

November 16, 2015 (Zoning Board of Appeals)

**ZONING BOARD OF APPEALS (APPROVED 12/07/2015 BY THE VILLAGE BOARD)
MONDAY, NOVEMBER 16, 2015
DENMARK VILLAGE HALL
118 E. MAIN STREET, DENMARK, WI**

CALL TO ORDER/ROLL CALL

President Mleziva called the meeting to order at 4:36 p.m.

Present: H. Mleziva, G. VanVenRoy, C. Windorff, B. DeGrave, W. Bielinski, J. Goral

Excused: T. Johaneck

Others Present: G. Mleziva, S. Selner, P. Hargarten, A. Schilke, M. Bielinski, M.J. Bielinski,
V. Wertel, S. Konkol, K. Coogle, E. Sisel

NOMINATION OF A CHAIRPERSON

DeGrave/Windorff moved to nominate H. Mleziva as chairperson. Motion carried.

CONSIDERATION OF REQUEST FOR VARIANCE FROM 618 DEPERE ROAD (NATIONAL RETAIL DEVELOPMENT)

Runge presented the staff report to the Zoning Board of Appeals.

- The parcel is located on De Pere Road

Application for variance: The variance for the proposed development is being requested for:

- **No bicycle spaces as per Section 17.29(10) and 17.29(5).** The site will not be able to accommodate 3 bicycle spaces.
- **Allow for parking to be located in the front yard as per Section 17.29(4)(f).** Parking for B-2 zoning is required to be located in the side yard or rear yard.
- **Reduce the minimum number of off-street parking spaces from 28 to 27 as per Section 17.29(5).** The site can only accommodate 27 spaces but the requirement is 28.
- **Allow for no landscaping along the required residential buffer on the eastern property side as per Section 17.19(4)(h).** The site will have a fence as a separation and a 15 foot building setback but cannot accommodate a landscaped setback of 15 feet.
- **Allow for no landscaping islands in the parking lot as per Section 17.29(4)(x).** The site cannot accommodate landscaped islands in the parking lot.

Section 17.33(7)(c)(1)a-f. Standards for Variances: The Zoning Board of Appeals shall not vary the regulations as set forth in this ordinance unless it shall make findings based upon this evidence presented to:

- (a.) 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 law were to be carried out.
- (b.) The conditions upon which the petition for a variation is based are unique to the property for which the variance is sought and are not generally applicable to other properties within the same zoning classification.
- (c.) Alleged difficulty or hardship is caused by this ordinance and has not been created by any person presently having an interest in the property.
- (d.) Granting of the variance shall not be detrimental to the public interest or injurious to other property or improvements in the neighborhood in which the property is located.
- (e.) The proposed variance shall not impair adequate supply of light and air to the adjacent property, substantially increase the congestion of public streets, increase the danger of fire, endanger public safety, or substantially diminish or impair property values within the neighborhood in which the property is located.

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(f.) The Board of Appeals may impose such conditions and restrictions upon the premises benefited by the premises benefited by a variance as may be necessary to comply with the standards established in this section.

To comply with Commercial (B-2) setbacks provisions, there is a limited amount of buildable area for bicycle parking and for the integration of landscaped islands within the parking lot. This constraint is unique to this particular parcel of land.

The parking lot location in the front of the store building would remain continuity with the adjacent developed property, DeGrand, located immediately to the west.

The applicant is proposing a fence on the eastern border of the property. The required landscaping is intended to be a screen. The applicant shows a 15 foot building setback with the aforementioned fence.

In terms of the Standards for Variance criteria per 17.33(7)c-e, providing these exceptions will not create harm, injury or devalue the surrounding properties should they be granted. The neighborhood could derive an economic benefit by the additional development if the project moves forward.

Based on the criteria for approval and other considerations, staff recommends the Board of Appeals APPROVE the variances for the National Retail application.

Discussion:

Owner of DeGrand's was in the audience, and was asked by one of the Board Members if she saw any problem with the development moving in next to her business. The only concern DeGrand has is that her second driveway on the east is on the development's property, and would like to see if they could share the driveway, so she doesn't have only one access to her business. Runge explained that this is not a part of the process we are reviewing, and explained to DeGrand that it might be a good idea to speak to the applicant this evening.

Goral/Bielinski moved to approve the variance request for: No bicycle spaces as per Section 17.29(10) and 17.29(5), Allow for parking to be located in the front yard as per Section 17.29(4)(f), Reduce the minimum number of off-street parking spaces from 28 to 27 as per Section 17.29(5), Allow for no landscaping along the required residential buffer on the eastern property side as per Section 17.19(4)(h) and Allow for no landscaping islands in the parking lot as per Section 17.29(4)(x) for the National Retail Development on DePere Road. Motion Carried.

DeGrave/Bielinski moved to adjourn at 4:49. Motion carried.

Minutes submitted by Sherri Konkol, Village Clerk