

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

Dale Weis, Chair; Aari Roberts, Vice-Chair; Janet Sayre Hoeft, Secretary

THE BOARD OF ADJUSTMENT WILL MEET ON THURSDAY, JULY 8, 2021 AT 10:45 A.M. Members of the public may attend Via Zoom Videoconference or in Room 205, Jefferson County Courthouse, 311 South Center Avenue, Jefferson, WI.

THE BOARD OF ADJUSTMENT WILL LEAVE FOR SITE INSPECTIONS AT 11:00 A.M.

PETITIONERS OR MEMBERS OF THE PUBLIC MAY ATTEND THE MEETING VIRTUALLY BY FOLLOWING THESE INSTRUCTIONS IF THEY CHOOSE NOT TO ATTEND IN PERSON.

Register in advance for this meeting:
[https://zoom.us/meeting/register/tJEoce6sqz4oH9MhFxYB_TP4Sq7MFBBifXHI](https://zoom.us/join/zoom/register/tJEoce6sqz4oH9MhFxYB_TP4Sq7MFBBifXHI)
Meeting ID 955 6745 5257
Passcode Zoning
After registering, you will receive a confirmation email containing information about joining the meeting

1. Call to Order-Room 203 at 10:45 a.m.

Meeting called to order @ 10:45 a.m. by Weis

2. Roll Call (Establish a Quorum)

Members present: Weis, Behrens, Roberts

Members absent: Hoeft

Staff: Matt Zangl, Sarah Elsner, Laurie Miller

3. Certification of Compliance with Open Meetings Law

Zangl confirmed compliance.

4. Approval of the Agenda

Weis made motion, seconded by Roberts, motion carried 3-0 on voice vote to approve the agenda with a postponement of election of officers until the next meeting.

5. Election of Officers - Postponed until next scheduled meeting.

6. Approval of June 10, 2021 Meeting Minutes

Roberts made motion, seconded by Weis, motion carried 3-0 on voice vote to approve.

7. Communications - None

8. Public Comment - None

9. Site Inspections – Beginning at 11:00 a.m. and Leaving from Room 203
V1685-21 - Signs-R-Us LLC/Jose Alejandro Camerana Lopez Property at W945
County Road B, Town of Concord

10. Public Hearing – Beginning at 1:00 p.m. in Room 205

Meeting called to order @ 1:00 p.m. by Weis

Members present: Weis, Behrens, Roberts

Members absent: Hoefft

Staff: Matt Zangl, Sarah Elsner, Brett Scherer, Laurie Miller

11. Explanation of Process by Board of Adjustment Chair

The following was read into the record by Weis:

NOTICE OF PUBLIC HEARING
JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

NOTICE IS HEREBY GIVEN that the Jefferson County Zoning Board of Adjustment will conduct a public hearing at 1:00 p.m. on Thursday, July 8, 2021 in Room 205 of the Jefferson County Courthouse, Jefferson, Wisconsin. Matters to be heard are applications for variance from terms of the Jefferson County Zoning Ordinance. An AREA VARIANCE is a modification to a dimensional, physical, locational requirement such as the setback, frontage, height, bulk, or density restriction for a structure that is granted by the board of adjustment. A USE VARIANCE is an authorization by the board of adjustment to allow the use of land for a purpose that is otherwise not allowed or is prohibited by the applicable zoning ordinance. No variance may be granted which would have the effect of allowing a use of land or property which would violate state laws or administrative rules. Subject to the above limitations, a petitioner for an AREA VARIANCE bears the burden of proving “unnecessary hardship,” by demonstrating that 1) strict compliance with the zoning ordinance would unreasonably prevent the petitioner

from using the property for a permitted purpose, or 2) would render conformity with the zoning ordinance unnecessarily burdensome. A petitioner for a USE VARIANCE bears the burden of proving that 3) strict compliance with the zoning ordinance would leave the property owner with no reasonable use of the property in the absence of a variance. Variances may be granted to allow the spirit of the ordinance to be observed, substantial justice to be accomplished and the public interest not violated. **PETITIONERS, OR THEIR REPRESENTATIVES, SHALL BE PRESENT.** There may be site inspections prior to public hearing which any interested parties may attend; discussion and possible action may occur after public hearing on the following:

12. Discussion and Possible Action on Above Petitions

V1685-21 - Signs-R-Us LLC/Jose Alejandro Camerana Lopez Property: Allow a billboard at **W945 County Road B**, Town of Concord, to overhang the western property line in a Business zone on PIN 006-0716-1514-003 (1.512 Acres.) This is in accordance with Sec. 11.08(b)2 of the Jefferson County Zoning Ordinance.

Michael Martin, 113 N 4th Street, Watertown, presented the petition. He stated they want to install a new billboard to replace the two-story billboard. They need the variance for the airspace and because of the angle of the lot line, it will go over the lot line into the ROW.

Weis asked if this was for the portion of the billboard above-ground that will go over the lot line. The petitioner stated the proposed billboard would be a v-style, and they are asking that the air space for the one panel to be over the lot line. Roberts asked how high the billboard would be. The petitioner stated that it would be above the tree tops so the trees cannot grow above it. It will mimic the existing billboards across road. It has to be above the tree tops so the trees do not interfere. Roberts asked what the minimum and maximum height would be. The petitioner stated it could be between 55' to 65' high.

Craig Kuehl, W4229 Ebenezer Dr, Watertown, stated the billboards across the highway, which are single-post and v-back are the standard size (14'x48'), and they wanted to erect something like that. The angle of the lot line and where the sign post needs to be located created the situation of having a double-stacked billboard with two ads in each direction that are smaller. What was there was compliant with the DOT, county and town regulations. It is no longer there so when they go to erect a new one, they need to establish the construction. The DOT regulates what goes along the highway and they have a maximum height. It should be identical to those across the highway.

Roberts asked if would be hanging over the DOT ROW. Mr. Kuehl stated the DOT would not allow encroachment on their ROW. The billboard would be on the lot. Roberts asked if there was a 5' setback from the DOT ROW. Mr. Martin stated that they would construct the billboard to whatever complies to not go over into the I-94 ROW. Mr. Kuehl stated there was no question to not go over into their ROW. They will have to

conform to all of the DOT regulations. Mr. Martin stated that it will be designed and put up by an engineer that knows the regulations. Roberts asked why they couldn't move the billboard over to the east 50' or so. Mr. Kuehl stated the DOT regulates the distance between the billboards, and because of the other billboards already there, it has to be placed in the corner of the property.

Roberts asked if there was a survey of the property. Mr. Kuehl stated that the property was surveyed and the exact boundaries were located. The installer/contractor has to be approved by the state. Roberts stated that he understands they are in the planning stages, so the Board could give them the parameters, and it would be up to them to hire someone who is DOT approved. Mr. Kuehl stated yes, that when this project was originally started, they had contacted the DOT who gave them the background information in terms of the existing sign. If they replaced the sign like what was there, that could be done, but it would be less of a distraction with one billboard face rather than two. This proposed structure is less complex. It would be more beneficial to the advertisers as well safer for the drivers to have a standard and uniform billboard that is consistent with the other billboards. Roberts asked if they didn't approve the variance, could they put the two faces back-to-back. Mr. Kuehl stated yes they could within the DOT regulations. Mr. Martin stated the big issue is to find out first if the DOT has a problem. They have received no red flags from them. Mr. Kuehl stated they contacted the township, and they stated that as long as they didn't make a change to the sign, they really wouldn't need to go through any meetings. They decided they wanted to make this change, so they are going through the variance process.

Roberts asked if anyone has talked with Corporation Counsel or the Highway Department or if they had anything in writing from them. Zangl stated that he had some information from Corporation Counsel, and Brian from the Highway Department was also present (by Zoom) for input.

Dan Hanson, W941 County Road B, Oconomowoc, stated he has lived next door for the last 50 years. He questioned if it was just a single pole, v-shaped, and way up high. He just wanted to make sure because he has an easement through there to access his property. Mr. Kuehl stated the pole would be in a very similar location which will go straight up. Everything will effectively be mounted to that.

Weis asked if the pictures in the file would be the same as what is being proposed. Mr. Kuehl stated it would be similar in that it's a single post, v-shaped sign. Weis showed the picture to Mr. Hanson. Mr. Hanson asked the how wide the billboard would be. Mr. Kuehl stated the standard would be 14'x48'. Roberts asked if it would be lighted would Mr. Hanson have any objection. Mr. Hanson stated he had no issues with the lighting.

There were no questions or comments in opposition of the petition.

Zangl gave staff report. He stated they were asking to be allowed a portion of the billboard to overhang into the ROW. The ordinance allows the sign to be up to the ROW, but not within the ROW. The concern is with the western property line which would be the County Road B ROW. It appears that the county owns this portion of the ROW which is shown by deed. The county has jurisdiction over this part of the ROW. They are not going any closer to I-94.

Zangl had a conversation with the DOT, and they did not give a response either way. The petitioners will need to get the local approvals first, and they will still need to get a permit from the DOT. There was no indication that the DOT would give approval or not. Weis confirmed that there is nothing in writing from the DOT. Zangl had a discussion with Corporation Counsel, and if this was approved through the variance process, they do not have any concerns with the overhang into the ROW since this is a very large ROW portion already. If approved, they would like to see a condition that the owner enters into an agreement with the county to use that portion of the ROW. It would be up to Corporation Counsel to decide what agreement they would want to do.

Brian Udovich from the Highway Department gave a background of the area. He explained the ROW is where County Road B used to be which used to be a state highway and then got re-routed. There is now an excess of ROW rather than it being sold off to a property owner. Based on the location of the pole, if County Road B were to expand, the Highway Department would have no issue. He had verbal contact with the DOT, and it would not be allowed to be in their ROW. He stated he would feel more comfortable if the petitioners had something from the DOT in writing saying the DOT was going to approve this.

Zangl explained the area in question on the map. Weis noted that it used to be old Highway 30. Zangl noted he spoke with the southwest region DOT representative and was told that they needed to first apply for the local permits and obtain approval. The DOT would then make their decision. They did say that the biggest concern was the distance between signs and obtaining local approval, but would not say if they would give approval. Roberts asked if this was in the southeast or southwest district. Udovich stated Jefferson County was part of the southwest region. Roberts asked Udovich who the contact was. He stated it was Debra K Johnson who is the southwest region outdoor advertising sign contact. Weis noted there was an email response in the file from the DOT. Zangl noted that they don't say yes or no either way.

There was a town response in the file in favor of the petition which was read into the record by Weis.

Weis asked the petitioner how far into the county ROW they would be coming. Roberts noted that the site plan showed it to be about 50'. Mr. Kuehl stated the best way to know that for sure was to meet with the installer to figure out the actual placement in accordance

with the DOT. Their estimate is about 50'. Weis asked if both wings of the billboard would project into the ROW. Mr. Kuehl stated coming from the east, the billboard would be naturally faced within the property boundary. The side that's viewed from traffic coming from the west would be in the ROW. Weis noted that it appeared that both sides would be in the ROW, and asked Udovich if there was any concern on the county's part about how much it overhangs into the county ROW. Udovich noted that the distance should be minimized, but based on the proximity of how far the sign is actually from County Road B, it is closer to the freeway than County Road B even though it's not within the freeway ROW. He didn't see a problem even if there were improvements to County Road B. It would be ideal, however, if it was minimized. Weis noted it was a significant encroachment and felt there should at least be a sale, easement or lease so there is no question in the future. It could be criticized by other sign companies that they are using a public ROW for advertising purposes, and it should have a legal agreement.

Roberts asked Udovich about selling the excess lands. Udovich stated that on occasion they have done that unless there is a purpose to retain the lands, but mainly they do not. He did not see the purpose for the county to have this big of a ROW. Sometimes it becomes an access control issue and further explained. They would not need the entire ROW for County Road B improvements. Roberts commented that it would be best to have an easement. Udovich noted the existing billboard is approximately 40' from I-94 and 210' off the edge of County Road B. They do not anticipate the DOT to acquire more ROW if they need to expand, and they do need DOT approval just to make sure that where the location of the sign will work now as well as when the freeway expands whenever that may be.

Weis asked if there was recorded legal easement through the ROW of County Road B for access. Hanson stated yes. Udovich stated the only easement that needs to exist is for the land owner at W941 to cross through W945 which is already in place. There is no easement needed to access over the ROW. Zangl noted that there is an easement as well with the sign company and the land owner, so all easements are taken care of. The question is if the sign can overhang into the ROW which is crossing a property line and requires a variance. If this is approved, the Corporation Counsel may not want an easement but a license which is very similar to an easement. There is uniqueness to this property with the wide ROW. I-94 has a bend in the road which makes a straight billboard hard to see on both side. The v-billboard optimizes the sign area and allows for both east and westbound traffic to view the sign. Behrens commented on the curve of the highway and how one side is closer than the other.

Udovich stated they could pursue the option to obtain a portion of the ROW rather than extend into the ROW so it's not hanging over into the county ROW so the sign would be within the parcel. Weis noted they could condition an approval on legal resolution that the portion of the sign over the west property line meets the satisfaction of Corporation Counsel with a legal agreement on how the area is used.

Mr. Martin expressed concerns that the current land owner may not want to purchase additional land. There was further discussion on the possibility of selling a portion of the ROW to the land owner. Zangl suggested the Board may want to put a time limit on their decision. One year seemed reasonable. Mr. Kuehl stated they wanted to move along as fast as they could. He was not sure how long all the approvals would take.

13. Adjourn

Behrens made motion, seconded by Roberts, motion carried 3-0 on a voice vote to adjourn @ 2:16 p.m.

If you have questions regarding these variances, please contact the Zoning Department at 920-674-7113 or 920-674-8638. Variance files referenced on this hearing notice may be viewed at the Jefferson County Courthouse in Room 201 between the hours of 8:00 a.m. and 4:30 p.m. Monday through Friday, excluding holidays. Materials covering other agenda items can be found at www.jeffersoncountywi.gov.

JEFFERSON COUNTY ZONING BOARD OF ADJUSTMENT

A quorum of any Jefferson County Committee, Board, Commission or other body, including the Jefferson County Board of Supervisors, may be present at this meeting.

Individuals requiring special accommodations for attendance at the meeting should contact the County Administrator at 920-674-7101 at least 24 hours prior to the meeting so appropriate arrangements can be made.

A digital recording of the meeting will be available in the Zoning Department upon request.

Additional information on Zoning can be found at www.jeffersoncountywi.gov

Secretary

Date

DECISION OF THE ZONING BOARD OF ADJUSTMENT
JEFFERSON COUNTY, WISCONSIN

COPY

FINDINGS OF FACT

PETITION NO.: 2021 V1685
HEARING DATE: July 8, 2021

APPLICANT: Signs-R-Us LLC

PROPERTY OWNER: Jose Alejandro Camerana Lopez

PARCEL (PIN) #: 006-0716-1514-003 (W945 County Road B)

TOWNSHIP: Town of Concord

INTENT OF PETITIONER: To allow for a billboard that overhangs the western property line in a Business zone at W945 County Road B, PIN 006-0716-1514-003.

THE APPLICANT REQUESTS A VARIANCE FROM SECTION 11.08(b)2 OF THE JEFFERSON COUNTY ZONING ORDINANCE.

THE FEATURES OF THE PROPOSED CONSTRUCTION AND PROPERTY WHICH RELATE TO THE GRANT OR DENIAL OF THE VARIANCE APPLICATION ARE:

-Property zoned B, Business (1.512 Ac)

-Property rezoned in 1975 from A-1 to B

-Variance from Section 11.08(b)2 for sign in road right-of-way

- Permit #3594 from 1974 issued for 4'x8' sign 45' from I-94 right-of-way

- Permit #5120 from 1975 issued for 14'x48' sign 5' from I-94 right-of-way

-Permit #26526 from 1989 issued for 14'x48' sign 5' from I-94 right-of-way

-Permit #42620 from 1997 issued for 20'x24' sign 5+' from I-94 right-of-way

-Town in favor on 6/14/2021

-Zoning office contacted DOT but they did not provide response with concerns

-County owns the County Road B right-of-way

-If approved, should be conditioned upon entering into agreement with Jefferson County to use that portion of the road right of way. Language and agreement shall be determined by the Jefferson County Corporation Counsel office.

-Sign permit issued by Jefferson County Zoning Office will be required, if approved.

FACTS OR OBSERVATIONS BASED ON SITE INSPECTIONS: Site inspections conducted. Observed property layout & location.

FACTS PRESENTED AT PUBLIC HEARING: See tape, minutes & file.

DECISION STANDARDS

- A. NO VARIANCE MAY BE GRANTED WHICH WOULD HAVE THE EFFECT OF ALLOWING A USE OF LAND OR PROPERTY WHICH WOULD VIOLATE STATE LAWS OR ADMINISTRATIVE RULES: _____
- B. SUBJECT TO THE ABOVE LIMITATIONS, AREA VARIANCES MAY BE GRANTED WHERE STRICT COMPLIANCE WITH THE ZONING ORDINANCE RESULTS IN AN UNNECESSARY HARDSHIP WHICH WOULD UNREASONABLY PREVENT THE PETITIONER FROM USING THE PROPERTY FOR A PERMITTED PURPOSE, OR WOULD RENDER CONFORMITY WITH THE ZONING ORDINANCE UNNECESSARILY BURDENSOME, AND WILL ALLOW THE SPIRIT OF THE ORDINANCE TO BE OBSERVED, SUBSTANTIAL JUSTICE TO BE ACCOMPLISHED, AND THE PUBLIC INTEREST NOT VIOLATED.
- C. SUBJECT TO THE ABOVE LIMITATIONS, USE VARIANCES MAY BE GRANTED WHERE STRICT COMPLIANCE WITH THE ZONING ORDINANCE WOULD LEAVE THE PROPERTY OWNER WITH NO REASONABLE USE OF THE PROPERTY IN THE ABSENCE OF A VARIANCE AND WILL ALLOW THE SPIRIT OF THE ORDINANCE TO BE OBSERVED, SUBSTANTIAL JUSTICE TO BE ACCOMPLISHED, AND THE PUBLIC INTEREST NOT VIOLATED.

BASED ON THE FINDINGS OF FACT, THE BOARD CONCLUDES THAT:

- 1. UNNECESSARY HARDSHIP IS PRESENT IN THAT A LITERAL ENFORCEMENT OF THE TERMS OF THE ZONING ORDINANCE WOULD UNREASONABLY PREVENT THE OWNER FROM USING THE PROPERTY FOR A PERMITTED PURPOSE OR WOULD RENDER CONFORMITY WITH SUCH RESTRICTIONS UNNECESSARILY BURDENSOME (AREA VARIANCE) OR STRICT COMPLIANCE WITH THE ZONING ORDINANCE WOULD LEAVE THE PROPERTY OWNER WITH NO REASONABLE USE OF THE PROPERTY (USE VARIANCE) BECAUSE Weis: Not having a variance to construct a V-type, elevated billboard would be a hardship as it would best serve the highway needs.
Roberts: The distance from this sign to the sign to the east(500') necessitates overhanging into the county ROW. Possible sale of the excess ROW is best. Behrens: It would remove the hardship by using the remnant for the use of the sign & the sign would still remain. It would be unreasonable to prevent the owner a permitted use.
- 2. THE HARDSHIP OR NO REASONABLE USE IS DUE TO UNIQUE PHYSICAL LIMITATIONS OF THE PROPERTY RATHER THAN THE CIRCUMSTANCES OF THE APPLICANT BECAUSE Weis: It is caused by the unique location of the ROW to the interstate highway & county road. The previous sign has been removed & is permitted to be replaced. Roberts: There is a large area of CTH B ROW that allows for an area of easement/sale. Behrens: It is due to the unique physical limitations.
- 3. THE VARIANCE WILL NOT BE CONTRARY TO THE PUBLIC INTEREST AS EXPRESSED BY THE PURPOSE AND INTENT OF THE ZONING ORDINANCE BECAUSE Weis: There shall be appropriate legal documents allowing the placement of the sign. Roberts: CTH B has a wide ROW which ensures the county interest in CTH B will not be affected. Behrens: It will not be contrary to public interest.

A VARIANCE MAY BE GRANTED IF ALL THESE CONDITIONS ARE MET

DECISION: THE REQUESTED VARIANCE IS GRANTED.

MOTION: Roberts **SECOND:** Behrens **VOTE:** 3-0 (voice vote)

CONDITIONS OF APPROVAL: 1) The actual easement, license or sale of the land to be worked out between Corporation Counsel, the Zoning & Highway Departments, and owners. 2) Required DOT approval of the sign. 3) Time limit for all approvals to be 1 year from today's date. Consideration of additional time is to be approved by the Zoning Department. 4) The sign is to be setback 5' from I-94 ROW similar to the other 3 permits issued prior.

SIGNED: Dale Hais (dm) **DATE:** 07-08-2021
CHAIRPERSON

BOARD DECISIONS MAY BE APPEALED TO CIRCUIT COURT. AUDIO RECORD OF THESE PROCEEDINGS IS AVAILABLE UPON REQUEST.