

MINUTES OF THE MEETING OF THE ZONING BOARD OF ADJUSTMENT
 Tuesday, June 28, 2022 - 4:00 p.m.
 1100 Frederick, 3rd Floor Council Chambers
 Regular Meeting

Pursuant to notice, the Zoning Board of Adjustment of the City of St. Joseph met, on Tuesday, June 28, 2022 at 4:00 p.m. in the Council Chambers, City Hall.

	<u>Name</u>	<u>Members' Term</u>	<u>Attendance</u>	<u>End of Term</u>
MEMBERS PRESENT:	Seth Slayden		(09-00)	02/23/24
	G. Brent Powers		(06-01)	08/09/26
	Terry Hall		(07-02)	06/14/26
	Joe Morrey		(02-00)	05/12/24

MEMBERS ABSENT:

STAFF PRESENT: Jason Soper, Assistant City Attorney
 Zack Martin, City Planner
 Brandon Kanoy, Interim City Planner
 Rebecca Shipp, Executive Administrative Assistant

Four members constitute a quorum.

Hall called the meeting to order at 4:00 pm.

(Verbatim transcript starts)

Hall: I'll call this meeting to this Zoning Board of Adjustment to order on June 28th. Uh, certified copies of chapters 11, 26, and 31 are available. Rebecca, can we have a roll call please?

Shipp: Brent Powers

Powers: Present.

Shipp: Joe Morrey

Morrey: Present.

Shipp: Terry Hall

Hall: Present.

Shipp: Seth Slayden

Slayden: Present.

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 CITY CLERK

Hall: Uh, since we have a case before us I'll entertain a motion to move uh, normal business to the end of the meeting.

Powers: So moved.

Hall: Have a motion, is there a second?

Slayden: Second.

Hall: Second. All those in favor signify by saying aye.

all present stated aye in unison

Hall: All opposed same sign.

silence

Hall: Uh, does the city have uh, any postponements or adjustments to the agenda?

Martin: There are none.

Hall: Alright. Uh, the following rules of conduct have been adopted by this Board. Give your name and complete address. No one may speak more than twice on the same item. No one may speak more than ten minutes at a time without permission from the Chairperson. No one may speak a second time on a question until every person who wants to speak has done so. All submissions of evidence, photos, drawings, et cetera will be retained by the Board of Adjustment and will become a part of the permanent file. The case before us today is case number 2495 a request for an exemption from Sections 31-130(a)(1) and 31-130(b)(2)(e) and any and all other Sections necessary to allow a sign greater than 30 feet in height and greater than 100 square feet located at the property at 3803 Fox Hill Drive as requested by Mark Thomas on behalf of CMC(sic) Real Estate. Is there anybody here to speak for this matter? Anybody to speak against? Okay. Those for come to the podium, state your name and address please.

Speaker: Yep, uh, Mark Thomas, Kansas City Peterbilt. Uh, we're at 8915 Woodend is our business address in Kansas City, Kansas. Uh, um, ultimately, we're, we're just um, requestin' a, a higher pole to place our sign so it can be visible. We're at the address of 3803 Fox Hill Drive. Um, we're about a third of a mile to the west of I-29 and we're just lookin' for more visibility for our customers. Um, can be seen a, a fifty-foot pole our sign would be visible from the north on 169 on the beltway and then from I-29 down near Casey's. Uh, we're a retail business. Rely a lot of transient customers. So, uh, potentially it can add a, a, big dollar amount to our, to our business yearly. Pullin' transient customers off, off, off of I-29. So, um, we feel there's nothing, it's, it's, it's not gonna hinder anything. The Peterbilt sign is a classy sign. And uh, uh, a well-known logo. And uh, we actually feel it will bring some more business to the, to the area there, so.

Hall: Okay. Thank you. Any questions for the witness?

Brent: No

Morrey: Yeah

Hall: Of course you do.

Morrey: Is this down by Menards? Is that where we're speaking of?

Thomas: Yes, yes.

Hall: Yeah.

Thomas: To the west of Menards there, yes.

Morrey: Trying to get a, is, is it an existing structure?

Thomas: No. We're building right now currently.

Morrey: Okay. Where is it in regards to like that Waffle House? Harley Davidson? Is it near it?

Hall: You know where the -

Thomas: We're a little bit further to the west there so, um, Casey's, um, *inaudible*

Hall: You know where the uh, old firefighter's union, old roller skate rink, it's just to the west of that.

Morrey: Even west of that?

Hall: Yeah. Not very much. You can see it. Actually, I think it's in the packet.

Martin: It's essentially katy-corner like northwest of the Harley Davidson.

Hall: Yeah.

Martin: Just across Pettis Road.

Hall: Uh, one of these photographs had it I thought.

Morrey: This map doesn't quite do it for me, show me what in correlation.

Hall: So, this picture, Joe, up here on the hill is that uh,-

Thomas: *inaudible*, up there, and I think Nestle Purina.

Hall: So it's just west there you can see the proposed -

Morrey: Sign

Hall: -sign. So, I mean, it's, it's west of um, the Casey's and Loves. It's west of the Dairy Queen and just up and over the hill from Harley Davidson, so.

Thomas: San Jose Steakhouse is to the west of that there.

Hall: San Jose, yeah.

Thomas: Yeah.

Morrey: And what type of enterprise is it going to be?

Thomas: We're gonna be a truck dealership. So we're gonna uh, work –

Morrey: Sell Peterbilts and other trucks?

Thomas: Uh, -

Morrey: And service them?

Thomas: Yes. Service and parts.

Morrey: The way you're saying it, you're trying to attract transients I thought you were a convenience store.

Thomas: I'm sorry.

Morrey: I gotta be honest.

Thomas: I'm sorry.

Morrey: If somebody needs a Peterbilt, they'll know where you are.

Thomas: Yep.

Morrey: It's not gonna take a sign to have them impulse come to a Peterbilt. That's, that's if you'd explained why you said that, I'd appreciate it.

Thomas: There are still, there are still some old school truck drivers that they, they, they are attracted to the sign. And, in the future, you may be true but in the beginning we're gettin' business goin' for people to know where we are. To be able to see the sign and but the red oval is a huge draw. And, and, we, let's put the numbers of the truck traffic that, that go down I-29 what comes off of I-29 is on 169 it's quite a bit less than the, the traffic that runs on I-29. And if we just draw a tenth of a percent of the, the truck traffic that's comin' past there, just by the sign.

Morrey: Do you have any studies that would tell us that's gonna happen besides your speculation? That's all I'm asking.

Thomas: Um, the studies are, were done by our parent company and they sent us the data.

Morrey: That if, that if a sign visible from I-29 could net you up to 10% of the truck traffic going by? I think what I hear you say.

Thomas: The truck traffic study was done by that's, that's just a conservative estimate that we have come up with of, of, of what could pull in that. Is there a study, did we perform the study? No.

Morrey: Did anyone that you're relying upon to represent that to us? That's all I'm asking.

Thomas: No.

Morrey: Okay.

Thomas: That's just a very, very conservative number that's put out there.

Morrey: You want a 50 foot pole versus a 30 foot. Is that what I understand-

Thomas: Yes.

Morrey: the regulation is? And the 297 square foot versus 100 square foot is that correct?

Martin: Yeah, the email with that square footage is included with the packet as well.

Morrey: Did I state those numbers right?

Hall: Yeah.

Morrey: Um, do you have any study that would uh, satisfy us that you a sign a hundred square feet, 30 feet in the air cannot be seen from I-29?

Thomas: That can't be seen?

Morrey: Cannot be seen.

Thomas: No. I have no study.

Morrey: Why, why would we want to vary our zoning requirements if it's not necessary?

Thomas: Uh, uh, I guess, uh, ask the previous question again. Uh, I'm not.

Morrey: Do you have evidence to share with us that you can't, the sign that you could build in conformity with our regulations, our zoning requirements for signage, could not be seen from I-29?

Thomas: Yes. Um, they, um, we did pictures. We have uh, those pictures in there. So we have our current construction company get up and, on, on, on a lift and put up 30 feet, a 30 foot pole where you could not, could not see that.

Morrey: The one I, don't want to cut you off if you've got something more to say sir. The one I see which I presume is a photoshopped in sign Peterbilt uh, in oval, I presume is at your proposed height of 50 feet.

Thomas: Yes.

Morrey: Okay. Well, it clearly looks like more than 20 feet underneath that sign. Doesn't it?

Thomas: But we don't have, I mean, the 30 foot one, so, we, the one document from I-29 shows the, we're a, the picture that was taken with our construction company puttin' it up 50 feet where you can see it from I-29.

Morrey: Okay. I was understanding you took one with it at 30 feet showing you can't see it.

Thomas: The, there, yes, the rendering you couldn't see it. When they were doin' the 50 foot one they did the 30 foot, I mean, it's not visible. If you follow me.

Morrey: I, I do. I'm just trying to figure out how to satisfy myself that you actually did that. If, if I go by scale, the one I'm looking at appears to have far more than 20 feet yet under it. That a sign could be placed at and be visible.

Thomas: So, yes. That, that rendering, so the one you're lookin' you, that's, that's comin' from uh, the north on the beltway.

Morrey: I don't know, I think this is coming from the east towards it.

Thomas: This one is comin' from the beltway. *inaudible-speaking to audience member* yep comin' from the north. Yep. And then the other two pictures are from one from across I-29 um, I-29 and the other one just as you exit I-29 there. This whole 20 feet it uh, obviously doesn't hold.

Morrey: And, I presume you're siting of where the pole would be placed is at the highest geographical part of that lot? Or do you know?

Thomas: Um, I'm trying to place it, not at, at the complete highest point but pretty close. I mean, within a matter of uh, a couple feet. It, it grades down as you get towards the Belt Highway a little bit and, and where we're puttin' it is right there on the corner where there's another sign in place so.

Morrey: Okay. Thank you.

Hall: Does the City have a report?

Martin: As stated prior, this is a request for an exception from the sign code to allow the erection of a sign with a pole height of 50 feet and a sign height of 12 feet and an area greater than 100 square feet. The property located at 3803 Fox Hill Drive, and the signage would be for St. Joseph Peterbilt with the intended goal as stated by the applicant of being visible from Highway 169 and Interstate 29. The proposed sign is approximately 62 feet high total, with a sign area of 297 square feet and the surrounding area is commercial in nature and use. On the staff report you can see the general location of the map as well as the approximate location of the proposed sign. When considering this case, uh, staff noted several things as well included in the background that the property is located in an area that is primary commercial and manufacturing in zoning and use, as well as immediately located off of US 169, which is a principal arterial with direct access to I-29. In areas of similar zoning and use, with visibility from a major highway, exceptions have been granted in the past. This includes the Menards sign immediately west of I-29, and the Kenworth sign in the Stockyards area visible from Highway 36. These exceptions were granted to encourage business success and development and have not proven to be detrimental to the surrounding area. Staff feels that with that information, the exception sought would in general be in keeping with the adopted sign code. The proposed exception would regulate the proposed sign in a fair manner given precedent set by those previous exceptions, foster a more attractive economic and business climate, and approve a sign built to standards outlined by Peterbilt. Staff also finds that it would be a minimal modification with the prescribed regulations and a minimal variance would be required. And staff also finds that the restrictions in place regarding sign height and dimensions are largely in place to promote an aesthetic control over the signs within the City, however the sign code also encourages signs to promote, promote, business and economic development. Given the location of the property along a major commercial route, and the access to a major interstate highway, where the primary customer base would originate from,

the restrictions of the sign code could potentially negative, negatively impact the economic well-being of the applicant. With that, Staff does recommend approval of the request for an exception.

Hall: Thank you.

Powers: Let me uh, if memory serves me, we also approved sign variations for Love's and the other truck stops across-

Martin: Yes.

Powers: -and believe that this has been pretty regular occurrence for it in that area of town because of the traffic. Yeah.

Hall: Any other questions for the City?

Morrey: I just have a couple.

Hall: Go ahead Joe.

Morrey: Where's, where's the Menards sign that you're citing as an exception?

Hall: Off of Interstate 29.

Martin: Just to the east of the property.

Hall: It's on the due east side. You, you can really see it from 29 more than you do from 169.

Morrey: It's on the east side? Of 29?

inaudible-several speaking at once

Hall: No, it's on the east side of Menards property-

Morrey: Oh, sure.

Hall: -near 29.

Morrey: On their property?

Hall: Yeah.

Morrey: Facing the highway? The I-29?

Hall: Yes.

Morrey: Um, are there any exceptions or variances present anywhere near where they're intending to do this? This distance from the highway?

Martin: In the immediate area surrounding them, no. It's currently a non-developed area that is in the process of being developed as Peterbilt being the first of potential tenants in that area. Uh, the other business around them include Nestle, Harley Davidson, businesses of that type.

Morrey: And I presume that they all conform with the sign code to this day?

Martin: To my knowledge, yes. I haven't issued a sign permit for that area.

Morrey: My, uh, source of concern is that we're establishing a precedence moving back away from I-29. We're not talking about 169, we're talking about I-29. He was clear in his presentation that they want to get up to 10% of truck traffic to come and see them 'cause of that sign.

Powers: Excuse me, that isn't what I heard him say.

Morrey: I did.

Powers: He didn't say 10%.

Morrey: That's exactly what I heard him say.

Powers: He said that if we capture one tenth of one percent of what comes through there that would be beneficial to them.

Morrey: I think he said one tenth of one percent, ten percent.

Hall: No. He said one tenth of one percent.

Morrey: One tenth of one percent?

Powers: One tenth of one percent of the truck traffic that goes by. If they could capture that it would do them-

Morrey: One tenth of one percent so that's like a hundredth?

inaudible-several speaking at one

Hall: You need to come back to the microphone.

inaudible-several speaking at once

Morrey: Can you clarify the percent you're trying to capture here?

Thomas: Ultimately it, it comes down to, it's, it's three more customers a day. Is, is what it is.

Hall: Read that statement again that you said earlier.

Thomas: One percent of transient cust(sic), Peterbilt trucks per hour on Interstate 29 will stop because they can see our sign. And of the, of the, those numbers that, you got the 6000 that are on I-29, 700 of them already, and this is data from our corporate office, 700 of them are already go down 169. So the number of trucks that do not pass our dealership on 169 is 5400. So you break it down by hours, it's 225 trucks that are goin' down I-29 that aren't comin' to our, comin' down 169. Of those, 15%, that's the market, are Peterbilt's. Which we do work on Kenworth's and other, and other trucks. Being that, that's where we come up with the one percent open 9 hours comes up to three trucks a day.

Morrey: Possibly.

Thomas: Yep. Possibly. Yes.

Morrey: Thank you for breaking it down.

Thomas: Yes. Sorry.

Morrey: Um, my concern is that we're establishing a precedent if it could be seen at any height, any business would want a variance. Why wouldn't they? If they could get visibility on I-29. And I presume our signage code was thoughtfully enacted and has been enforced up to this point. Um, for the purpose of aesthetics, traffic safety, and I could keep going on. Various criteria, you could probably enlighten us more, Zack, as to the reasoning behind it. Um, and if it's a purely commercial interest, which this is, um, that has to be weighed against those, I, I think. And I was surprised how far away it was from what I finally understood you're telling me it was. I presumed it was up there in the first tier closer to Menards front or near the um, dealership and that sort of thing where you, where you would need to see it. But at some point, a business determines where it's locating by its visibility to the highway. You don't, I mean, uh, we'll have all the hotels along the way coming back to us and saying I want a 60 foot, I want a 50 foot pole now. It, 'cause, at Frederick they all compete, if you look, to be as high as they can be. Some of them decide on their siting, siding. I helped Stoney Creek when they came here. By have the elevation of the land because they could conform with the existing, they didn't say I want a bigger sign, or a higher sign.

Hall: Well, I agree to some of your points but again, when somebody builds in an area, the available land dictates where they can build. Uh, we did make an exception for Menards, and Menards is right near the highway so.

Morrey: I'm not sure what the basis of that was but it must have been compelling at that time.

Hall: Any other questions for the City or for the witness? Is there a motion on this case?

Powers: So moved.

Hall: We have a motion to accept. Or, deny?

Powers: Motion to accept the variance.

Hall: Okay. Is there a second?

Powers: To approve the variance.

Slayden: I'll second.

Hall: We have a first, a motion and a second to approve the variance. Is there any further discussion? Can we have a roll call vote please?

Shipp: Brent Powers

Powers: Approve.

Shipp: Joe Morrey

Morrey: I abstain.

Shipp: Terry Hall

Hall: Approve.

Shipp: Seth Slayden

Slayden: Approve.

Morrey: You need more members.

Hall: Well, unfortunately because of the abstention we are not able to grant the variance. Uh, it takes a full four votes and there's only four members present and one has abstained. Uh, his next steps?

Martin: We can meet after the meeting to discuss next steps.

Hall: Okay.

Morrey: I would, I would ask a point of order on that regard. Can they reapply?

Martin: They have the potential to appeal the decision if it is not approved and potentially reapply based on additional information provided.

Morrey: That was going to be my suggestion. Thank you, Zack.

Hall: Okay. Let's move on to the regular business that we set aside. In front of you, you have a copy of the May 24th minutes. Is there a motion to accept these minutes?

Powers: So moved.

Hall: Is there a second?

Slayden: Second.

Hall: With a first, with a motion and a second, all those in favor of accepting the minutes from May 24th signify by saying aye.

all present stated aye in unison

Hall: All those opposed, same sign.

silence

Hall: Motion passed. We have a Finding of Fact for case number 2494 a request for a variance from Section 31-022(e)(2) and all other applicable sections of Chapter 31 necessary to reduce the front setback requirement of seven feet, by seven feet from 55 to 48 feet due to constraints of existing terrain on property. This motion was approved by the Board. Is there a motion to accept the Findings of Fact?

Slayden: So moved.

Powers: Second.

Hall: Second. Roll call vote please.

Shipp: Brent Powers

Powers: App, uh, yes.

Shipp: Joe Morrey

Morrey: Yes.

Shipp: Terry Hall

Hall: Yes.

Shipp: Seth Slayden

Slayden: Yes.

Hall: Borrow your pen. Any other business before us today?

Martin: Uh, there is no other business.

Hall: I'll entertain a motion to adjourn.

Powers: So moved.

(Verbatim ends)

Meeting adjourned 4:25 pm

Minutes respectfully submitted, Rebecca Shipp