

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  
First Floor Conference Rooms  
100 Main Street  
Friday, July 14, 2023  
9:00 AM  
AGENDA**

**A. CALL TO ORDER**

**B. ROLL CALL**

**C. PUBLIC HEARING**

1. Temporary Use Permit Application – Staging Area – 1165 Appleton Road (Parcel #6-00637-00)

**D. MINUTES TO APPROVE**

1. Board of Appeals, 10/25/2022

**E. ACTION/DISCUSSION ITEMS**

1. Temporary Use Permit Application – Staging Area – 1165 Appleton Road (Parcel #6-00637-00)

**F. ADJOURNMENT**



**POST-CRESCENT**  
**media**  
A GANNETT COMPANY

**STATE OF WISCONSIN  
BROWN COUNTY**

CITY OF MENASHA  
Public Hearing

CITY OF MENASHA

100 MAIN ST STE 200

MENASHA WI 549523287

I, being duly sworn, doth depose and say I am an authorized representative of the Appleton Post Crescent, a newspaper published at Appleton, Wisconsin and that an advertisement of which the annexed is a true copy, taken from said paper, which was published therein on:

NOTICE IS HEREBY GIVEN that a public hearing will be held by the Menasha Zoning Board of Appeals on an application for a temporary use permit by MJ Electric for the consideration of an off-site staging area for the construction season of 2023 located at 1165 Appleton Road, Menasha, WI (Parcel 6-00637-00) per Section 13-1-150(6) of the City Zoning Code. The Zoning Board of Appeal will be considering this request at a formal public hearing on Friday, July 14, 2023 at 9:00am, or shortly thereafter, in the first floor conference rooms of the Menasha City Center, 100 Main Street, Menasha, WI. Persons interested in this matter will be given an opportunity to comment and ask questions about the proposed use and are invited to attend.

Valerie Neuman  
City Clerk  
Publish: July 7, 2023 wnaxlp

Account Number: GWM-282245  
Order Number: 0005748344  
Total Ad Cost: \$26.44  
Published Dates: 07/07/2023

  
Legal Clerk

State of Wisconsin  
County of Brown  
Subscribed and sworn to before on July 7, 2023



Notary Public State of Wisconsin, County of Brown

4-6-27

My Commission Expires

# of Affidavits 1

This is not an invoice

DENISE ROBERTS  
Notary Public  
State of Wisconsin

CITY OF MENASHA  
Re: 0005748344

CITY OF MENASHA  
BOARD OF APPEALS  
100 MAIN STREET  
OCTOBER 25, 2022  
MINUTES

A. CALL TO ORDER

Meeting called to order by Chairman Galeazzi at 3:02 p.m.

B. ROLL CALL

PRESENT: Chairman Galeazzi, Member Jungen, Vander Wyst, and Maxymek  
ALSO PRESENT: CDD Schroeder, CDC Heim, CA Struve, Clerk Krautkramer,  
Atty Schreurs, Don Snyder, Atty Steffek

C. PUBLIC HEARING

1. Appeal Request – Replace an Existing Legal Nonconforming Off-Premise Billboard Sign – Lamar Central Outdoors LLC – 923 Valley Road, Menasha  
Chairman Galeazzi provided an overview of the Appeal Request to replace an existing legal nonconforming off-premise billboard sign from Lamar Central Outdoors LLC located at 923 Valley Road, Menasha.

D. MINUTES TO APPROVE

1. Board of Appeals, 3/9/22  
Moved by Member Jungen seconded by Member Maxymek to approve the minutes.  
Motion carried on voice vote.

E. ACTION/DISCUSSION ITEMS

1. Review of Zoning Board of Appeals Duties (UW Extension Handbook, Chapters 13; Menasha Municipal Code Article L)  
To advise the Zoning Board of Appeals due to having at least one new Board Member appearing for their first meeting, CA Struve provided an overview of the role and powers of the Zoning Board of Appeals and commented on the provided reference guides.
2. Appeal Request – Replace an Existing Legal Nonconforming Off-Premise Billboard Sign – Lamar Central Outdoors LLC – 923 Valley Road, Menasha
  - I. Preliminary matters:
    1. Introductions
      - a. Attorney Schreurs | Menn Law Firm Ltd. | representing Lamar Central Outdoors LLC (“Lamar”). Don Snyder appeared personally on behalf of Lamar.
      - b. Attorney Steffek | Davis & Kuelthau SC | representing the City of Menasha (“City”). CDD Schroeder, CDC Heim also appearing personally.
    2. Chairman Galeazzi confirmed with Attorney Schreurs that Lamar’s intent was an Administrative Appeal regarding the Zoning Administrator’s Decision to Deny Lamar’s Application for Sign Permit.
    3. Chairman Galeazzi confirmed with Clerk Krautkramer that all legal notices were met for an Appeal to the Zoning Board of Appeals.

II. Parties stated their respective cases, beginning with the appellant, Lamar:

1. Lamar: Attorney Schreurs provided an overview of Lamar's request to appeal the City of Menasha's denial of Lamar's request for a sign permit to replace an existing legal nonconforming off-premise billboard sign located at 923 Valley Road, Menasha with a new structure with back-to-back digital faces. Attorney Schreurs commented on the timeline of events, application for sign permit, traditional sign (front and back), requests of the sign permit, digital sign faces, dimensions, application requirements, status, and determination, correspondence with City Staff, deadline extension, and case law (*Reed*), regarding Lamar's two bases for the appeal: (1) The Zoning Administrator erred; and (2) the City of Menasha's sign ordinance is unconstitutional.

Attorney Schreurs asked the Zoning Board to direct the City, CDC Heim, to issue the Permit.

2. City of Menasha: Attorney Steffek provided an overview of the timeline of events, that the City was waiving any timeliness issues, City Code referring to signs, billboard types, digital billboard capabilities, defining a new feature, legal nonconforming status definition, the Zoning Board of Appeals' powers, and case law (*Reed* and *City of Austin*).

Attorney Steffek asked the Zoning Board to find that the City did not err; Lamar's proposed change is a new feature and causes the sign to lose its legal nonconforming status.

3. Questions from Board Members and responses from the parties, along with general discussion regarding:
  - a. Legal nonconforming status
  - b. Loss of legal nonconforming status
  - c. Case examples
  - d. Content-based distinctions vs. content-neutral
  - e. Lamar's existing sign (two-faced)
  - f. Illumination of the sign
  - g. Conversion to a digital sign
  - h. New feature
  - i. Sign enhancements
  - j. Grounds for the denial of the appeal
  - k. Digitization of the sign
  - l. Spotlight removal
  - m. Menasha Municipal Code considerations – Signs Article
  - n. Legal standard of review
  - o. Zoning Board of Appeals powers re: (Un)constitutional considerations
  - p. The Zoning Administrator's decision
  - q. Appellant Lamar's burden of proof

Moved by Chairman Galeazzi, seconded by Member Jungen, to deny the zoning appeal request of Lamar Central Outdoors LLC located at 923 Valley Road, Menasha because the Zoning Administrator correctly applied the City Code to Lamar's request in issuing the denial. The Zoning Administrator did not err because issuing the permit would have allowed Lamar to upgrade their sign to a digital sign, which is a new feature, and would have resulted in the loss of legal nonconforming status.

Board Members discussed and agreed that appellant Lamar did not meet its burden of proof; Board Members discussed and agreed that Lamar did not convince them that a digital billboard is neither an enhancement nor a new feature. Board Members discussed and agreed that appellant Lamar did not convince them that the Zoning Administrator erred in making her decision to deny Lamar's permit.

Motion carried on roll call 4-0.

F. ADJOURNMENT

Moved by Member Vander Wyst seconded by Member Maxymek to adjourn at 4:20 p.m. Motion carried on voice vote.

Haley Krautkramer  
City Clerk



## Memorandum

Date: July 14, 2023

To: Zoning Board Appeals

From: Community Development Department/SS

RE: Temporary Use Permit Application – 1165 Appleton Road (Parcel #6-00637-00)

MJ Electric is requesting the consideration for a temporary use permit for an off-site staging area for the construction season of 2023 located at 1165 Appleton Road, Menasha. This site is currently a vacant parking lot located north of the Dollar General and south of the Scooters Coffee. MJ Electric previously used this site during the pole replacement of Appleton Road a few years prior. At that time, City staff view this site and use as part of the construction site not requiring a temporary use permit. This year, MJ Electric is currently under two contracts with WE Energies. Unfortunately, they had executed a lease with the property owner of the site and failed to reach out to the City to verify the approval process. MJ Electric has been cooperative and communicating with staff upon notification this spring to apply for the necessary permit.

The first of the two aforementioned projects is a Pole Replacement Program where they are replacing 230 poles throughout the Fox Valley. This work is anticipated to end in the middle of July. The second project, is a City Limits Project which includes upgrades to the substation located in the City of Appleton off of Oneida Street just north of Hwy 441. This project is anticipated to commence following the pole replacement program and run through this fall.



Currently the staging area per the attached, shows an office trailer, a porta-potty, two mobile storage units, a garbage dumpster, a scrap dumpster, and areas for stockpiling poles, sand, gravel, wire, transformers, and other miscellaneous items. In addition, the site acts as a staging area for the job vehicles and personal vehicles.

Section 13-1-150(6) of the municipal code states the Zoning Board of Appeals has the following power: “to hear and grant applications for temporary uses, in any district provided that such uses are of a temporary nature, do not involve the erection of a substantial structure and are compatible with the neighboring uses and the City Plan Commission has made a review and recommendation. The permit shall be temporary, revocable, subject to any condition required by the Board of Zoning Appeals and shall be issued for a period not to exceed twelve (12) months. Compliance with all other provisions of this Chapter shall be required.”

As part of the consideration, the Zoning Board of Appeals is required to hold a hearing following Section 13-1-151, which requires a publication to be placed in the newspaper and property owners within 100 feet of the property be made aware of the proposed request and hearing.

The City Plan Commission did review the proposed temporary use at their June 27, 2023 meeting. Ultimately, through some discussion, the Plan Commission made the recommendation to the Zoning Board of Appeals deny the Temporary Use Permit request, as proposed, finding the use is not compatible with the surrounding properties, outdoor storage is not a permitted use in the C-1 General Commercial District, and the proposed work does not collectively serve the general welfare of the City of Menasha who is serviced by its own public utility.

Attached is a letter of support from the owner of the property.



# MJ Menasha Yard

1165 Appleton Rd

47

MJ Menasha Yard  
1165 Appleton Rd  
Menasha, WI 54952

Pole Bunk 35' & 40'

Pole Bunk 45' +

Sand Pile

Gravel Pile

Office Trailer

Poty

Conex w/ End Door

Conex w/ Rollup Door

This area will  
be for Arms,  
Wire, and  
Transformers

Garbage Dumpster

Scrap Dumpster





**From:** [David Pedelty](#)  
**To:** [Sam Schroeder](#)  
**Subject:** Airport Rd Empty Lot  
**Date:** Tuesday, June 13, 2023 10:35:03 AM  
**Attachments:** [Outlook-3eifeeag.png](#)  
[Outlook-lt0isnqh.png](#)

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**[EXTERNAL EMAIL] DO NOT CLICK links, attachments, or reply unless you recognize the sender and know the content is safe.**

Hi Sam,

I wanted to touch base on our empty lots next to our Scooters on Airport Rd. MJE Electric currently rents these lots from us and Eric Rogers contacted me to let me know the city has contacted him regarding getting a special permit to store their equipment and materials there. Eric is sending me the form and I will sign it and get it back to him.

These lots have been vacant for a very long time. People throw trash there, park cars and trucks there, and do all kinds of things we don't approve or condone. MJE does things the right way. They contacted us, got our permission, signed a lease, and pay us rent to be there. Their site is clean, organized, and well-maintained. They actually help us because it prevents the issues mentioned above. They are only there until September or October(ish). I wanted to let you know how I felt about it and hopefully ensure the city does the right thing here.

Thanks Sam.