



CITY OF MARSHALL AGENDA ITEM REPORT

Presenter:	Ilya Gutman
Meeting Date:	Tuesday, August 22, 2023
Category:	NEW BUSINESS
Type:	ACTION
Subject:	Consider the request of Tadd and Teresa Ihnen for a Variance Adjustment Permit and a Conditional Use Permit for an advertising sign at 511 State Highway 23 South.
Background Information:	<p>Tadd and Teresa Ihnen applied for a Conditional Use Permit for an advertising sign at 511 State Highway 23 South. This sign will be a traditional panel sign, not a digital sign.</p> <p>The new sign will consist of four panels total, 30 feet wide each, with two panels stacked above each other and those pairs installed at about 20-degree angle to each other to face traffic on Highway 23 in both directions. The overall height of the sign is requested to be 30 feet. Each panel size is less than the maximum allowed length of 55 feet. There is another billboard already built farther north along Highway 23, but the distance between the two signs will be more than 100 feet as required by the Ordinance. However, the new sign is proposed to be installed less than 100 feet from the nearest residence district, which is also required by the Ordinance. Consequently, in order to proceed with a Conditional use permit, a variance permit must be obtained first.</p> <p>Granting of a variance may be permitted only if the request meets the “practical difficulties” test, which requires that proposed use is reasonable (it is); the problem is caused by the conditions unique to this property and not created by the landowner (the sign cannot be moved farther away from the adjacent residential property due to the existing building and an odd shape of the lot); and that granting the variance will not change the character of the area (there is another billboard not far away, so another one will not alter the “character” of the area). It seems that these conditions are met, so a variance request is reasonable. A condition to plant trees is added to mitigate the negative effect on the neighboring residential area.</p> <p>The variance regulations and procedures are found in Section 86-29. Advertising sign definition may be found in Section 86-1 under Sign, Advertising, and sign regulations for this zoning district are in Section 86-185 (3). The Conditional Use Permit regulations are found in Section 86-46 and the Standards for Hearing are found in Section 86-49. An area site diagram and sign drawings are all attached.</p>
Fiscal Impact:	None known.
Alternative/ Variations:	None recommended.

Recommendations:

Recommendation No. 1

Staff recommends a motion to approve the request of the Tadd and Teresa Ihnen for a Variance Adjustment Permit for an advertising sign at 511 State Highway 23 South to be located less than 100 feet from the adjoining residential district, subject to the following conditions:

1. That the regulations, standards, and requirements as set forth in the City Code and as pertains to the class of district in which such premises are located shall be conformed with.
2. That the City reserves the right to revoke the Variance Adjustment Permit in the event that any person has breached the conditions contained in this permit provided first, that the City serve the person with written notice specifying items of any default and allow the applicant a reasonable time in which to cure any such default.
3. That trees are planted between the sign and the adjoining residential district to fully block the view of the sign from residential area; such trees shall be 2-inch minimum caliper when planted and at least 30 feet tall when fully grown. Any tree that dies or is damaged must be replaced within a year.

Recommendation No. 2

Staff recommends a motion to approve the request of the Tadd and Teresa Ihnen for a Conditional Use Permit for an advertising sign at 511 State Highway 23 South, subject to the following conditions:

1. The sign must be installed as shown on attached sketch. A survey showing exact sign location by the registered land surveyor shall be filed with the City of Marshall prior to sign installation. The sign or any part thereof shall not encroach into any public right-of-way or adjacent property.
2. This permit is for the sign structure described as follows:
 - a. Two double panels (not-digital) installed at an angle to each other (four sign panels total).
 - b. Each sign panel shall be no greater than 10 feet by 30 feet.
 - c. The overall height of the sign shall be no more than 30 feet. Prior to sign installation, a sign permit application must be applied and paid for. Structural drawings showing sign footing and foundations shall be signed by a registered professional engineer and submitted along the sign permit application.
3. A state permit shall be obtained.
4. The sign structure shall be maintained in a safe condition and all surfaces maintained without blemish or defects. The current land and sign owner and all future sign and landowners are fully responsible for maintenance, together or separately.

CONDITIONAL USE PERMIT
City of Marshall, Minnesota

WHEREAS, the Planning Commission of the City of Marshall has held a Public Hearing for a Conditional Use Permit for an advertising sign under the zoning code, Article 86-VI, Section 86-185, in the City of Marshall for the following location:

See Exhibit A
City of Marshall, County of Lyon, State of Minnesota
(511 Hwy 23 S)

and; in accordance with and pursuant to the provisions of Chapter 86 of the City Code of Ordinances related to zoning; and has written findings that the establishment, maintenance or conducting of the use for which the permit is sought will not under the circumstances be detrimental to the health, safety, morals, comfort, convenience or welfare of the persons residing or working in the area adjacent to the use, or to the public welfare, or injurious to property or improvements in the area adjacent to such use; and,

WHEREAS, the Planning Commission has designated certain conditions in the granting of such use permit,

NOW THEREFORE, be it resolved by the Common Council of the City of Marshall, Minnesota, that a Conditional Use Permit be granted to Tadd Ihnen & Teresa Ihnen, a married couple, for an advertising sign at 511 State Hwy 23 S subject to the following conditions:

1. If within one (1) year after approving the Conditional Use Permit, the use as allowed by the permit shall not have been initiated, the CUP shall become null and void unless a petition for an extension of time in which to complete the use has been granted by the City Council. Such petition shall be requested in writing and shall be submitted at least 30 days prior to expiration.
2. Pursuant to Marshall Code Article 86-II, Division 86-II-2, Section 86-49, no application for a condition modification shall be considered by the planning commission or council for at least one-year from the date of a conditional use permit approval or from when circumstance sufficiently change to justify a review.
3. The owner shall maintain the property to conform with the Zoning Ordinance, Building Code, and not cause or create negative impacts to existing or future properties adjacent thereto.
4. The owner shall obtain all relevant and required permits, including City's sign permit and State permit, prior to beginning any work.
5. The installed sign shall be as follows:
 - i. The sign must be installed as shown on attached sketch. A survey showing exact sign location by the registered land surveyor shall be filed with the City of Marshall prior to sign installation. The sign or any part thereof shall not encroach into any public right-of-way or adjacent property.
 - ii. This permit is for the sign structure described as follows:
 - a. Two double panels (not-digital) installed at an angle to each other (four sign panels total).
 - b. Each sign panel shall be no greater than 10 feet by 30 feet.
 - c. The overall height of the sign shall be no more than 30 feet.Structural drawings showing sign footing and foundations shall be signed by a registered professional engineer and submitted along the sign permit application.
 - iii. The sign structure shall be maintained in a safe condition and all surfaces maintained without blemish or defects. The current land and sign owner and all future sign and landowners are fully responsible for maintenance, together or separately.

6. The City reserves the right to revoke the Conditional Use Permit if the applicant or if ownership of the property has transferred, then the current owner, has breached the conditions contained in this permit provided first, however, that the City serve the applicant with written notice specifying items of any such default and thereafter allow the applicant a reasonable time in which to cure any such default.

ADOPTED August 22, 2023

ATTEST:

Mayor

City Clerk

This Instrument Drafted By:
Jason R. Anderson, P.E.
City Engineer/Zoning Administrator
344 West Main Street
Marshall MN 56258

(SEAL)

File No. 1165

VARIANCE ADJUSTMENT PERMIT
City of Marshall, Minnesota

WHEREAS, The Planning Commission of the City of Marshall has held a Public Hearing for a Variance Adjustment Permit to allow for reduced distance from an advertising sign to the adjacent residence district on the premises described as:

See Exhibit A
City of Marshall, County of Lyon, State of Minnesota
(511 Hwy 23 S)

and; in accordance with and pursuant to the provisions Chapter 86 of City Code of Ordinances related to zoning; and has written findings that the establishment, maintenance or conducting of the use for which the permit is sought will not under the circumstances be detrimental to the health, safety, morals, comfort, convenience or welfare of the persons residing or working in the area adjacent to the use, or to the public welfare, or injurious to property or improvements in the area adjacent to such use, and;

WHEREAS, The Planning Commission has designated certain conditions in the granting of such permit.

NOW THEREFORE, be it resolved by the Common Council of the City of Marshall, Minnesota, that a variance adjustment permit be granted to Tadd Ihnen & Teresa Ihnen, a married couple, for an advertising sign to be located 85 feet from adjacent residence district with all of the following conditions:

1. Pursuant to Marshall Code Article 86-II, Division 86-II-1, Section 86-29, no application for a condition modification shall be considered by the planning commission or council for at least one-year from the date of a variance adjustment permit approval or from when circumstance sufficiently change to justify a review.
2. The owner shall maintain the property to conform with the Zoning Ordinance, Building Code, and not cause or create negative impacts to existing or future properties adjacent thereto.
3. The trees are planted between the sign and the adjoining residential district to fully block the view of the sign from residential area; such trees shall be 2 inch minimum caliper when planted and at least 30 feet tall when fully grown. Any tree that dies or is damaged must be replaced within a year.
4. The City reserves the right to revoke the variance if the applicant, or if the ownership of the property has changed, then the current owner, has breached the conditions contained in this permit provided first, however, that the City serve the applicant with written notice specifying items of any such default and thereafter allow the applicant a reasonable time in which to cure any such default.

ADOPTED August 22, 2023

ATTEST:

Mayor

City Clerk

This Instrument Drafted By:
Jason R. Anderson, P.E.
City Engineer/Zoning Administrator
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