ZONING BOARD OF APPEALS MINUTES OF SEPTEMBER 11, 2012

Meeting called to order by Chairperson Gerl at 5:00 p.m. in the 1st Floor Conference Room, Suite 108, City Hall Plaza.

PRESENT: Ken Bargender, Ed Gerl, Richard Kenyon, Dean Markwardt and 1st Alternate Todd Zieglmeier

EXCUSED: Robert Lewerenz

ALSO PRESENT: Planner/Zoning Administrator Miller, Deputy Clerk Panzer, Dave Wasserburger, David Freeman, Sandra Freeman and Jeffrey Gaier

ZB12-06 Motion by Bargender, second by Markwardt to approve the minutes of June 12, 2012 as submitted.

Motion carried

Deputy Clerk read the variance request from Marshfield Utilities for property located at 1612 North St. Joseph Avenue, zoned "R-2" Large Lot Single Family Residential, for a 73 foot variance for the existing water tower, antenna, and future antenna not to exceed 110 feet above ground level (AGL), at an elevation of 1,472 feet above mean sea level (AMSL). The "Airport Overlay & Height Limitation Zoning Map, Marshfield Municipal Airport, Marshfield, Wisconsin," as identified in Sec. 18-65(6)(d) and (e) of the Municipal Code, requires structures at this location to not exceed 1,399 feet above mean sea level (AMSL). The request includes the existing tower and antenna as well as the proposed future antenna to be placed on the tower at an elevation of 1,472 feet above mean sea level (AMSL) or below.

Background

Marshfield Utilities currently has a water tower and antenna located on the property at 1612 North St Joseph Avenue. They have applied for a variance to place a second antenna on top of the water tower. The antennas are needed for communication with the City's wells for operation of the City's electric and water supply. The current elevation of the existing tower and antenna is approximately 1,469 feet Above Mean Sea Level (AMSL), 107 feet Above Ground Level (AGL). The water tower is approximately 100 feet AGL with a 6+ foot antenna on top. The antenna was installed between 2004-2006 and a variance was never applied for or received as the Marshfield Utilities wasn't aware a variance was required. Therefore, an after the fact variance is being requested to address the existing nonconforming antenna.

The request would include the addition of a ring to place on top of the water tower so a second 6 foot tall antenna could also be placed on top of the water tower. The ring on top of the tower, plus the two antennas would place the maximum elevation for the antennas at 1,472 feet AMSL. Essentially, the proposed variance would allow for an increase of just over 3 feet above the height of the current antenna.

Planner/Zoning Administrator's statement of facts regarding the variance request:

- 1. The property is located at 1612 North St. Joseph Avenue in the "R-2" Large Lot Single-Family Residential district.
- 2. The lot is 36,750 square feet in size.
- 3. The maximum elevation permitted at this location by the Height Overlay Zoning Ordinance (HLZO) is 1,399 feet AMSL.
- 4. The water tower was constructed in 1967.
- 5. The base elevation of the proposed water tower location is 1,362 feet AMSL.
- 6. The total height of the existing tower reaches 1,462.156 feet AMSL, just over 100 feet AGL, exceeding the (HLZO) for property at this location by 63 feet.
- 7. The height of the existing antenna is 1,468.781 feet AMSL.
- 8. The Applicant is requesting a 73 foot variance from the HLZO.
- 9. By 2006, an antenna, just over 6 feet tall, was placed on top of the water tower for a total height

- of approximately 107 feet AGL at an elevation of 1,469 feet AMSL. At the time, a variance was never applied for or received.
- 10. Marshfield Utilities anticipates placing a corral on top of the water tower that would increase the height a couple of feet.
- 11. The existing and proposed antennas are approximately 6 feet tall. With the addition of the corral, the top of the antennas will reach a height not to exceed 110 feet AGL and 1,472 feet AMSL.
- 12. The FAA has made a determination that the proposed project would pose No Hazard to Air Navigation.
- 13. The Bureau of Aeronautics has submitted a letter stating they do not object to the requested variance.

Planner/Zoning Administrator Miller said that the Airport Committee met on August 23rd and they reviewed this request and they are recommending approval with the following two conditions:

- 1) A beacon be placed on top of the water tower primarily for the Spirit and any medical Aspirus helicopters that would come into the Airport.
- 2) A letter be sent out notifying the Marshfield Municipal Airport and the Spirit helipad once the project is completed.

Additionally, the Airport Committee requested that staff notify the Spirit and St. Joseph's Hospital helipad about this variance request. Staff sent emails to all the contacts they had and they did not hear any feedback from them.

Summary Responses from Applicant

(Unnecessary Hardship) "The water tower has been at this location and elevation since 1967. The existing elevation is already taller than the allowable height per the zoning ordinance and the additional 10 feet being requested shouldn't be an issue. The proposed antenna is needed to achieve line of sight communication with the City's wells and the City's electrical system. The existing tower was constructed in 1967, prior to the current zoning code."

(Unique Property Circumstances) "The property has been identified as a suitable location and elevation for a water tower. The infrastructure for the water tower and communication with the wells via the antenna is needed for the operation of the City's electric and water supply and the proper elevation is already in place at the location with the existing water tower. The water tower no longer holds water on a regular basis."

(No Harm to Public Interests) "The water tower and communication with the City's wells is necessary for Marshfield Utilities to operate the City's water supply and communications with the electrical substations allows the Utility to control the electrical system. Additionally, FAA and Bureau of Aeronautics letters state that the additional height to the water tower is no hazard to air navigation."

The placement and type of the beacon to be placed on the water tower was discussed.

Jeffrey Gaier said there is really no specification as to what kind of light it should be just as long as it something that makes it visible for any of the helicopters coming in.

Dave Wasserburger said Marshfield Utilities plans on putting dual amber lights up there.

Jeffrey Gaier said putting the beacon on the corral would be fine.

ZB12-07 Motion by Kenyon, second by Zieglmeier to grant the variance request from Marshfield Utilities for a 73 foot variance for the existing water tower, antenna and future antennas not to exceed 110 feet above ground level (AGL), at an elevation of 1,472 feet above mean sea level (AMSL) with the stipulations that a beacon be installed on top of the water tower for air safety and that the Airport Committee and Spirit Helipad be notified when work is complete per the Airport's recommendation. **Motion carried**

Deputy Clerk read the variance request from David Freeman for property located at 1610 South Central Avenue, zoned "B-4" General Commercial District, for a front and side yard setback. Section 18-63(5)(f) requires a minimum 20 foot front yard setback and a minimum 10 foot side yard setback for commercial buildings. The existing building is setback 7 feet, 4 inches from the front yard property line to the west and setback 10 feet, 6 inches from the side yard property line to the south. The Applicant is requesting an 18 foot front yard variance to replace and move an existing egress platform on the west side of the structure 2 feet from the west right-of-way lot line. The Applicant is requesting a 5 foot side yard variance to add an egress platform on the south side of the structure 5 feet from the south property line. Section 18-90(5) requires a minimum 15 foot setback for air conditioners and refrigeration equipment independently mounted. The Applicant is requesting an 8 foot variance from the south property line to place an air conditioner and refrigeration equipment 7 feet from the south property line.

Background

The property has been vacant for a number of years. The Applicants have recently purchased the property and is in the process of renovating the building to open an ice cream shop. There are multiple variances needed for this property. Two of the variances are needed for the placement of egress platforms along the west and south property lines. The third variance is for the placement of an air conditioner and refrigeration equipment closer to the south lot line than the code would allow. A survey was recently completed on the property, so the measurements have been updated since the last variance request on this property.

Currently, there is an existing egress platform on the west side of the building that already encroaches on the required setback. The platform will be torn down as the door on the building will be moved north of its current location. The Applicants will need to replace the egress platform, 5 feet by 5 feet in area, plus the steps, for the new door that will place the platform approximately 2 feet, 4 inches from the west property line along the Roddis Avenue right-of-way, requiring a variance of approximately 18 feet (17 feet, 8 inches).

The Applicants are also planning on a third door on the south wall of the building. This door will allow for a back access for employees to enter the kitchen, obtain supplies, and take out the garbage without having to go through the main dining area. The door would require an egress platform that would also be a 5 foot by 5 foot platform, plus the steps. The proposed setback would be 5 feet, 6 inches, for a variance of approximately 5 feet (4 feet, 6 inches).

The third variance request is to allow an air conditioner and refrigeration unit on the south side of the building. The zoning code requires a 15 foot setback from property lines for this type of equipment. According to the manufacturer, the air conditioner unit needs to be at least 6 inches away from the wall. The unit itself is 2 feet wide. The current setback of the building is 10 feet, 6 inches. The Applicants are requesting an 8 foot variance to allow the air conditioner and refrigeration unit to be closer to the south property line. The primary purpose for the 15 foot setback for air conditioners is due to noise. The adjacent lot to the south is currently vacant and it does not meet the minimum lot size requirements. Therefore, it would not be buildable without a variance as it is currently zoned.

Based on the proposed zoning code rewrite, staff is anticipating that these variances would not be needed.

The current code allows for a 5 foot by 5 foot platform and steps for any required egress in residential development, but does not allow for the same accommodations in commercial development. Staff is proposing to allow for that encroachment in all development.

The existing building is being remodeled and will not be torn down or expanded except for the requested variances and the construction of a future deck and ramp on the east and north side of the building that at this time do not require a variance.

Planner/Zoning Administrator's statement of facts regarding the variance request:

- 1. The property is located at 1610 South Central Avenue.
- 2. The structure is a commercial building.
- 3. The Lot is a corner lot and has an area of 12,972 square feet and is irregularly shaped with dimensions of 122 feet along Roddis Avenue, 60 feet along 16th Street, 157 feet along Central Avenue, and 138 feet along the side yard property line. The lot has street frontage on three of four sides making it difficult to develop outside the required setback.
- 4. The property is zoned 'B-4' General Commercial District where the minimum lot size for a commercial building is 12,000 square feet and the minimum lot width is 80 feet.
- 5. The Lot meets the minimum lot size requirements for a commercial building in the 'B-4' General Commercial District.
- 6. Section 18-63 (5)(f) requires a minimum 20 foot front yard setback and a minimum 10 foot side yard setback in the 'B-4' General Commercial district.
- 7. Section 18-04 (6) requires a minimum 50 foot front yard setback along Central Avenue, but may be reduced through averaging the setbacks of the properties to the south.
- 8. This structure was built in 1954.
- 9. The existing structure predates the current code and is considered a 'nonconforming structure' and was not developed according to the current setback restrictions of the 'B-4' district.
- 10. The existing structure is a single story structure with 840 square feet of usable area.
- 11. Last August, a variance was granted to utilize the existing footprint of the building as the previous Applicant had requested to remove the building and rebuild it.
- 12. Section 18-90 (5)(b) requires a minimum 15 foot permitted distance to property line for air conditioners and refrigeration equipment independently mounted.

Summary Responses from Applicant

(Unnecessary Hardship) The lot size is small with an irregular shape. The lot has street frontage on three of four sides making it difficult to develop outside the required setback. The setback to the north and west are 20 feet setbacks. The setback to the east on Central Avenue is a 50 foot major street setback. These required setbacks make the building envelope of the lot very small. The building already exists within setbacks. The proposed encroachments will consist of two 5 foot by 5 foot platforms and an air conditioner refrigeration equipment.

(Unique Property Circumstances) The existing building is currently vacant. Costs to move the building are substantial versus costs to rebuild on the existing location and foundation. Without a variance, the setbacks would leave minimal square footage for the constructing a new building on the first level in any direction would likely be limited by the required setbacks.

(No Harm to Public Interests) The proposed encroachments will not cause any harm or inconvenience to the neighboring properties or the public. The development will allow persons of all physical health to patronize our business, furthermore, increase revenue and aesthetics within the area. The building will be utilized, it has been an eyesore and vacant for the past several years. The building style and design will more so fit within the zoning as a commercial property rather than a house.

ZB12-08 Motion by Markwardt, second by Kenyon to grant the variance request from David Freeman for an 18 foot front yard variance to replace and move an existing egress platform on the west side of the structure 2 feet from the west right-of-way lot line, a 5 foot side yard variance to add an egress platform on the south side of the structure 5 feet from the south property line, and an 8 foot variance from the south property line to place an air conditioner and refrigeration equipment 7 feet from the south property line. **Motion carried**

Motion by Kenyon, second by Markwardt to adjourn at 5:23 p.m. **Motion carried**

Lori A. Panzer Deputy City Clerk