

**CITY OF ALBERT LEA
BOARD OF APPEALS
ADVISORY BOARD**

*April 29, 2020 – 10:00 a.m.
ZOOM – Virtual Meeting*

AGENDA

A. CALL TO ORDER AND ROLL CALL

B. APPROVAL OF THE AGENDA

C. APPROVAL OF MINUTES

a. March 18, 2020

D. PUBLIC HEARINGS

a. Variance Request – Shoff Creek

E. NEW BUSINESS

F. COMMISSIONER COMMUNICATIONS

G. STAFF COMMUNICATIONS

H. ADJOURNMENT

CITY OF ALBERT LEA
BOARD OF APPEALS
MEETING MINUTES

*March 18, 2020 - 10:00 am
City Center – Council Chambers*

Board Members Present

Rachelle Bizjak
Colby Cunningham
Steve Guenthner
Rich Sydnes

Board Members Absent

Larry Baker, Ex-Officio
Craig Hoium, Chair

Staff in Attendance

Megan Boeck, City Planner

Interested Parties

None

Board of Appeals Vice Chair, Rich Sydnes, called the meeting to order at 10:02 a.m.

Approval of the Agenda

Guenthner made a motion to approve the agenda and Cunningham seconded the motion. The agenda was approved unanimously on a voice vote.

Approval of Minutes

Guenthner made a motion to approve the minutes from February 19, 2020. Cunningham seconded the motion. The minutes were approved unanimously on a voice vote.

Staff report prepared by Megan Boeck, City Planner, is to become part of these minutes by reference.

Appeal: VA2020-002

The variance request at 2211 E Main Street is to allow for a 282.4 foot setback between billboard structures in lieu of the 300 foot required by code.

Public Hearing opened at 10:03 a.m.

Vice Chair Sydnes open the hearing to the public. Hearing no comments, Vice Chair Sydnes closed the hearing to the public.

Public Hearing closed at 10:05 a.m.

Guenthner made a motion, seconded by Cunningham, to recommend to City Council the approval of a variance from the Billboard setback and allow for a 282.4 ft setback between billboards with the following conditions:

1. That the contract for the billboard not be renewed and the variance for such expire at the end of the existing contract—at which time the billboard will be removed.

The motion passed on a 4-0 voiced vote.

New Business

None

Old Business

None

Commissioner Communications

None

Staff Communications

Boeck said there will be another meeting coming up in March but that it will likely be held via Zoom due to the Covid-19 situation..

Adjournment

The meeting was adjourned at 10:25 a.m. The motion to adjourn was made by Bizjak and seconded by Guenthner. The motion to adjourn was approved unanimously on a voice vote.

Respectfully submitted,

Megan Boeck
City Planner

Craig Hoium
Chair, Board of Appeals



GENERAL INFORMATION

Applicant: Magellan Midstream Partners, L.P.

Property Owner: City of Albert Lea – Mayo Clinic Health Systems (Separate Parcels)

Purpose: A variance from 74-971 (3) (a) (1) prohibiting vegetation clearing within the shore impact zone.

Address: None.

Parcel Number(s): 34.128.0380 and 34.128.0390

Zoning: R-1 Single Family Residence

Surrounding Land Use: B-2 and R-1

File Date/Publication Date: March 12, 2020/April 18, 2020

BACKGROUND

Magellan Midstream Partners, L.P. (Magellan) owns and operates a petroleum products pipeline throughout Minnesota and is required to conduct routine inspections by aerial means (airplane or helicopter). Magellan is proposing to clear woody vegetation over the existing pipeline right-of-way within the area defined in Exhibit A to allow for visibility to conduct their routine aerial inspection.

POLICY CONSIDERATIONS

Zoning- 74-971 Shoreland Development Standards

1. Intensive vegetation clearing within the shore impact zone and on steep slopes is not allowed.

REVIEW OF VARIANCE STANDARDS

Article II Administration and Enforcement

Section 74-87 states:

The Board of Appeals may recommend and the City Council may issue variances from the provisions of the zoning code. Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinances; and when the terms of the variance are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. Practical difficulties are as follows:

(1) The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance.

Magellan is only proposing to clear woody vegetation, leaving root systems intact to the extent practicable to facilitate aerial inspections of an existing pipeline right-of-way. Magellan agrees to repair any ruts using a native Minnesota State seed mix.

(2) The plight of the landowner is due to circumstances unique to the property not created by the landowner.

Federal Department of Transportation Rules, 49 CFR 195.412 (a) requires Magellan to perform routine inspections of its pipeline right-of-way. In addition, Magellan holds a valid easement with in the underlying property owners that allows this activity.

(3) The variance, if granted, will not alter the essential character of the locality.

The area within Shoff Creek consists of wetlands and cutting woody vegetation will not result in permanent damage or loss of those wetlands.

(4) The proposed variance will not impair an adequate supply of air and light to adjacent property, or unreasonably diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, or welfare of the residents of the city.

The parcels are currently vacant and clearing woody vegetation within the existing pipeline right-of-way will not alter the character of the existing or future land use.

RECOMMENDATION

Staff recommends that the Board of Zoning Appeals consider the legal standards set forth by Minnesota Statute 462.357 subd 6 when considering variance applications. This includes the three factor practical difficulties test:

- 1) Reasonableness- does the landowner intend to use the property in a reasonable manner?
- 2) Uniqueness- are there unique physical characteristics of the land, not personal preferences of the landowner that creates the circumstance?
- 3) Essential Character- will the resulting structure be out of scale, out of place or otherwise inconsistent with the surrounding area?

If based on the criteria for consideration, the Board of Zoning Appeals approves this variance request, staff recommends the following conditions:

1. That repairs/seeding are made to any rutting that occurs as a result of the vegetation clearing.

ATTACHMENTS

1. Exhibit A- Wetlands and Waterways

