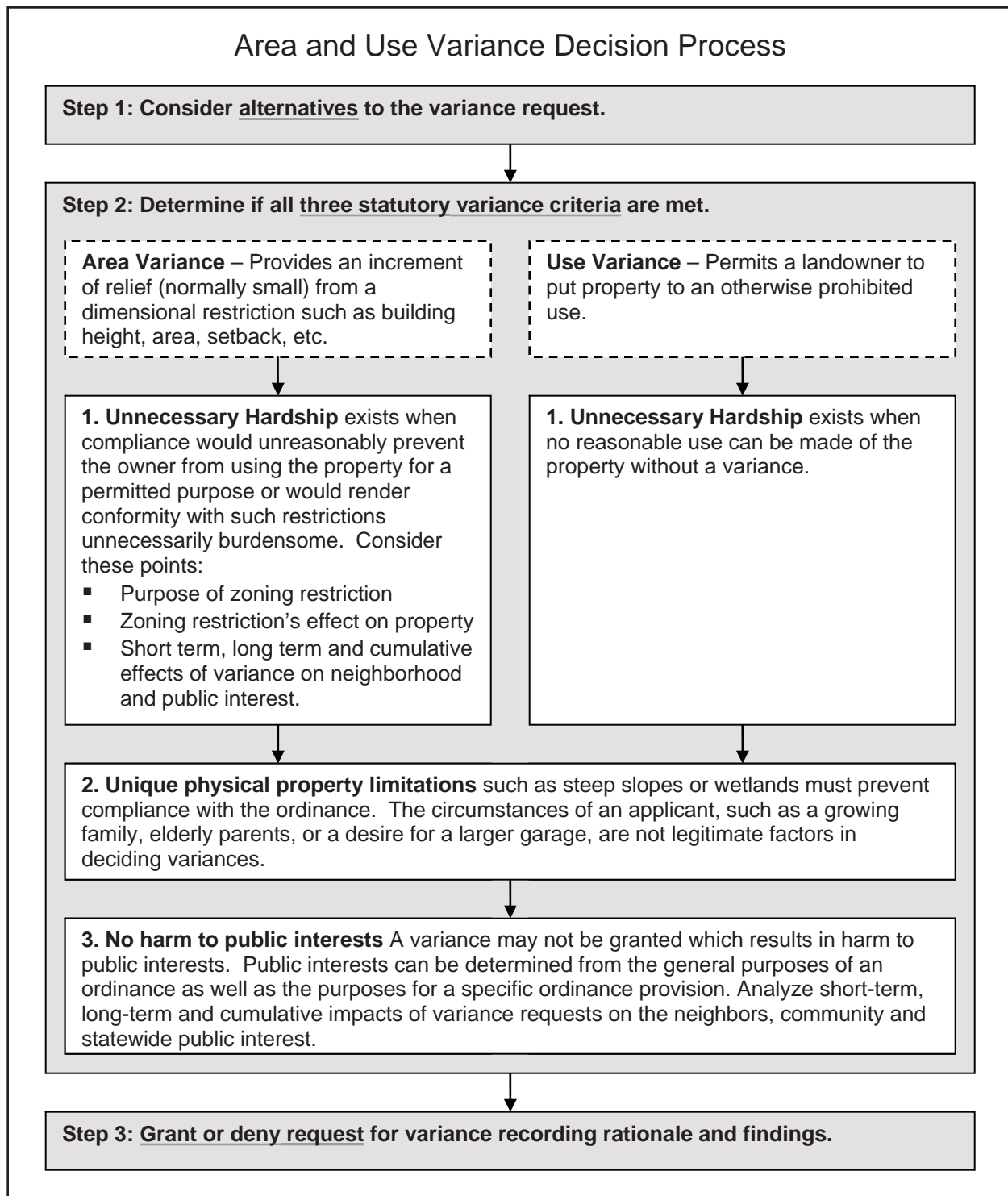
In light of public interests, zoning boards must consider the short-term and long-term impacts of the proposal and the cumulative impacts of similar projects on the interests of the neighbors, the community, and even the state.¹⁵² Review should focus on the general public interest, rather than the narrow interests or impacts on neighbors, patrons or residents in the vicinity of the project.

The flow chart in Figure 25 summarizes the standards for area variances and use variances. Application forms and decision forms reflecting these standards are included in *Appendix D*.

¹⁵⁰ *Arndorfer v. Sauk County Bd. of Adjustment*, 162 Wis. 2d 246, 256, 469 N.W.2d 831 (1991); *State v. Winnebago County*, 196 Wis. 2d 836, 846, 540 N.W.2d 6 (Ct. App. 1995)

¹⁵¹ *State v. Winnebago County*, 196 Wis. 2d 836, 846-47, 540 N.W.2d 6 (Ct. App. 1995); *State v. Kenosha County Bd. of Adjustment*, 218 Wis. 2d 396, 407-8, 577 N.W.2d 813 (1998)

¹⁵² *State ex rel. Ziervogel v. Washington County Bd. of Adjustment*, 2004 WI 23, 269 Wis. 2d 549, 676 N.W.2d 401 and *State v. Waushara County Bd. of Adjustment*, 2004 WI 56, 271 Wis. 2d 547, 679 N.W.2d 514.

Figure 25: Area and Use Variance Decision Process

Additional Standards

Few areas of land use law are as extensively litigated as the standards necessary to qualify for a variance. The rich case law concerning variances provides these additional guiding principles that a zoning board should rely on in their decision-making. Published court decisions provide guidance for board members and are cited in the endnotes. Websites for accessing case law are provided in *Appendix B*.

- **Parcel-as-a-whole.** The entire parcel, not just a portion of the parcel, must be considered when applying the unnecessary hardship test.¹⁵³
- **Self-imposed hardship.** An applicant may not claim hardship because of conditions which are self-imposed.¹⁵⁴ Examples include excavating a pond on a vacant lot and then arguing that there is no suitable location for a home; claiming hardship for a substandard lot after selling off portions that would have allowed building in compliance; and claiming hardship after starting construction without required permits or during a pending appeal.
- **Circumstances of applicant.** Circumstances of an applicant such as a growing family or desire for a larger garage are not a factor in deciding variances.¹⁵⁵
- **Financial hardship.** Economic loss or financial hardship do not justify a variance.¹⁵⁶ The test is not whether a variance would maximize economic value of a property.
- **Nearby violations.** Nearby ordinance violations, even if similar to the requested variance, do not provide grounds for granting a variance.¹⁵⁷
- **Objections from neighbors.** A lack of objections from neighbors does not provide a basis for granting a variance.¹⁵⁸

¹⁵³ *State v. Winnebago County*, 196 Wis. 2d 836, 844-45 n.8, 540 N.W.2d 6 (Ct. App. 1995)

¹⁵⁴ *State ex rel. Markdale Corp. v. Bd. of Appeals of Milwaukee*, 27 Wis. 2d 154, 163, 133 N.W.2d 795 (1965); *Snyder v. Waukesha County Zoning Bd. of Adjustment*, 74 Wis. 2d 468, 479, 247 N.W.2d 98 (1976).

¹⁵⁵ *Snyder v. Waukesha County Zoning Bd. of Adjustment*, 74 Wis. 2d 468, 478-79, 247 N.W.2d 98 (1976)

¹⁵⁶ *State v. Winnebago County*, 196 Wis. 2d 836, 844-45, 540 N.W.2d 6 (Ct. App. 1995); *State v. Ozaukee County Bd. of Adjustment*, 152 Wis. 2d 552, 563, 449 N.W.2d 47 (Ct. App. 1989).

¹⁵⁷ *Von Elm v. Bd. of Appeals of Hempstead*, 258 A.D. 989, 17 N.Y.S.2d 548 (N.Y. App. Div. 1940)

¹⁵⁸ *Arndorfer v. Sauk County Bd. of Adjustment*, 162 Wis. 2d 246, 254, 469 N.W.2d 831 (1991)

- **Variance to meet code.** Variances to allow a structure to be brought into compliance with building code requirements have been upheld by the courts.¹⁵⁹

Are there any limits on granting a variance?

Minimum variance allowed

The board may grant only the minimum variance needed.¹⁶⁰ For a use variance, the minimum variance would allow reasonable use, whereas for an area variance, the minimum variance would relieve unnecessary burdens. For example, if a petitioner requests a variance of 30 feet from setback requirements, but the zoning board finds that a 10-foot setback reduction would not be unnecessarily burdensome, the board should only authorize a variance for the 10-foot setback reduction.

Conditions on development

The board may impose conditions on development (mitigation measures) to eliminate or substantially reduce adverse impacts of a project under consideration for a variance. Conditions may relate to project design, construction activities, or operation of a facility¹⁶¹ and must address and be commensurate with project impacts (*review the essential nexus and rough proportionality tests in Chapter 14*).

Specific relief granted

A variance grants only the specific relief requested (as described in the application and plans for the project) and as modified by any conditions imposed by the zoning board. The variance applies only for the current project and not for any subsequent construction on the lot. Referring to Figure 26 on the next page, if the landowner has received a variance to build the garage, they may only build the screen porch if they receive an additional variance specifically for the screen porch.

Variances do not create nonconforming structures

If a variance is granted to build or expand a structure, it does not give that structure nonconforming structure status. This relates to the previous point that variances only provide specific relief. In

Nonconforming Structure – A building or other structure, lawfully existing prior to the passage of a zoning ordinance or ordinance amendment, which fails to comply with current dimensional standards of the ordinances.

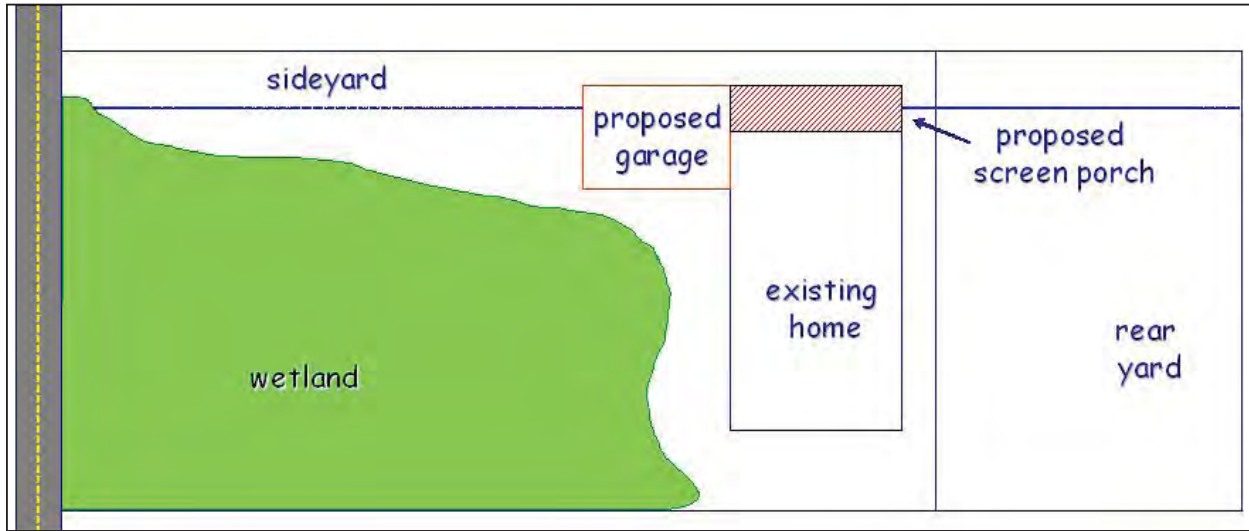
¹⁵⁹ *Thalhofer v. Patri*, 240 Wis. 404, 3 N.W.2d 761 (1942); see also *State v. Kenosha County Bd. of Adjustment*, 218 Wis. 2d 396, 419-420, 577 N.W.2d 813 (1998).

¹⁶⁰ Anderson, Robert M. *American Law of Zoning* 3d, (1986) Vol. 3, s. 20.86, pp. 624-5

¹⁶¹ Anderson, Robert M. *American Law of Zoning* 3d, (1986) Vol. 3, ss. 2070 and 20.71, pp. 587-95

Figure 26: A Variance Grants Specific Relief

If the landowner has received a variance to build the garage, they may only build the screen porch if they receive an additional variance specifically for the screen porch.



contrast, nonconforming structures may be assured a limited extent of future expansion in some ordinances.

Variance transfers with the property

Because a property rather than its owner must qualify for a variance to be granted (unique property limitations test), a variance transfers with the property to subsequent owners.¹⁶²

Are multiple variances allowed?

Multiple variances for a single project

In some cases, a single project may require more than one variance to provide reasonable use of a property. The 3-step test should be applied to each variance request in determining whether relief can be granted by the zoning board.

Sequential variances

In other cases, original development of a property may have been authorized by variance(s). The owner later requests an additional variance. Generally, the later request should be denied since, in granting the original variance, the zoning board was required to determine that a variance was essential to provide reasonable use of the property or that not granting the (area) variance would have been unreasonably burdensome in light of the ordinance purpose. The board cannot subsequently find the opposite unless there

¹⁶² *Goldberg v. Milwaukee Bd. of Zoning Appeals*, 115 Wis. 2d 517, 523-24, 340 N.W.2d 558 (Ct. App. 1983)

have been significant changes on the property or on neighboring properties. A later variance could also be granted if the written purpose of the zoning designation for which an area variance was sought significantly changed, thereby allowing the variance to qualify under the unreasonably burdensome standard.

What is the process for appealing a variance decision?

A variance decision may be appealed to circuit court by any aggrieved person, taxpayer, officer or body of the municipality within 30 days of filing of the decision in the office of the board.¹⁶³ (See Chapter 17 *Judicial Appeal of Zoning Board Decisions*.)

Why are the standards for area variances different from those of use variances?

The law treats area and use variances differently because they “serve distinct purposes,” “affect property rights in distinct ways,” and “affect public and private interests differently.” According to the *Ziervogel* decision, the adverse impacts of an area variance are thought to be less than those of a use variance. Furthermore, the “no reasonable use” standard associated with use variances leaves zoning boards “with almost no flexibility” and eliminates the statutory discretion of zoning boards to decide variances.

Figure 27: Land Division Variances... Creatures of a Different Color

So far our discussion has focused only on zoning variances. As zoning boards may be asked to decide land division variances (including subdivision ordinances), here are a few salient points:

- Subdivision variances are not the same as zoning variances.
- There is no Wisconsin law addressing land division variances.
- A local unit of government may allow variances to locally-determined land division standards. In this case they must determine the process and standards, and should include them in the land division or subdivision ordinance.
- Local units of government may choose to not allow land division variances.
- A local unit of government is not allowed to provide a variance to a state-mandated standard.
- Due process, including a hearing with public notice is required for land division variances.

¹⁶³ Wis. Stat. § 59.694 (10)

AREA VARIANCES AND USE VARIANCES

What is the difference between an area variance and a use variance?

It may not always be easy to determine if an applicant is seeking an area variance or a use variance. It is arguable that a large deviation from a dimensional standard, or multiple deviations from several dimensional standards on the same lot, may constitute a use variance instead of an area variance. For example, allowing significantly reduced setbacks could have the same effect as changing the zoning from one residential zoning district that requires significant setbacks and open space to a second residential zoning district that has minimal setbacks and open space.

Based on majority opinions of the Wisconsin Supreme Court,¹⁶⁴ it appears that, in order to draw the line between area variances and use variances, zoning boards should consider the degree of deviation from each dimensional standard for which a variance is sought in order to determine if the requested variance would “permit wholesale deviation from the way in which land in the [specific] zone is used.”

¹⁶⁵ A proactive community seeking to consistently differentiate between area variances and use variances could adopt an ordinance provision similar to the following:

Unless the board of adjustment finds that a property cannot be used for any permitted purpose, area variances shall not be granted that allow for greater than a ____% (or ____ foot) deviation in area, setback, height or density requirements specified in the ordinance.

Why are use variances discouraged?

Wisconsin Statutes do not specifically prohibit use variances. However, courts recognize that they are difficult to justify because they may undermine ordinance objectives and change the character of the neighborhood.¹⁶⁶ Some Wisconsin communities prohibit use variances in their ordinances. There are a number of practical reasons why they are not advisable:

- **Unnecessary hardship must be established in order to qualify for a variance.**

This means that without the variance, none of the uses allowed as permitted or conditional uses in the current zoning district are feasible for the property. This circumstance is highly unlikely.

- **Many applications for use variances are in fact administrative appeals.**

Often the zoning board is asked to determine whether a proposed use is included within the meaning of a particular permitted or conditional use or whether it is sufficiently distinct as to exclude it from the ordinance language. Such a decision is not a use variance but an appeal of the administrator’s interpretation of ordinance text.

- **Zoning amendments are a more comprehensive approach than use variances.**

When making map or text amendments to the zoning ordinance, elected officials consider the larger land area to avoid piecemeal decisions that may lead to conflict between adjacent incompatible uses and may undermine neighborhoods and the goals established for them in land use plans and ordinances. Towns also have meaningful input (veto power) on zoning amendments to general zoning ordinances.

¹⁶⁴ *State ex rel. Ziervogel v. Washington County Bd. of Adjustment*, 2004 WI 23, 269 Wis. 2d 549, 676 N.W.2d 401 and *State v. Waushara County Bd. of Adjustment*, 2004 WI 56, 271 Wis. 2d 547, 679 N.W.2d 514.

¹⁶⁵ *State ex rel. Ziervogel v. Washington County Bd. of Adjustment*, 2004 WI 23, 269 Wis. 2d 549, 676 N.W.2d 401

¹⁶⁶ *State v. Kenosha County Bd. of Adjustment*, 218 Wis. 2d 396, 412 fn. 10, 577 N.W.2d 813 (1998); *Snyder v. Waukesha County Zoning Bd. of Adjustment*, 74 Wis. 2d 468, 473, 247 N.W.2d 98 (1976).



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: Graphic House Date: 1-17-22
Petitioner's Address: 8101 International Dr City: Wausau State: WI Zip: 54401
Telephone #: (715) 842-0402 Fax: () Other Contact # or Email: lisa@graphichouseinc.com
Status of Petitioner (Please Circle): Owner ☐ Representative ☒ Tenant ☐ Prospective Buyer ☐
Petitioner's Signature (required): Melissa Pliska Date: 1-17-22

OWNER INFORMATION

Owner(s): COVANTAGE CREDIT UNION Date: 1-17-22
Owner(s) Address: P.O. Box 107 City: Antigo State: WI Zip: 54409-0107
Telephone #: (715) 627-4336 Fax: () Other Contact # or Email: Sbirtlett@covantagecu.org
Ownership Status (Please Circle): Individual ☐ Trust ☐ Partnership ☐ Corporation ☐

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] (agent) Date: 1-17-22

APPEAL OR VARIANCE INFORMATION

Address/Location of Appeal/Variance Request: 1305 Oneida St.
Tax Parcel Number(s): 770005400
Reason for Appeal/Variance Request: TO Stay consistent with all Covantage Banks in their Branding and marketing
Zoning Adjacent to the Site: North: Commercial
South: Residential
East: Commercial
West: Residential

Staff _____ Date Rec'd _____

City of Menasha
Variance Application Questionnaire

Applicant: Graphic House Inc.

Site Address: 1305 Oneida St.

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:

It is burdensome to restrict the use of the face, EMC, & base as applied for as this is Covantage Credit Union Branding and marketing for the Bank. It should all stay consistent with the other Covantages in the area including one in Menasha which is larger than this sign and around the state.

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 variance would do substantial justice to the applicant to allow them to apply their logo (Brand) to the design intent of the sign. The EMC for all Covantages around the state all have the same size as it is programmed from one location and it would tough to have only one EMC that cannot be programmed. They feel the size and location on the sign is not only safe from vandalism but for readability for their customers.

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:

The purpose of the sign is for clients to not only be able to see the bank but the EMC to have messages read for all clients and this is their branding and it is

how people can identify their particular brand of business

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:

The proposed variance will not have any impact or be detrimental to the public welfare or unreasonably diminish the property values in the surrounding area but will enhance the aesthetic appearance or attractiveness of the area. The sign would also be consistent with other businesses within a couple of miles from the Bank as other businesses have their EMC on the upper part of the sign.

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

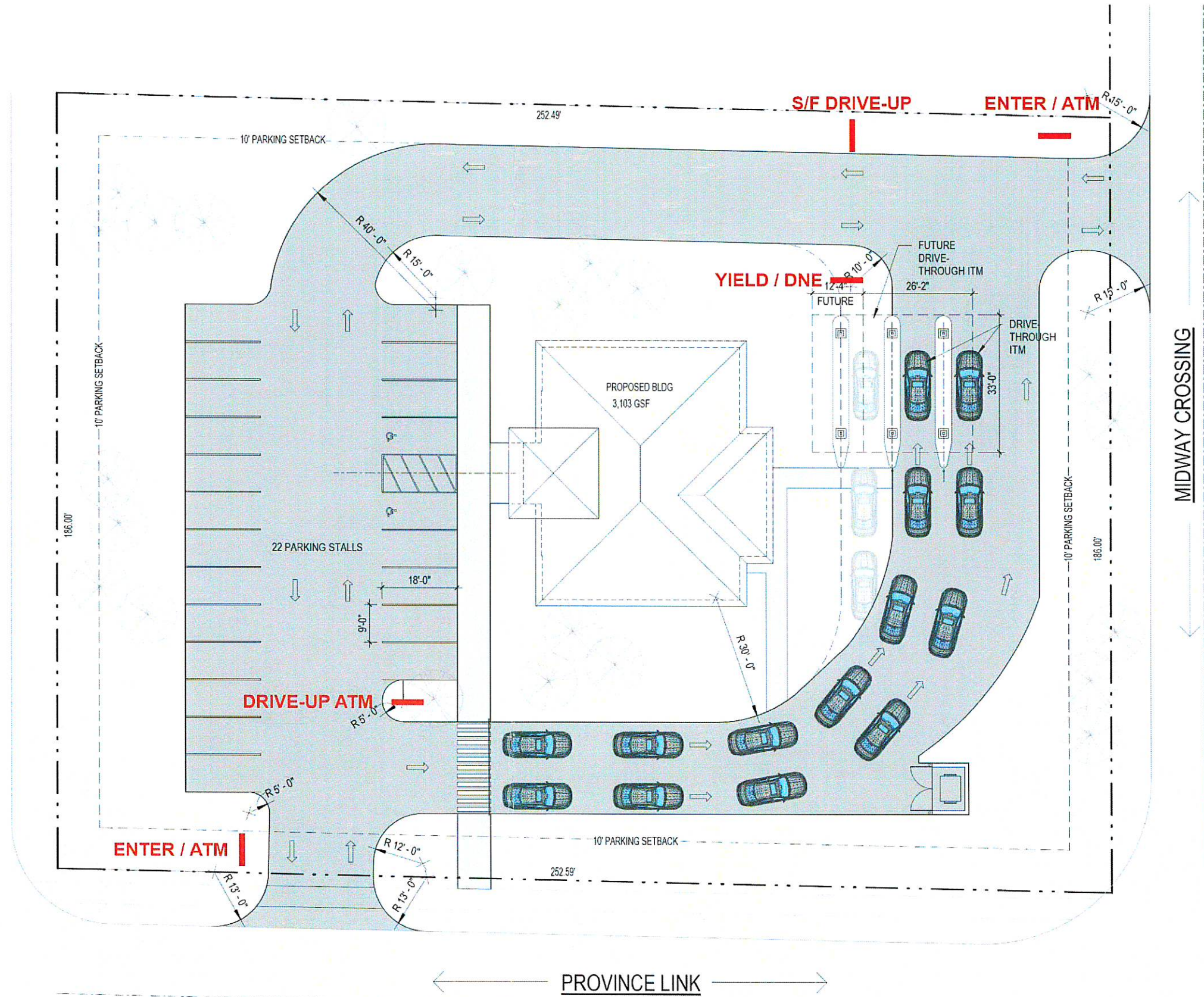
We are not trying to undermine the purpose of the zoning code but to try and stay with the logo including white face and branding and the company standards of the Bank.

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: Imelene Duka Agent Date: 1-17-22
Signature

SOUTH ONEIDA STREET



PROVINCE LINK

CUSTOM SIGNS

GRAPHIC HOUSE

NATIONAL SIGN FIRM

SINCE 1976

8101 International Dr
Wausau, WI 54401

715-842-0402
www.graphichouseinc.com

CLIENT

CO VANTAGE CREDIT UNION
1305 ONEIDA ST
MENASHA, WI

SALES REP
MIKE J

DATE
6-24-2021

QUOTE NUMBER
22206-B

JOB NUMBER
XXX

SALES AUTH:

PROJECT MANAGER
XX

DESIGNER
NN

REVISION
NN
8-19-2021-C

SHEET 000001 OF 000001
CoVantage-Menasha-1305Oneida-22206B-01.rvt

(1) D/F LIT PYLON

A

FORMED BLEEDFACE CABINET, LIT w/ WHITE LED'S

B

WHITE FLEXIBLE FACE CLEARCOATED w/
COOLEY COOLTHAIN

C

DOUBLE PRINTED VINYL LOGO w GLOSS
LAMINATE

D

16mm RGB MESSAGE CENTER. 60 x 180 MATRIX

E

VENTED REVEAL

F

ALUM. FORMED CLADDING, CAP & REVEALS

G

ENDICOTT CLAY MEDIUM IRONSPOT #46
VALOUR TEXTURE 1/2" THICK w/ STANDARD GREY
MORTAR

H

SPLIT FACE SIENNA CREAM w/ STANDARD
GREY MORTAR

P1 - White

P2 - MP 34a-2p
Dutch Cream

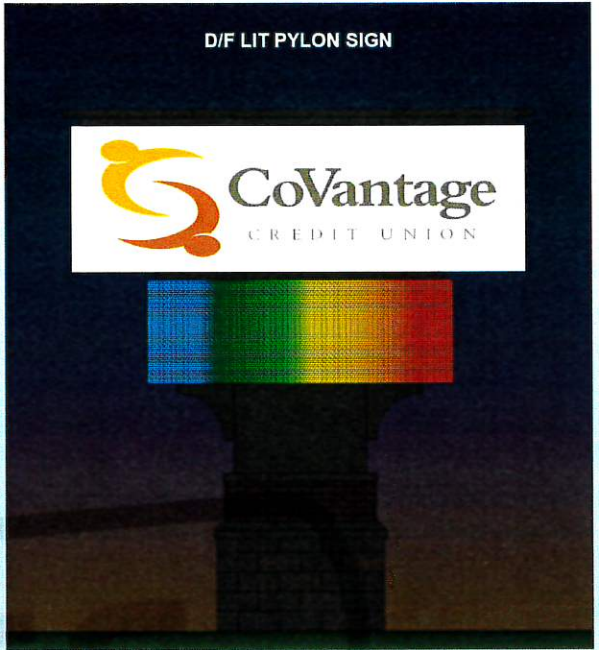
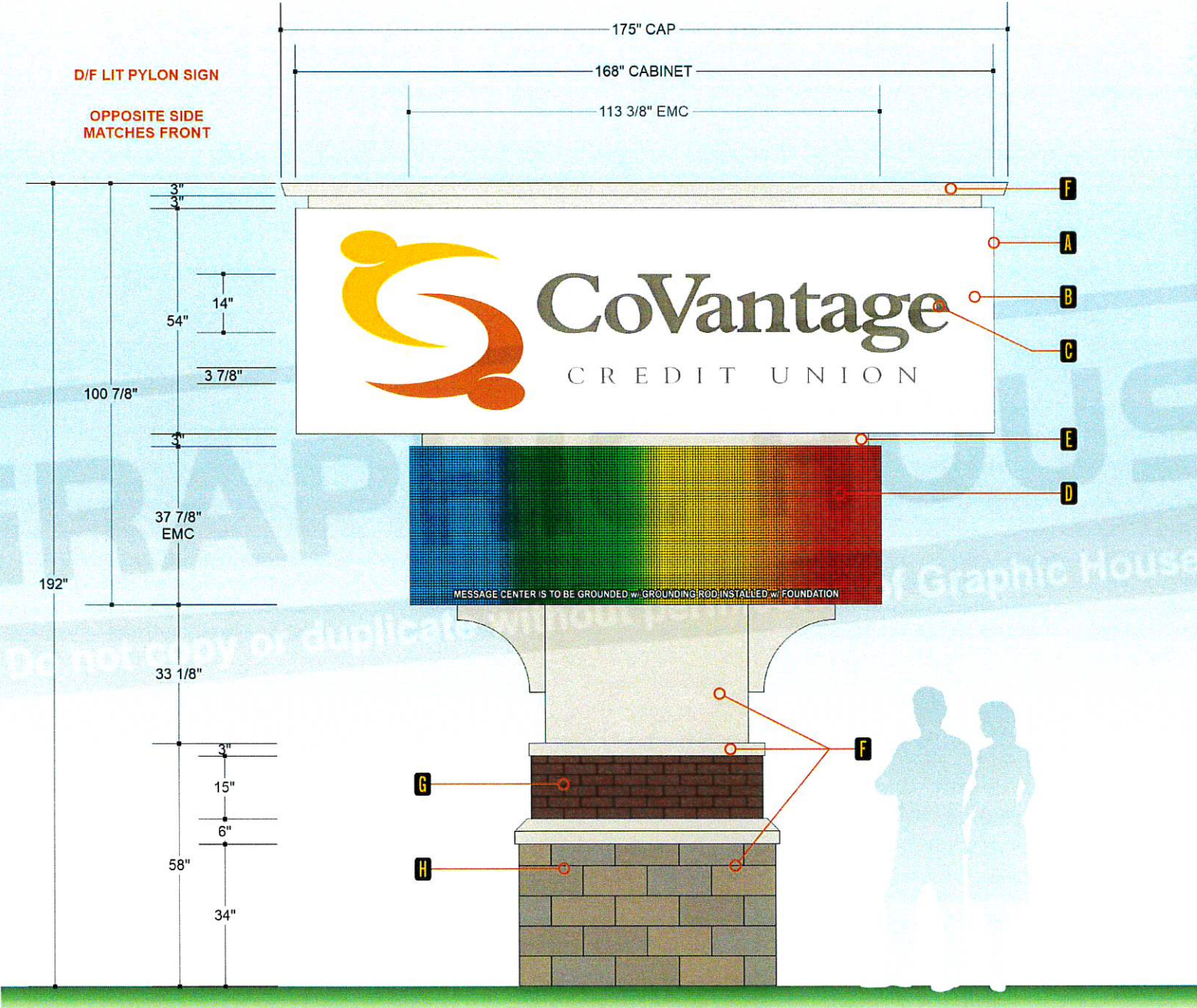
White Flexible Face

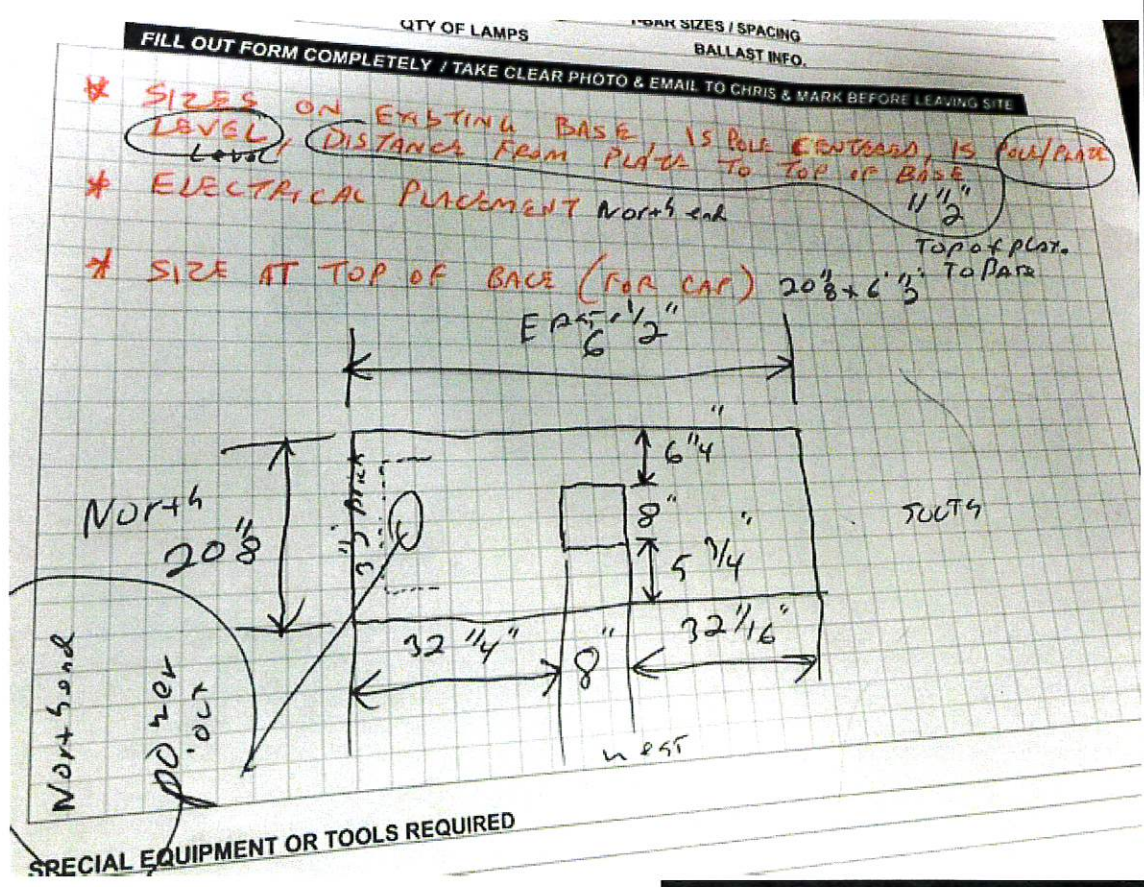
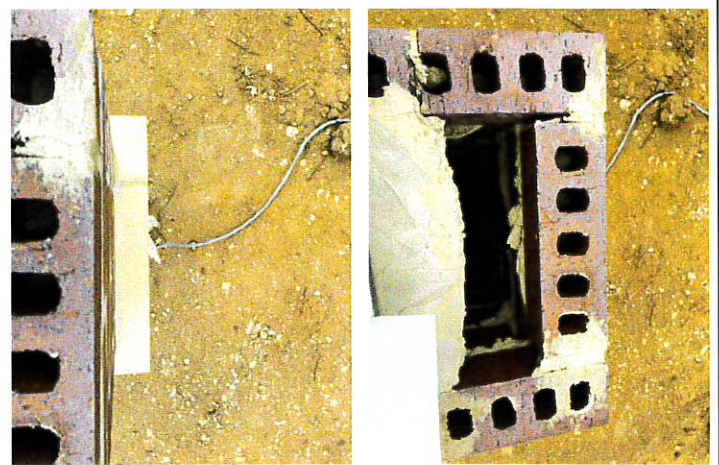
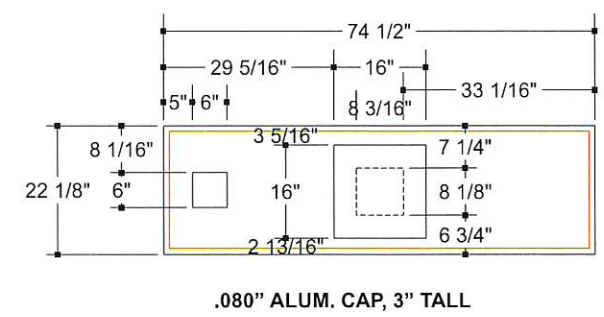
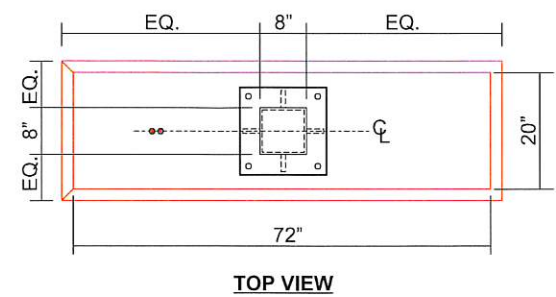
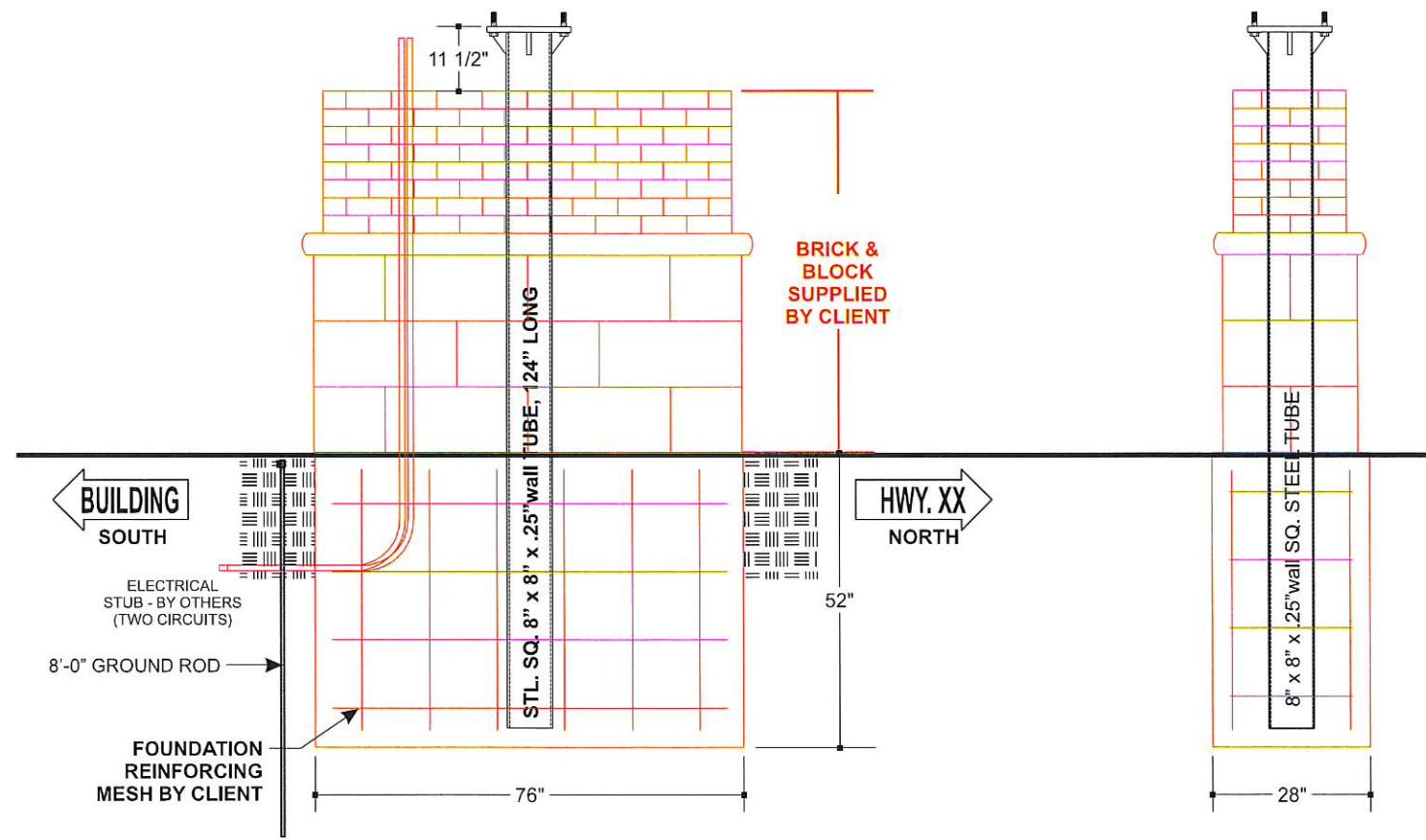
DP1 - PMS 404c

DP2 - PMS 130c

DP3 - PMS 167c

37.875" x 113.375" = 29.82 SqFt
100.875" x 175" = 122.59 SqFt
29.82 ÷ 122.59 = 24.32%





ELECTRICAL:	
SIGN TO DRAW	8.0 AMPS / 120VOLT
EMC TO DRAW	19.0 AMPS / 120VOLT
UL NUMBER:	
#	
WIRED BY:	DATE:



To: Board of Appeals

From: Kristi Heim, Community Development Coordinator

Date: March 9, 2022

RE: **Variance Request for Monument with Electronic Message Center Sign at 1305 Oneida Street (Parcel #7-01700-08)**

OVERVIEW

Property Address: 1305 Oneida Street, Menasha (Parcel 7-01700-08)

Property Owner: CoVantage Credit Union, PO Box 107, Antigo, WI 54409

Applicant: Graphic House, 8101 International Drive, Wausau, WI 54401

Property Zoning: C-1 – General Commercial

Surrounding Zoning:

North: C-1 – General Commercial District

South: C-3 – Business and Office District

East: C-1 – General Commercial District

West: R-2 – Suburban Low Density Residential (Village of Fox Crossing)

In total there are two (2) parcels zoned C-1, the north being a carwash, the west being vacant; one (1) parcel zoned C-3 which is currently occupied as a single family residential use, and a row of single family homes in the Village of Fox Crossing zoned R-2 Suburban Low Density Residential.

Background: The property owner has purchased the vacant property and has received zoning approvals to construct a new CoVantage Credit Union branch. As part of the new development the proposed facility is proposing multiple signs including a pylon sign that does not meet the City of Menasha sign code.

Variance Requested: The applicant is requesting the Board of Appeals to allow multiple variations to the sign code for the proposed pylon sign including:

- Sec. 13-1-65(c)(2) Illumination. Signs shall be designed to minimize the amount of light that is displayed through the sign panel. The display of white light shall

be limited to the sign copy. If lighting the sign copy only is not an option the display of internal illumination through the background shall be controlled by one or more of the following:

- a. limiting the illuminated background to 30% of the sign area;
 - b. changing the shape of the sign to reduce the limited surface area;
 - c. using a dark color;
 - d. using an opaque screen.
- Sec. 13-1-67(d)(4) Electronic Message Centers. Electronic message centers shall be integral to and a part of the original approved monument sign and may not comprise more than 30% of the sign face and shall be located within in the lower one half of the sign.
 - Sec. 13-1-67(e)(3) Monument Signs. Monument signs shall be permitted subject to the following standards:
 3. The maximum height of the sign base shall be no more than 1/3 the total sign height.

Reason for Variance: To allow CoVantage Credit Union to install a monument sign with an electronic message center to stay consistent with CoVantage sites in their branding and marketing.

REGULATIONS FOR GRANTING A VARIANCE

Per Section 13-1-153(d), the Board of Appeals is required to find all of 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 Graphic House on behalf of CoVantage Credit Union.

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: CoVantage Credit Union is in process of building a new branch located at 1305 Oneida Street. At this location a monument sign, which incorporates an electronic messaging center (EMC), has been proposed. The sign will be located on the southwestern portion of the property.

The CoVantage Credit Union property, located at 1305 Oneida Street, is zoned C-1 General Commercial District. C-1 General Commercial Districts are allowed signage with EMC by right, so long as they are not within 300 feet of a residential use or district property. If located within 300 feet of a residential use or district property then a special use permit is required. However, many aspects of the sign do not meet the Zoning Ordinance standards for all zoning districts. These include:

1. Internal illumination of the CoVantage panel does not meet Sec. 13-1-65(c)(2). The proposed sign has an all-white sign panel with no corrective measures to eliminate the amount of white light displayed.
2. The EMC comprises more than 30% of the sign face, Sec. 13-1-67(d)(4). The proposed sign face total is 63 sq. ft.; 30% equals 18.9 sq. ft. which would be the maximum sq. ft. the EMC could be. The proposed EMC total is 29.82 sq. ft. To meet this requirement, the EMC portion would be required to be reduced.
3. The location of the EMC portion on the sign is not located in the lower one-half of the sign, Sec. 13-1-67(d)(4). The EMC portion of the proposed sign would need to be relocated.
4. The base height of the monument sign exceeds the maximum allowable height, Sec. 13-1-67(e)(3). The proposed sign is sixteen (16) feet, the maximum allowable base height of sign would be 5.34 feet. The proposed sign's base height is 7.58 feet.

As noted in the applicant's questionnaire, the purpose for the variance is the burden to reconstruct the use of the sign face, EMC and base of the proposed sign as it is CoVantage's standard branding and marketing in the area and around the state.

It is staff's opinion the company's desire to reuse the sign does not define a hardship. As found in the Zoning Board handbook drafted by the Center for Land Use Education as part of the UW Extension, the Wisconsin Supreme Court breaks the hardship test into two areas being use and area. For a use variance, unnecessary hardship only exists if the property owners shows that they would have no reasonable use of the property without a variance. This is condition would not be met as the City has not stated they cannot have a reasonably accommodated sign. There has been nothing provided that would suggest that

the proposed sign could be redesigned or retrofitted to meet sign code requirements. There do not appear to be any other unusual circumstances or conditions that apply to this sign that would not apply to other properties in the same district. It is also staff's opinion that the granting of this variance would be general and recurrent in nature.

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: As found in the Zoning Board handbook drafted by the Center for Land Use Education as part of the UW Extension, a unique property limitation would be something to the effect of steep slopes or wetlands that prevent compliance with the ordinance. Being a vacant site there is no such concerns. This property nor the sign are substantially unique and therefore it is staff's opinion that neither present a uniqueness to which diminishes the property rights of the owner. The hardship of reusing the sign is self-imposed and should not be considered as a factor in determining a variance.

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: There is not a desire to increase the property value by the reuse of the sign. The purpose of sign, per the applicant's questionnaire, is for marketing and branding.

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 purpose statement of the Sign Code Ordinance, in part "is to regulate signs and outdoor advertising within the City of Menasha in order to protect public safety, health, and welfare....promote public convenience; preserve property values; support and complement land use objectives set forth in the city's zoning code..." .

Objective 7 of the Purpose Statement of the Sign Code speaks to encourage signs that are compatible with existing signage. Allowing signs that would require a variance of four (4) of requirements does not meet this objective.

Currently there are four EMC's along Oneida Street located within the City of Menasha boundary. These signs meet the zoning code in regard to sign panel illumination, EMC location and size, and base height. The applicant does mention that the proposed sign would be consistent with signs in the area. This is only true to a sign not located within the City of Menasha boundary and should not provide grounds for granting of the variance.

5. *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 granting of this variance will set a precedent to allow other businesses in C-1 General Commercial District as well as other commercial districts. In this development area, there are three vacant parcels along Oneida Street and eight along Province Terrace for commercial use. The granting of this variance based solely on branding and marketing as the questionnaire demonstrates would open the city up to future variance requests.

STAFF RECOMMENDATION

Staff recommends the Board of Appeals motion to deny the variance as requested.

Per the analysis presented above, staff deems that not all of the 5 conditions can be met and therefore the requirements for granting a variance have not been satisfied and it must be denied.

As a side, please note that granting such variance would not be grounds for automatic approval. Such sign would still need to be approved through the special use process.