

ZONING BOARD OF APPEALS MINUTES OF OCTOBER 10, 2006

Meeting called to order by Chairman Zimmermann at 4:44 p.m. in the Executive Conference Room, City Hall Plaza.

PRESENT: Dean Markwardt, Wallace Reek, Don Wink, Karl Zimmermann and 1st Alternate Jim Asplin

EXCUSED: Marvin Duerr

ALSO PRESENT: Planner/Zoning Administrator Curtiss, Director of Planning and Economic Development Miller, Mayor Meyers, Aldermen Buttke and Feirer, Deputy Clerk Panzer and Scott Teigen

Deputy Clerk read a letter from Dennis R. Jacobsen. He asked to have his appeal rescheduled for the next regular Zoning Board of Appeals meeting due to his mother's funeral.

ZB06-029 Motion by Asplin, second by Wink to hold over the appeal of Dennis R. Jacobsen. All Ayes.
Motion carried

ZB06-030 Motion by Wink, second by Markwardt to approve the minutes of September 12, 2006 as submitted. All Ayes.

Motion carried

Deputy Clerk read the appeal of Kwik Trip, Inc. Appealing an order issued by the City of Marshfield Zoning Administrator to correct the setback of a monument sign located on the property at 101 N. Central Avenue, Marshfield, WI 54449. The order identifies an "as-built" setback error and allows 30-days for correction pursuant to Section 24-03 (11) of the Municipal Code of the City of Marshfield.

BACKGROUND

In the Fall of 2004, Kwik Trip constructed two new sign structures @ 101 N. Central Avenue. Sign permits were approved to build the sign structures according to the related materials submitted with the permit application: design drawings and a site plan demonstrating compliance with setback, size, height and other design requirements. Approximately 6 months after construction, a site inspection was conducted to determine completion of the structures and general compliance with terms of permit. No deficiencies were called to question or obvious at that time. Similar to permit processes for buildings, the City does not require "as-built" surveys for sign structures as a standard requirement to verify conforming setback status of installed structures. It is the responsibility of the property owner to locate the structure accordingly. General administrative enforcement duties of the Zoning Administrator provide that upon finding a condition of probable non-conformity, the Administrator shall notify the property owner and order actions to correct the condition.

In March 2006, a concern/question of compliance was brought to the Planner/Zoning Administrator's attention regarding the proximity of the Kwik Trip sign relative to Central Avenue. She notified Kwik Trip of the probable non-conformity and asked that the "as-built" setback of the structure be confirmed. She measured the distance from the sidewalk to the sign structure at 5-feet; however, without benefit of survey information she couldn't confirm that the edge of sidewalk was the actual property boundary.

The last order issued to Kwik Trip, which is the subject of this appeal, is dated 8/28/06. It orders Kwik Trip to correct the structure setback.

ANALYSIS

The appeal application indicates the order is in dispute because the subject sign structure was never shown at a 10' setback and a permit was issued. Planner/Zoning Administrator Curtiss attached the sign permit application package which includes all materials upon which the sign permit was approved. The site plan

is drawn to scale and shows the location of the structure compliant with the minimum 10-foot setback.

Planner/Zoning Administrator Curtiss added that there was a survey of the property when the property was being developed and apparently Kwik Trip owns a little over a foot of the sidewalk. There are other properties south of Veterans Parkway, north of Mittens that also own a little bit of the sidewalk area.

Scott Teigen, Chief Financial Officer with Kwik Trip, explained how the mistake happened. It got drawn on the site plan and they were planning to build a pylon sign. A pylon sign has a 10' setback. They then found out that a pylon sign doesn't work in our zoning ordinance, so they changed it to the monument sign which they built. Only the monument sign has a 5' setback and didn't get changed on the plan. The application got made for the sign permit. The sign got built according to the site plan.

He said that the City's sidewalk is on 1.2' of Kwik Trip's property.

He explained that the sign is a \$30,000 structure and if they have to rebuild it, they would lose columns and then end up with a simple sign. It would be a shame to spend \$15,000 and have less than we have now. It was quite a process to do this project. They spent a lot of time meeting with City people and Main Street people. They completely changed the architecture of the building, put a new roof on the canopy and put in a different kind of lighting and signage which was about \$250,000. They have worked with the City in rerouting the utilities when the street was vacated. They feel that they helped clean up a nasty looking corner. After all of that there was a little traffic issue that cost them another \$200,000 to fix. He asked the board for a little mercy and asked that they grant the 3.8' variance.

Planner/Zoning Administrator corrected Scott Teigen. She said that the setback for a pylon sign is 5' and the setback for a monument sign is 10'. She added that Kwik Trip did contact her in an attempt to work through some design issues to see how they could get this structure to comply. She also added that there would be no vision issues with this even with the relocation of the driveway.

Alderman Feirer who is also the Chairman for the Board of Public Works spoke regarding a safety issue the City had with the section of Central Avenue between Arnold and the railroad. We had people going the wrong way on the road to get in to Kwik Trip so we kind of forced Kwik Trip to purchase that property and change their driveway to get this done and they were very accommodating. It is not a safety issue. The site triangle is not a problem. He asked the board to show leniency on this matter.

Alderman Buttke who is also the Council President agreed with Alderman Feirer for all of those issues. He felt that the person who brought this to our attention has some sign issues himself. Kwik Trip has admitted that there is an issue, but it is an awful shame to make them move that nice expensive sign for that little bit. He expressed concern with the process of us not being able to measure the sign while it is being built. He felt that this could have been alleviated at that particular time. He encouraged the board to be lenient on this matter also. He suggested that if the sign is ever reconstructed that we make them move it at that time to make it compliant.

Planner/Zoning Administrator Curtiss said that it would be nice if we got a call to schedule an inspection, but we don't get informed of when things are going in. This isn't just to assigned structure. This is day to day in development issues. When a foundation is poured it is also the due diligence of the contractor and builder to check for themselves. We don't have it in the code to require an "as-built" survey. We do require inspections. Yes, there is a process there and yes, we can even in our code start requiring stricter guidelines to make sure these inspections are better. We certainly are accommodating. If we know when it is going to happen, we will go out there and measure, but again if I don't know where the pins are it is still just a guess on my part and not quite as accurate. She said that she can understand where the

developer and City and everyone can all communicate better and make it work for all.

Director of Planning and Economic Development Miller pointed out that this is not the first time that this board has taken action on something like this. Staab had to move homes back because they were built into the setback. This wouldn't be the first time that someone has built into the setback. This is not a public safety issue. She recommended that if the board decides to let the structure stay, that they should keep it consistent with the sign code by adding a stipulation that if there are any structural changes within the sign that they have to bring the sign into compliance.

Zimmermann pointed out that in the construction business when applying for a permit a lot of the rural areas want the inspection of the footing prior to going any further.

Planner/Zoning Administrator Curtiss said that the City currently does not even have that within their building format of the code.

Reek asked if the other sign conforms.

Scott Teigen replied yes.

Mayor Meyers said that he supports the concept of this is something that happened. They didn't do anything intentional. They are about the finest example of a good corporate neighbor that we have in Marshfield. They have worked with the City through the entire project.

Markwardt mentioned that he stopped on Veterans Parkway in the right turn lane heading west and he could see Walgreens in that position, so line of site is not an issue at all.

Planner/Zoning Administrator Curtiss said that she did see several site plans and she could see how this error could have happened when you are using several site plans and maybe referring back to one of the earlier ones. There were several site plans that were part of the entire site review process.

ZB06-31 Motion by Markwardt, second by Asplin to uphold the appeal of Kwik Trip, Inc. with the stipulation that should there be any structural modification of the monument sign that at that time the setback requirement would have to be met. All Ayes.

Motion carried

Motion by Wink, second by Markwardt to adjourn at 5:09 p.m.

Motion carried

Lori A. Panzer
Deputy City Clerk