

AGENDA

NEENAH BOARD OF APPEALS

Monday, June 12, 2023

4:00 P.M.

**Administrative Building, 211 Walnut Street
Council Chambers**

1. Approve meeting minutes of November 8, 2021.
2. Appeal from Lamar Central Outdoor, LLC, regarding the decision of the City to deny a sign permit for the maintenance and repair of an off-premises (billboard) sign located at 2405 Schultz Drive.
3. Election of Chair and Vice Chair
4. Announcements and future agenda items.

**“Neenah City Hall is accessible to the physically disadvantaged.
If special accommodations are needed please contact the
Department of Community Development Office
886-6125 at least 24 hours in advance of the meeting.”**

MINUTES OF THE NEENAH BOARD OF APPEALS
November 08, 2021
4:00 P.M.

Members Present: Chairperson Denise Burkett; Gail Dolan; Robert Wedge, and Ken Bonkoski.

Also Present: Mayor Dean Kaufert; Community Development Director, Chris Haese; Community Development Deputy Director, Brad Schmidt; Community Development Administrative Assistant, Rachael Eiting; Applicant, Don Snyder (644 Sunset Ridge, Green Bay, WI 54313); Attorneys on behalf of the applicant, Travis Schreurs and Cynthia Treleven (Menn Law Firm, Ltd, 480 Pilgrim Way, Green Bay, WI 54313); President of the Neenah-Menasha Labor Corp, Keven Parman (1539 Deerwood Dr, Neenah, WI 54956).

Roll Call and Declaration of Quorum: Chairperson Burkett called the meeting to order at 4:02 p.m. and indicated a quorum of the Board was in attendance. Chairperson Burkett proceeded to read the Announcement of Proceedings for the Board of Appeals meeting and swore in the members of the Board.

Approval of Minutes: MSC Dolan/Wedge, the Board approved the minutes of the March 29, 2021 meeting. All voting aye.

- 1. Appeal from Lamar Central Outdoor, LLC, regarding the decision of the City to deny a sign permit for the maintenance and repair of an off-premise (billboard) sign located at 157 S. Green Bay Road and the requirement that the sign be removed by October 22, 2021.**

Lamar Central Outdoor, LLC (Lamar), is appealing the decision by the Community Development Department to deny a sign permit for the maintenance and repair of an off-premise sign (billboard) located at 157 S. Green Bay Road. In addition, Lamar is also appealing a notice of violation letter requiring the removal of the subject sign.

Attorney Schreurs approached the podium to provide testimony on behalf of Mr. Snyder. He began by referencing the paper application submitted by Lamar and then began questioning Deputy Director Schmidt. Attorney Schreurs' questions focused on typical sign permit application procedures, why the submitted sign permit was denied by the City, and questions related to the non-conforming status of the subject sign.

At this point City Attorney Adam Westbrook asked Deputy Director Schmidt a few follow up questions. The questions focused on why the City denied the permit and further explanation of section 24-56 of the Municipal Code.

Attorney Westbrook yielded. Attorney Schreurs invited the Neenah – Menasha Labor Corp President, Kevin Parman, up to the podium. Chairperson Burkett swore him in. Attorney Schreurs questioned him in relation to the sign.

The board thanked Mr. Parman for his testimony and he was excused. Attorney Schreurs returned to questioning Deputy Director Schmidt. The questions were related to the notice of violation letter stating the sign needed to be removed, even though the City rescinded the order. In addition, questions were asked whether Section 24-83 applies to the subject sign.

Attorney Schreurs yielded. Member Bonkoski asked Deputy Director Schmidt for clarification on the "Off-Premise Sign" classification. Deputy Director Schmidt answered it describes a sign which advertises goods or services not found at the location of the sign. Member Bonkoski asked what size sign would be permitted in that location. Deputy Director Schmidt answered 150 sq ft sign would be allowed. Member Bonkoski asked what size the current sign is. Deputy Director Schmidt answered approximately 300 sq ft. City Attorney Westbrook had some follow up questions for Deputy Director Schmidt. The questions related to Section 24-56 and why the City believes this section trumps Section 24-83. He further went on to state non-conforming signs are allowed to stay until the sign no longer fits or is in good repair, the subject sign is non-conforming, has reached the end of its life, and needs to come down. The responsibility of the city attorney in interpreting these ordinances is to avoid an absurd result. Referencing 26-83 over 24-56 leads to an inability for the city to enforce any regulations on deteriorated or otherwise unsafe signs. He then urged the board to read the plain language of 24-56 and uphold the Community Development Department's denial.

Chairperson Burkett at this time asked for guidance in the Board's responsibilities in this case similar to the three principles the Board relies on to make decisions in variance cases. Attorney Westbrook explained the Board's

responsibility in this case is to determine whether or not the Community Development department properly interpreted the city ordinance in denying the permit. He reiterated the Board is only concerned with the permit application denial at this time and is not making a determination regarding whether the sign can remain as it stands today.

Chairperson Burkett closed the public hearing.

Member Wedge volunteered that he feels there is not conflict between 24-56 and 26-83. 24-56 clearly applies in this case.

Member Dolan also made the point that when buildings deteriorate we bring them into compliance, there is no reason not to do that in this instance as well.

On a motion by Dolan; seconded by Bonkoski, the Board of Appeals moves to uphold the Community Development Department's Determination that the sign permit for the maintenance and repair of the off-premise sign located at 157 S. Green Bay Road by denied. Dolan, Bonkoski, Wedge, and Burkett voting aye. Motion carried.

Adjournment:

The Board of Appeals adjourned its meeting at 4:55 P.M. **MSC Bonkoski/Dolan. All Aye.**

Respectfully Submitted,

A handwritten signature in black ink that reads "Rachael Eiting". The signature is written in a cursive style with a large initial "R" and "E".

Rachael Eiting
Administrative Assistant, Community Development



M E M O R A N D U M

DATE: June 12, 2023
TO: Board of Appeals
FROM: Brad Schmidt, AICP, Deputy Director
RE: Appeal of Administrative Decision – 2405 Schultz Dr – Lamar Central Outdoor, LLC

Request

Lamar Central Outdoor, LLC (Lamar), is appealing the decision by the Community Development Department to deny a sign permit for the maintenance and repair of an off-premises sign (billboard) located at 2405 Schultz Drive.

Background

The City of Neenah received an application from Lamar to repair structural elements on a billboard sign located at 2405 Schultz Drive in August 2021. The Community Development Department formally denied the sign permit application on March 29, 2023. The denial was based on Section 24-56 of the City's Municipal Code which prohibits a non-conforming sign from being structurally altered.

Consideration

The subject sign is an off-premises sign which is defined in Chapter 24 of the City's Municipal Code as *"a sign, including billboard, which advertises goods, products, facilities, or services not necessarily on the premises where the sign is located, or directs persons to a different location from where the sign is located."*

In Chapter 24, Article V – Prohibited Signs, Off-premises signs are prohibited within the City. The subject sign is considered nonconforming. Chapter 24 defines a Nonconforming sign as *"a sign that does not meet code regulations."* Nonconforming or "grandfathered" signs may be continued except under certain conditions.

Section 24-56(1) of the Municipal Code states that nonconforming signs may not be *"structurally altered in any way except for normal maintenance and repair, which tends to make the signs less in compliance with the requirements of this chapter than it was before alteration."* Section 24-56(5) of the code further states *"(n)ormal maintenance and repair is limited to painting and/or replacement of nonsupporting members such as the facing material or cross bracing. Individual support posts or members which are structurally damaged by any cause may not be replaced but the sign may continue to be used at dimensions reduced proportionately after removal of said damaged portions. Should more than 50 percent of the support posts be damaged at any one time, the sign will be deemed unrepairable and must be removed."*

Off-premises signs have been prohibited in the City since 1989. Off-premises signs can continue if they comply with Section 24-56 of the Municipal Code. The Community

Development Department has not approved a sign permit to alter or repair any structural support element of any other non-conforming sign within the City. In this case, the request to repair or replace structural support elements is strictly prohibited and therefore, the sign permit was denied by the Community Development Department.

Recommendation

Appropriate action at this time is for the Board of Appeals to sustain the Community Development Department's determination that the sign permit for the maintenance and repair of the off-premises sign located at 2405 Schultz Drive be denied.



CITY OF NEENAH ZONING APPROVAL REQUEST

Department of Community Development
211 Walnut St. P.O. Box 426
Neenah WI 54957-0426
Phone 920-886-6125 Fax 920-886-6129
Website: www.ci.neenah.wi.us

Office Use Only	
Date:	<u>5/2/2023</u>
Case No:	<u>#1-23</u>
Fee:	<u>—</u>
Check No:	<u>—</u>
Receipt No:	<u>—</u>

Subject Address: 2405 Schultz Drive

Applicant's Name: Lamar Central Outdoor, LLC


Mailing Address: 1800 Scheuring Road, Ste. C, De Pere, WI 54115

PLEASE INDICATE WHICH REQUEST IS BEING MADE

- Rezoning Future Land Use Map Amendment PDD Project Approval
 Special Use Permit CH Project Plan Approval TND Project Approval
 Appeal or Variance

Description of Request:

See attached.

Owner/Agent: <u></u>	Phone: <u>920-435-4391</u>
Signature	

Parcel Number(s): <u>02-1300-06-08</u>	Current Zoning: <u>I1</u>
Informal Hearing: <u>—</u>	Formal Hearing: <u>6/12/2023</u>
Notice Mailed: <u>—</u>	Notice Mailed: <u>—</u>
Notice Published: <u>6/4/2023</u>	

Neenah Plan Commission Action: Approval Denial

Date: —

Board of Appeals Action: Approval Denial

Date: 6/12/2023

Common Council Action: Approval Denial

Date: —

Conditions (If Any):

**CITY OF NEENAH
ZONING APPROVAL REQUEST**

Subject Address: 2405 Schultz Drive
Applicant: Lamar Central Outdoor, LLC ("Lamar")

Description of Request:

On August 13, 2021, Lamar submitted an Application for Sign Permit for maintenance and repair per Sec. 24-83 (of Neenah Sign Ordinances), including replacement of defective parts. Nearly two years later, on April 4, 2023, the Department of Community Development and Assessment denied the Permit Application citing Ordinance Sec. 24-56.

Lamar asserts that the decision to deny the Application for Sign Permit was not only erroneous, but that the delay in issuing a decision was a due process violation which caused Lamar to suffer prejudice. Lamar respectfully appeals the permit denial decision and requests a hearing on the matter pursuant to Ordinance Sec. 22-194.

City of Neenah

Notice of Hearing – Administrative Appeal

NOTICE IS HEREBY GIVEN that a meeting of the Board of Appeal of the City of Neenah will be held at 4:00 P.M. on June 12, 2023 in the City Council Chambers (City Administration Building – 211 Walnut Street, Neenah, WI)

The Board of Appeals will consider and take action on the following administrative appeal:

Lamar Central Outdoor, LLC, is appealing the decision of the City to deny a sign permit for the maintenance and repair of an off-premises sign (billboard) located at 2405 Schultz Drive subject to Section 24-56 of the Municipal Code.

NOTICE IS FURTHER GIVEN that the applicant and interested persons may appear virtually at said meeting of the Board of Appeals and be heard for or against the granting of said appeal.

BOARD OF APPEALS
Brad R. Schmidt, AICP
(920) 886-6125
Department of Community
Development and Assessment

Publish: June 4, 2023



Community Development Department
Inspection Department
211 Walnut Street PO Box 426
Neenah, WI 54957-0426
Phone: (920) 886-6130
Fax: (920) 886-6129

APPLICATION FOR SIGN PERMIT

PROPERTY ADDRESS 2405 Schultz Drive

PROPERTY OWNER Community Development Authority of the City of Neenah

SIGN CONTRACTOR Lamar Advertising

CONTRACTOR ADDRESS PO Box 5846, De Pere WI 54115

CONTRACTOR PHONE 920-347-1765 E-MAIL rshaurant@lamar.com

EST COST \$10,000.00 CIRCLE ONE: New Replacement Addition

PROJECT DESCRIPTION: Including the type, size, height and location of each sign. The type, size, height and location of the sign will not be changed. The project involves maintenance and repair per Sec. 24-83 (of Neenah sign ordinances), including replacement of defective parts, which will not make the sign less in compliance. The four existing defective I beams, will be repaired or replaced and footings secured in new cement.

WALL SIGN REQUIRED ATTACHMENTS:

- Sign Artwork
- Wall Sign Location
-

GROUND SIGN REQUIRED ATTACHMENTS:

- Sign Artwork
- Site Plan
- Structural Drawing

ELECTRICAL CONTRACTOR Eland Electric

PHONE 920-338-6000 E-MAIL _____

**Any extension or replacement of electrical wiring shall be performed by a licensed electrician in accordance with NEC requirements

SIGN CONTRACTOR'S SIGNATURE [Signature]

DATE 8/13/2021

This application is not a permit. A Sign Permit will be issued upon receipt of fee and approval of the Building Inspector of the City of Neenah. Permits must be obtained before work is started and inspections can be made.



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Department of Community Development

211 Walnut St. • Neenah WI 54959

Phone 920-886-6125 • e-mail: chaese@ci.neenah.wi.us

CHRIS A. HAESE

DIRECTOR OF COMMUNITY DEVELOPMENT AND ASSESSMENT

March 29, 2023

Lamar Advertising Company
P.O. Box 5846
DePere, WI 54115

To Whom It May Concern:

It has recently come to the attention of the Neenah Department of Community Development that a sign permit application dated August 13, 2021, was submitted to the City requesting a permit to allow the replacement of sign components for an existing sign located at 2405 Schultz Drive. Furthermore, it appears the City has not provided a response to the permit request.

I am sending this letter to provide formal response to the aforementioned permit request. The City must deny the permit request as the existing sign at 2405 Schultz Drive is considered a nonconforming sign as defined within the Neenah Sign Code (Municipal Code Chapter 24). More specifically, Section 24-56 of the Neenah Sign Code does not allow for the issuance of a permit to replace support posts on nonconforming signs as was requested on the permit application.

If you have questions or need more information, please contact our office at (920) 886-6125.

Sincerely,

Chris A. Haese
Director of Community Development and Assessment, City of Neenah