

ACTION ON APPLICATION
BY THE ZONING BOARD OF APPEALS

ZONING BOARD OF APPEALS ACTION (circle one): Approval Approval with Conditions Denial

Required Findings of Fact Municipal Code Sec. 114-48(a)

- 1. Because of the particular physical surroundings, shape, or topographical conditions of the specific property involved, a particular hardship to the owner would result, as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out;**

Finding: There is nothing particularly unique topographically or because of the physical surroundings which create a hardship on the lot. The variance sought is related to height and is not related to an x or y plane dimensional issue, but a z variable (height) issue if thought about in three dimensions. There isn't anything particular to this lot which would not allow the height requirement to be met. It is true that if maintained in its existing state and not required to be moved for the construction project that the sign could remain so long as it was maintained. That being said, the fact has nothing to do with this criteria, as there is nothing special about this lot which would not allow a pole sign to be placed. At some point, the sign would be taken down and a new one would be required to comply with whatever development standards are in place. Utilizing the existing sign is more convenient for the applicant, but complying with this provision in the code is not impossible.

- 2. The conditions upon which an application for a variance is based are unique to the property for which the variance is sought, and are not applicable, generally, to other property within the same zoning classification;**

Finding: There are dozens of properties in the City with this zoning designation and located on a corner lot. The variance request is not for a factor which is unique to this property. There are fewer properties along Washington Avenue and subject to this construction project, but a similar situation is likely anytime there is construction of a major roadway through a business district. Whether or not the reason for removing the signage is by self-choice, an accident, highway project, or some other cause, the requirement would be the same and there is nothing unique to this lot or circumstance which prevents the 15 foot maximum height from being met.

- 3. The purpose of the variance is not based exclusively upon a desire to increase financial gain.**

Finding: Staff has found that the variance is generally based upon financial gain and/or convenience. The existing sign is there and being required to be removed during construction of the roadway, however the property owner is also being compensated for this temporary construction easement. It is also true that if not for the construction project, the signage would not have to be removed; while true, at some point in the future due to age, desire for a new sign, an accident or unforeseen circumstance, the replacement sign would be required to meet development standards. No one disagrees what is proposed is the most practical, it appears to be rooted exclusively in the area of financial gain/convenience of using the same signage again.

- 4. The alleged difficulty or hardship is caused by the provisions of this chapter and has not been created by any persons presently having an interest in the property.**

Finding: The hardship isn't caused by the provisions of the Zoning Ordinance, but rather in the fact that there is a highway project which requires the sign be removed to accommodate roadway construction. This is certainly not the fault of the property owner, agent or sign company which would be doing this work or anyone else with

interest in the property. In the sense that the business wouldn't otherwise plan on taking this sign down in the coming months, yes there is a hardship not caused by anyone with an interest in the property. However, at some point that sign would be removed and compliance with whatever signage requirements were in place at that time, would be required. Exactly when that time of sign replacement would have been in the future, no one can be certain of; but regardless of what that time would be, a new sign would be placed. What is certain is that time has come, through no fault of the owner, but at the same time, also not through a hardship caused by the provisions of the chapter. There are dozens of signs throughout the City which are taller than 15 feet and predate the existing development requirements; whenever a change is adopted, it is with the intent that eventually compliance will occur. A change of this nature takes decades to achieve citywide, but is something that would eventually occur. While perhaps not convenient or ideal for signage which is existing, compliance with current standards is something that is required to occur.

5. The granting of the variance will not be detrimental to the public welfare or injurious to other property or improvements in the neighborhood in which the property is located; and

Finding: This request would be detrimental to the public welfare in the sense that others with noncompliant signage have made changes to signage and been required to comply with development standards, including the 15 foot height requirement, when installing a new sign. Yes, there are other signs in the community which are taller than 15 feet, and as those are replaced, they will be required to meet the current development standards. To allow this sign to be reinstalled has the potential to send a message that this development standard is optional and doesn't need to be adhered to; that would be detrimental to the public welfare and injurious to those who have complied with this development requirement.

6. The proposed variance will not impair an adequate supply of light and air to adjacent property, or substantially increase the congestion of the public streets, or increase the danger of fire, or impair natural drainage or create drainage problems on adjacent properties, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.

Finding: The granting of this variance is not expected to impair light and air to adjacent properties or cause congestion on the streets. The signage would be more beneficial to the property owner if the messaging were located closer to the ground at eye level with passing drivers. As the sign becomes more readable from a distance perspective, the height increases to that those stopped at the light may not be able to actually easily see it. While this is not something the regulation pertains to, readability and driver eye level is something the applicant would be concerned about. Will leaving the sign at 22 feet in overall height impair light or air, increase congestion or cause problems for adjacent properties? The answer is that no, it is not likely or anticipated.

DATE: May 8, 2019 **SECRETARY:** Jeff Hintz, CNU-A, Associate Planner – City of Racine

WHEREAS, a literal enforcement of the provisions of the Zoning Ordinance of the City of Racine will not result in practical difficulty or unnecessary hardship; it being contrary to public interest and owing to special conditions the Board of Appeals hereby denies to the appellant(s) Todd Farris, Agent of Speedway LLC a variance from said ordinance section 114-1078(1)c.

Adopted on: May 8, 2019

By a vote of: for _____ against _____ abstain _____

SIGNED BY THE ZONING BOARD OF APPEALS MEMBERS:

ITEM NO: 0498-19 APPEAL NO: 19-3 DATE OF MEETING: May 8, 2019