

**MINUTES OF THE
MINNEHAHA COUNTY ZONING BOARD OF ADJUSTMENT**
February 23, 2015

A meeting of the Planning Commission was held on February 23, at 7:24 p.m. in the Commission Room of the Minnehaha County Administration Building.

COUNTY PLANNING COMMISSION MEMBERS PRESENT: Wayne Steinhauer, Mike Cypher, Bonnie Duffy, Becky Randall, Bill Even, and Jeff Barth.

STAFF PRESENT:

Scott Anderson, Kevin Hoekman, and David Heinold - County Planning

The meeting was chaired by Wayne Steinhauer.

ZONING BOARD OF ADJUSTMENT

ITEM 1. Approval of Minutes – January 26, 2015

A motion was made by Commissioner Barth and seconded by Commissioner Randall to **approve** the January 26, 2015 minutes. The motion passed unanimously.

ITEM 2. VARIANCE #15-01 to exceed sign area and height on the property legally described as Lot A, Block 4, Haug's Second Addition, SE1/4, Section 12-T102N-R50W.

Petitioner: Timpte, Inc.

Property Owner: same

Location: 25768 Cottonwood Ave. Approximately 2 miles
north of Sioux Falls

Staff Report: Kevin Hoekman

To exceed sign area and height.

General Information:

Legal Description – Lot 4B, Block 4, Haug's Second Addition, SE1/4, Section 12-T102N-R50W, Benton Township

Present Zoning – I-1 Industrial

Existing Land Use – Trailer and Equipment Sales and Service

Parcel Size – 5 acres

Staff Report: Kevin Hoekman

Staff Analysis:

This item was deferred at the January 26, 2015 Board of Adjustment meeting based on the request of the petitioner that was relayed by the staff. Nobody was present to speak for or against the item. One reason for the request to defer the hearing was to allow for preparations for the petitioner to request an even taller sign than originally planned. Staff has agreed to allow the

petitioner to request different dimensions because the notice of public hearing was published as a variance to “exceed on premise sign area and height” and therefore the request is not limited by published dimensions.

The applicant is requesting to increase the size and height of an on premise sign located along Interstate 29 in the rear of the property. Article 16.02(C) of the Minnehaha County Zoning Ordinance limits the size of on premise signs to a maximum 200 square feet, and the maximum height to 30 feet. The applicant is requesting to increase the size of the sign to 299 square feet which has not changed since the January meeting. The original request for a taller sign was for a height of 40 feet, but the petitioner reviewed his own request and has concluded that 40 feet would not sufficiently relieve his concerns. The new request is for the sign to reach a maximum height of 60 feet in order to be taller than the trees and visible from the south where the overpass currently blocks the view.

The applicant provided a list of 5 reasons that they felt should be considered for allowing the request. The applicant’s stated reasons are numbered directly below this paragraph. The applicant’s reasons don not necessarily reflect the analysis of the staff.

1. Timpte is different from our neighbors due to the fact that it is a retail location that depends on drive in traffic for parts and service work. The proposed sign would increase customer traffic and the result is hiring more employees.
2. Due to the proximity of the Timpte location to the exit, there is a lack of visibility from a distance, both from the north and south. A larger and taller sign enables our customers to see the location from a much greater distance and exit safely.
3. A large tree on state property to the northeast of the Timpte lot impedes visibility to our sign based on visibility testing completed in November 2014.
4. A number of trees planted on state property along the road ditch will continue growing and in the future will most likely block visibility to the retail Timpte facility and signage.
5. Timpte’s investment in the people and greater Minnehaha County and Sioux Falls agriculture community depends on visibility and customer awareness. The larger/taller sign would certainly help Timpte achieve that goal now and into the future.

On January 13, 2015, staff conducted a site visit for evaluation and photos. At the site itself, staff confirmed that trees have been planted within the interstate Right of Way. The trees do not seem to block the view of the site because of the trees short size and lack of leaves. There may be a potential for the sign view to become obstructed, especially from the north, because the trees were green ash trees that can get quite tall. The sign does have the advantage of being located near the top of a small hill that the site sites on. Photos were taken from the north bound exit ramp, the interstate crossing bridge one mile to the north, and on the site itself

It is important to note that a similar request based on similar conditions of topography and site distances was made before the Board of Adjustment last year. The petitioner of last year's item requested a taller and larger sign that is located at the Baltic exit. The Board of Adjustment found no hardship and denied the request. If the board allows this sign variance to pass, there may be potential to be found arbitrary for allowing one and not the other.

The Zoning Board of Adjustment shall not vary the regulations unless it shall make findings based upon the evidence presented to it in each specific case that all of the following conditions are present:

(A). That specific circumstances or conditions, such as exceptional narrowness, topography, or siting exists.

The site is located within a well-established industrial park with varied sized lots. This particular parcel is located approximately ¼ mile to the north of the Crooks/Renner Exit off Interstate 29. This distance from the interchange makes the property ineligible for an increase in allowable height that is available to properties located directly adjacent to the interchange. Although the topography of the park and surrounding area does vary slightly, the parcel is at no visibility disadvantage over its neighbors. The parcel is even located on a slight hill that is large enough for the interstate Right of Way (ROW) to be elongated for a road cut.

(B). That the variance does not grant a use which is otherwise excluded from that particular district, or diminish or impair property values within the area.

An on premise sign is a permitted use along the Interstate as long as the State DOT approves of the sign. A larger and taller sign would not likely change any property values in the area.

(C). That due to the specific circumstance or existing conditions strict application of the Zoning Ordinance would be an unwarranted hardship.

There is a row of trees located within the Interstate ROW that may someday impede the visibility of the site and sign. This row of trees exist because of a road cut that extends the width of the ROW into the hillside. In this development this parcel and the parcel to the north are the primary properties that are affected by the trees in this road cut.

The 200 square foot maximum sign allowance was designed to allow efficiency in communications and to preserve the quality of the landscape from nuisances such as excessive size. The applicant's request for 299 square feet would even exceed the 288 square foot maximum allowed for an off premise billboard.

(D). That the granting of a variance is not contrary to the public interest and is in harmony with the general purposes and intent of the Zoning Ordinance.

Granting of this variance is not in the public's interest. It potentially will set a precedent for every business located along an interstate highway to desire a taller and larger sign just to increase visibility. The State of South Dakota provides options for business owners to advertise their services. The applicant can utilize this service and meet the requirements of the Zoning Ordinance.

(E). That because of circumstances or conditions, there is no possibility that the property

can be developed in strict conformity with the provisions of the zoning regulations and that the authorization of a variance is therefore necessary to enable the reasonable use of the property.

As staff has noted, there are some circumstances which do not lend the site to good visibility while traveling north and south on the Interstate. These conditions however are not so extreme that they would preclude the reasonable use of the property. The site can be developed and other measures can be implemented to help inform the traveling public of the location of this trailer sales and service facility. The applicant will have reasonable use of the property without a variance for a taller and larger sign.

The Zoning Board of Adjustment is to review each request and determine that all of the above identified issues and criteria have been met in order to approve a variance. While the sight distance and trees are an inconvenience, they does not rise to the level of a hardship.

Recommendation:

Staff recommends **denial** of Variance #15-01 to increase the height of an on-premise sign from thirty (30) feet to sixty (60) feet and to increase the maximum size from 200 square feet to 299 square feet.

PUBLIC TESTIMONY

Kevin Hoekman of the planning staff presented the staff report and recommended denial of the variance request.

Commissioner Even asked about the dimensions of a standard billboard because the staff report included reference to the size being larger than an allowed billboard. Kevin's response was approximately 12' x 24'.

Commissioner Barth asked about the location of the trees in the right of way. Kevin's response was that the trees are located in rows along the fence.

Commissioner Even commented that it appeared as if the trees were volunteer and asked if the state DOT has been contacted about removal. Kevin's response was that it appears like some are planted and some are volunteer and that staff did not contact the DOT about them.

Commissioner Even the asked about the regulations for off premise signs such as billboards. Staff responded with several restrictions that off premise sign.

Aaron D., Director of Customer Service/Operations Director for aftermarket parts and service, presented a PowerPoint with accompanying handout that detailed the petitioner's reasons and hardships for requesting the sign variance. Arron started with the primary hardship for them is visibility. He then went into a brief summary of what the company does and who it serves, namely local and regional customers. Aaron proceeded with more explanation of the lack of visibility and how he considers it a hardship. He explained that the lack of visibility may cause some form the south to not be able to exit in time, and the next exit is 8 miles to the north making it difficult and costly to turn around. From the north there are trees that are in the line of sight and blocking the view. The short sight distance makes it dangerous to get of the interstate in time. The PowerPoint presentation included pictures form a distance and reference to a nearby tall evergreen. He noted that the height issue is the most important part of his request. Aaron continued with an explanation of the parts business is a considerable portion of the Timpte sales;

so they consider themselves as a retail store. He then noted that customers make stops based on seeing the sign and knowing that they need a part. Aaron concluded his presentation with a few photos of the Timpte sign designs and some examples of nearby signs including Friendly's at the Baltic exit and the Flying J.

Commissioner Even asked Aaron these questions. The sign would be on the west side of the interstate? How long have you owned the property? And where is the sign going to be located on the site? Aaron responded to these questions in the following manner. Yes the sign and property is on the west side of the interstate. Timpte has owned the property since April. And the sign is to be located along the south side of the property.

Commissioner Steinhauer asked the following set of questions. Is it true that a significant portion of the business is people driving by and pulling off without prior call in or check to see if you have parts? Aaron responded that it is not the core of their business but it is significant. Then Commissioner Steinhauer asked if Aaron was part of the site selection team for the location of the business and if he was aware of the siting concerns at the time? Aaron responded that he was a part of choosing the site, and that the team chose this site as the best location for a full service operation. He also noted that no real consideration was given to sign location or variance at the time.

Commissioner Barth Raised a concern of disparate treatment if the Board was to approve this variance request. He then asked Aaron if he has looked into other types of signs such as billboards. Aaron responded that they are looking into other options in the case that the variance is not approved but he noted a limited availability of billboard real estate in the area.

DISCUSSION

Commissioner Cypher commented that he is concerned about the potential precedence of a 60' tall sign where there are none. He made a reference to the sign at the Baltic exit and that the sign as it stands, is visible from all directions without the requested variance.

Commissioner Steinhauer added that the zoning ordinance does accommodate advertising signs, and that this request is a problem with site deficiency that often contributes to a lower acquisition cost.

Commissioner Barth included a comment about the past case of the I-90 Speedway sign and making them remove additional signage above what was originally permitted. He also added that he does not support the request based on precedent and enforcement. He suggested that the applicant contact the State DOT about the trees.

ACTION

A motion was made to **deny** Variance #15-01 by Commissioner Cypher and seconded by Commissioner Even. The motion passed unanimously.

Conditional Use Permit #15-13 – Denied