



Request for City Council Committee Action from the Department of Community Planning & Economic Development – Planning Division

Date: March 27, 2008

To: Council Member Gary Schiff, Chair, Zoning and Planning Committee
Members of the Committee

Referral to: Zoning and Planning Committee

Subject: Appeal of the Zoning Board of Adjustment action approving a variance to increase the height of a freestanding sign from 8 feet to 24 feet and approving a variance to increase the area of a freestanding sign from 32 square feet to 44 square feet to allow for an internally illuminated freestanding pole sign at 1011 Madeira Avenue in the OR2 High Density Office Residence District.

Recommendation: The Zoning Board of Adjustment notwithstanding staff recommendation approved a variance to increase the height of a freestanding sign from 8 feet to 24 feet and approved a variance to increase the area of a freestanding sign from 32 square feet to 44 square feet to allow for an internally illuminated freestanding pole sign at 1011 Madeira Avenue in the OR2 High Density Office Residence District.

Previous Directives: N/A

Prepared or Submitted by: Brian Schaffer, City Planner, 612-673-2670

Approved by: Jack Byers, Planning Supervisor, 612-673-2634

Presenters in Committee: Brian Schaffer, City Planner

Financial Impact (Check those that apply)

- No financial impact (If checked, go directly to Background/Supporting Information).
- Action requires an appropriation increase to the _____ Capital Budget or _____ Operating Budget.
- Action provides increased revenue for appropriation increase.
- Action requires use of contingency or reserves.
- Business Plan: _____ Action is within the plan. _____ Action requires a change to plan.
- Other financial impact (Explain):
- Request provided to department's finance contact when provided to the Committee Coordinator.

Community Impact (use any categories that apply)

Ward: 7

Neighborhood Notification: The Bryn Mawr Neighborhood Association submitted the appeal on February 29, 2008. They were also sent notice of the appeal on March 17, 2008.

City Goals: See staff report.

Comprehensive Plan: See staff report.

Zoning Code: See staff report.

Living Wage/Job Linkage: Not applicable.

End of 60/120-day Decision Period: The end of the 60 day decision period is March 29, 2008. On March 14, 2008 staff sent a letter extending the decision period another 60 days. The 120 day decision period expires May 28, 2008.

Other: Not applicable.

Background/Supporting Information Attached: The Bryn Mawr Neighborhood Association filed an appeal of the Zoning Board of Adjustment decision approving a variance to increase the height of a freestanding sign from 8 feet to 24 feet and approving a variance to increase the area of a freestanding sign from 32 square feet to 44 square feet to allow for an internally illuminated freestanding pole sign at 1011 Madeira Avenue in the OR2 High Density Office Residence District.

The Zoning Board of Adjustment voted 5-0 to approve the variances to allow for a 24 foot tall, 44 square foot internally illuminated freestanding pole sign on February 21, 2008. The appellant filed an appeal on February 29, 2008. The appellant's statement is included in the attached supporting material.

Supporting Material

- A. Appellant statement of appeal
- B. February 21, 2008 ZBOA Meeting Minutes
- C. February 21, 2008 ZBOA Staff Report with attachments
- D. Letters from the neighborhood association submitted to the ZBOA members on February 21, 2008

Board of Adjustment Hearing Testimony and Actions

Thursday, February 21st, 2008
4:30 p.m., Room 317 City Hall

Board Membership: Mr. Matt Ditzler, Mr. John Finlayson, Mr. Paul Gates, Mr. Chris Koch, Ms. Marissa Lasky, Ms. Alissa Luepke Pier, Mr. Bruce Manning and Mr. Matt Perry

The Board of Adjustment of the City of Minneapolis will meet to consider requests for the following:

2. **1011 Madeira Avenue (BZZ-3923, Ward 7):**

Petar Poucki, on behalf of Joffee MN Property LLC, has applied for a variance to increase the height of a freestanding sign from 8 feet to 24 feet and a variance to increase the area of a freestanding sign from 32 square feet to 44 square feet to allow for an internally illuminated freestanding pole sign at 1011 Madeira Avenue in the OR2 High Density Office Residence District.

Notwithstanding staff recommendation, Mr. Finlayson moved and Mr. Koch seconded the motion to **approve** a variance to increase the height of a freestanding sign from 8 feet to 24 feet and **approve** a variance to increase the area of a freestanding sign from 32 square feet to 44 square feet to allow for an internally illuminated freestanding pole sign at 1011 Madeira Avenue OR2 High Density Office Residence District.

Roll Call Vote:

Yeas: Gates, Finlayson, Koch, Luepke Pier and Manning

Nays: None

Recused: None

Absent: Ditzler, Lasky and Perry

TESTIMONY

Mr. Gates: Thank you Mr. Schaffer. Are there questions for staff? Yes, Mr. Manning.

Mr. Manning: Inaudible.

Mr. Schaffer: Light Industrial will allow a sign of 24 feet.

Mr. Manning: Inaudible.

Mr. Schaffer: Chair Gates, Board Member Manning, that question can be sought when the properties are under common ownership. They are often considered one zoning lot and the one zoning lot you have to try to locate off that area would be subject to the OR2 District. So either way, however the applicant would choose to do it, it would be still subject to these height requirements.

Mr. Manning: Inaudible.

Mr. Schaffer: Chair Gates, Board Member Manning, yes, I believe that would be correct. They would have to show ... there is some requirement about spacing, that it is no closer than six feet to a residentially zoned property. There are requirements with that.

Mr. Manning: Inaudible.

Mr. Schaffer: Chair Gates, Board Member Manning, I believe that is correct, I'm also speaking mostly from the cuff on the height of that sign. I believe it is 24 feet in review with the applicant when they went through that process.

Mr. Gates: Further questions? Mr. Schaffer, a couple of questions from me actually, I note with the drawing that is on the screen right now, that if the sign is 24 feet ... that man looks awfully tall. He appears to be about a third of the height of that sign, which gives the impression that the sign is three times the height of a man, which might be 18 feet, not 24 feet. So my question has to do with the other image that was submitted the perspective image. If there was any verification done by staff to corroborate that that in fact is showing a sign that is actually 24 feet.

Mr. Schaffer: Chair Gates, Board Members, staff did not measure in that perspective. Those are not measured to scale. So it would have been difficult to do. We can't ... I would never dare to guess what a perspective would show that is a photo shop image of what a height would be. But, I have actually heard from the members of the neighborhood that they were concerned about the proportions of the height of the figure and the sign. I'm sure the applicant can speak to that today.

Mr. Gates: Okay. A couple of other questions with regard to the nature of the Wayzata Boulevard 394 corridor, I've only been in Minneapolis for 15 years or so, and so that 394 corridor actually pre-dates me. My understanding is that Wayzata Boulevard used to be the main draw getting from downtown to the west. Is that fair to say?

Mr. Schaffer: Chair Gates, Board Members, I would have to defer to someone who might have a little more experience than I do.

Mr. Finlayson: Yes.

Mr. Gates: Thank you. The building in question was constructed about what time? Do we have any idea about that?

Mr. Schaffer: Chair Gates, Board Members, I do not know the date of the construction of that building.

Mr. Gates: It would appear to me to pre-date 394 by quite a bit.

Mr. Schaffer: I would assume that would be a safe assumption. Yes.

Mr. Gates: And as I drive down that corridor, it seems to me that for all intents and purposes Wayzata Boulevard is now a frontage road for 394 and I can only speculate that Wayzata does not have near the volume of traffic that it once did decades ago, because now all that traffic is down on 394. Would you have an opinion about that?

Mr. Schaffer: Chair Gates, Board Members, I would. I take 394 home daily from downtown. I would say that traffic is probably higher on 394 than it is on Wayzata Boulevard. I can't talk about the traffic count on the way the roads were configured prior to the re-configuring of that highway. I do know that the applicants just recently purchased the property.

Mr. Gates: I also noted in that area that many of the buildings immediately to the West of the applicants property that are...that have any height to them at all...two, three, four stories, often

put signage as high as they can get it on the building so that it can be seen from 394. Maybe that's just antidotal ...or for whatever its worth. Any idea if that signage is legal or not?

Mr. Schaffer: Chair Gates, Board Members, I don't dare to speak to each and every signage out there, but we do allow, on commercial buildings, heights higher than eight feet for signage on a wall sign, if it's mounted to the wall.

Mr. Gates: But not free standing signs?

Mr. Schaffer: Not free standing signs ... and that would be in a different zoning district, OR2 is still pretty difficult for heights of wall signs.

Mr. Gates: Okay, thank you very much. Is the applicant here?

Petar Poucki: I'm here on behalf of Joffe Minnesota Property. My business address is 2311 Wayzata Boulevard. I have with me some photographic renderings of the site after our meeting with the Bryn Mawr Council and they brought up the point of the eight foot tall man and that is simply a function of our artist doing a rendering of the sign and our never stopping to think about the actual scale of what the man looked like. That came direct from Stereo Graphics. I have here a photograph of the building with the signage as close as I can scale it. By looking at that these vertical members here ... the building, are set at two feet on center. This power line is approximately 20 feet off the ground, and that puts our sign as close as I can approximate it without actually going out and taking some scalable photos. I have another picture here that is taken from the bridge, with the sign actually a little higher than it was in the previous photo when you look at the power line here. What we have here in the foreground is a white traffic electronics building. Having a sign much lower than where it's at there would end up making it invisible. That is a do not enter sign that exists on the on ramp...or I'm sorry, the off ramp of 394 and again in respect to the first photo, you can see where the sign tucks in along this branch, running approximately from there...we've actually got the sign in a higher location in this picture. I take the same perspective from the other side of the bridge on 394...and as best as I can scale it when I blow it up and I look at things that are in the close up picture and knowing what size they are...that's the size of the actual sign as best as I can render it here. It might be a little bigger, but what I'm looking at ... the tree branch distances and other things that I've known the 24 foot puts it right above the bridge safety rail there. These photographs are taken from a car, I believe Dr. Whiting's Volvo, and so it's at street car level, it is not from a SUV. Here is another photographic from the off ramp leaving Minneapolis, exiting to get onto Penn Avenue. Again, trying to scale the sign at 24 feet is right here looking at the tree in the background, the top of the building and the other items that are there, I guess, if it's not 100% accurate, it's off a little bit.

Mr. Gates: Okay.

Mr. Poucki: We believe that signage is important because the historical use of the site was a factory, industrial storage and as a new business, the Joffe Center needs to have some presence beyond the eight foot marker. An eight foot sign would really be useless with the other visual obstructions that are in the way from the bridge, the fence, the signage on the bridge to speak to the people on the freeway and this would put this location as a medical destination on the map for that intersection. So, as people would be coming for their eye care visits ... some have better vision than others, this is now a landmark so to speak for people exiting the freeway. I don't know that...you know if you look for it from the freeway, I'm sure you could see it at different points, but I don't know if there is really value to that. I think the sign would need to be two or three times the size to make an impact. Much more like a billboard and that wouldn't be consistent with the building. Historically, the warehouse structure, 1013 had an overall height of approximately 32 feet. That was immediately behind this building. There was a banner sign hung there by the previous owner. This banner was 24 feet long and six feet tall and it was a for sale sign for the building. We've simply knocked the building down for sake of reducing a crime corridor which existed behind it and tried to remove the plight from that area and make the place

nicer and safer. The fact that the owner owns the 1013 site, I think Mr. Manning made a point, you know 20-30 feet away from this location we would be entitled to put up a 24 foot sign. That's not exactly the best idea. I think the best place for it would be on the property in the current location that Mr. Schaffer has demonstrated which would put the sign here. Here is that tree and there is the sign, pointing toward the bridge. There would be some coincidental view from the freeway as you drove by, but I don't know how much value there is to that. The comments about a pedestrian walkway, I don't believe there is a sidewalk from the intersection of Penn and 394 around the corner to here other than a dirt foot traffic path along a guard rail. And again, to guide people in from that location, from the freeway, would be the main goal of the sign and because of the other obstructions that are there, anything lower ... it really doesn't seem like it brings the value of spending a significant amount of money on that sign. As to a hardship, I don't know how you can qualify one way or another, what a hardship would be. I think we all understand that if you know a location exists you tend to be a person that would visit. If you don't know it's there you drive right by. I don't know how to create an economy of scale there or to be able to speak to that factually, other than they are on the map that center does exist and unless you know where to find it it's a black hole...so I don't know how to speak to hardship, I don't know how to calculate what financial loss or lack of revenue would become of not having a sign.

Mr. Gates: Okay, I think that makes it pretty clear. Any further final comments.

Mr. Poucki: I'm fine.

Mr. Gates: Do we have any questions for the applicant?

Mr. Manning: Inaudible.

Mr. Poucki: I don't recall. I didn't submit that photograph, but I believe that came from Brian Schaffer.

Mr. Manning: Is there a building you've knocked down on this map? Which one is that?

Mr. Poucki: Brian, can I write on this?

Mr. Manning: That whole thing is gone. And you said the height of that building was what?

Mr. Poucki: Approximately 32 feet. We had, there is a grade differential from this side of the property where the parking lot and the inside of the building are the same height. The grade falls off as you go to the west. There is an approximately ten foot mound of dirt there now which used to be the floor and highest point of that, I believe the inside of the deck was 18 feet then they had a two foot parapet on the building, so it's somewhere in that 32, 30 foot range, depending on where you are on the property. As a matter of fact, if you look really closely, there is this little white line right there, that's the old banner sign.

Mr. Manning: Thank you sir.

Ms. Luepke Pier: We aren't allowed to rule on financial hardship, so do you have any other hardship you'd wish to speak on in regards to the sign that we could take into consideration?

Mr. Poucki: Other than being able to establish the position on the map, I mean, as you exit the freeway ... to have an idea where you're going... if you can see the sign from either of the on or off ramps, I think that's extremely valuable, so you don't have people driving into downtown Bryn Mawr, having to have u-turns and create more traffic congestion, I think that's an easy one to speak to and as far as the type of business, the kitchen equipment and warehouse storage business doesn't require consumers, where the medical business that Joffe conducts is a consumer business, so while it's not high density retail, it certainly is not something where you would have a preset understanding of services and previous correspondence and...you're

coming to a center for the first time for an eye exam, it would be nice to find it the first time rather than have it in this 10 foot tall building with no landmark around it.

Mr. Gates: Any further questions? I see none. Thank you very much. Is there anyone else here to speak in favor of the application?

David Whiting, Dr. David Whiting: I work at that site 2311 Madeira, and it ... just in answer to your question, I personally believe that the hardship lies not on me perhaps, but I'm an eye doctor and all I take care of is people who have varying degrees of either reversible or non-reversible eye disease. Unequivocally many of these people are particularly sighted or even disabled by sight that's not necessarily to the extent that you and I know it and searching for something that is legitimate as far as a need or a hardship, there is no question that the people that I service there, and there are many hundreds per week, potentially that will be coming to that site to see me or my other eye doctors, that the visibility of the directional queues to find the building would represent a hardship to these people and I know it, they call, they can't find it, where's the building, I've got the directions, I couldn't see it, I couldn't see a sign...and it's not unique to that site. That's unique to any site that I work, because I draw people who have a hard time seeing, but I do believe that that qualifies as a unique hardship for the purpose of the site there.

Mr. Gates: We will note your statement. I will tell you though that we typically are looking for unique characteristics of the property itself and not the use of the property per say.

Mr. Whiting: This is definitely for the use of the property. So, I respect that.

Mr. Poucki: The uniqueness of the property, being that it is out on the leading edge heading into that and it is triangular in shape, the position of the sign on that side of the property would shine toward the freeway, as one back drop, the railway is another backdrop and over the freeway is a third and behind the sign we'd have industrial that would be up to 350 feet away. So the...my perspective, the impact of the location, and the uniqueness of the site is that there aren't any businesses or people that are close to the side of the sign that's going to be giving the direction as you would have in most any other developed area. It is kind of an island all out on its own.

Mr. Gates: Okay, thank you. We do have one question.

Mr. Koch: How was the height of the proposed sign determined...how did you decide on 24 feet?

Mr. Poucki: We walked across the bridge and then we drove, and we took some measurements of the tree so we knew from a visual point of view what we were looking...what the different heights were and we drove around. We actually looked to see what height we needed. So from the top to see the size of the sign, to be able to see the bottom of it above the obstructions that are in the way and the chain link fence is fine when we were looking through it this way, but as you turn that chain link fence, now it becomes a barrier, depending on your angle of approach, if you are coming at it at a glancing angle, it looks solid.

Mr. Koch: So it wasn't arbitrary?

Mr. Poucki: Oh no, no, myself, an architect, a couple of employees, our sign person...yeah, several of us.

Mr. Koch: Thank you.

Mr. Gates: Thanks very much. Is there anyone else here to speak in favor of the application? I see no one. Is there anyone here to speak in opposition to the application?

Vida Ditter: I'm from the Bryn Mawr Neighborhood Association and from their land use committee. I'm going to use Brian's map. Can I answer some of the questions that were asked:

Like Wayzata Boulevard is 6 to 8 thousand cars per day on Wayzata Boulevard, the south frontage road, and yes, Wayzata Boulevard used to be the main drag before Highway 12 was built and then 394 was built? That is one of the concerns of the neighborhood that as Wayzata Boulevard got widened into this interstate it has gone right through the middle of the neighborhood and we are forever working to bridge that gap and we use Penn Avenue and we have tried very hard to knit the neighborhood and we saw this property as being critical in doing part of that bridging. If it becomes a very attractive location, people are going to be more willing to go north/south across the bridge and to consider themselves to be part of the whole rather than this thing dividing us. The second part of that location is it is what we call a south gateway into the neighborhood. You come off the freeway...there's the freeway and this is the north entrance, you go up into the north half of the neighborhood and this is the south entrance, you go into the south half of the neighborhood. What we had hoped to achieve was to make here so attractive that it tells people that you are now in a residential neighborhood. We do have commercial, we do have retail and we do have some industrial, but basically we are a residential neighborhood and we hoped that that property would reflect that. Putting up a sign that is 24 feet tall ... this is basically a billboard advertising to 394. We did talk with the Joffee folk and told them how pleased we are that they are there. It is a lovely business to have there, how pleased we are at how they are cleaning up the sites and the security that they have put there. We hope that they will be successful, but to put something that is so out of scale to pedestrians to our residential neighborhood is daunting. In answer to another statement that was made, there is a lot of walking past that. That little dirt path we had as a neighborhood for the past 15 years ... we've been trying to persuade the county who owns Penn Avenue, the City which owns Wayzata Boulevard and anyone who will listen to us to build us a regular sidewalk there. Without it we have the dirt path and we use it constantly, whether it is with trams or runners or bicycles, because that's the way down to the trails down below. The signage that you see on the buildings there, I don't know whether you consider them illegal, but they never went through a process where the neighborhood could talk about them. They've been there for years and years and years. They are eyesores, we object to them, but they're not illegal as far as I know, they've existed for so long that no body knows when they went up and what kind of permits they had to put them up. The one that especially gets the neighborhood is the one that has the percentages, as you drive by it says percentage this that and the other. Those are so out of scale to anything that we have around there and yet, to my knowledge, it can't be removed, so we live with it. We are hoping not to get anymore that are out of scale to the rest of the neighborhood. We do have other signage along that road, there is a business, an accounting firm, a national accounting firm, it's a beautiful sign in a very beautifully laid out garden. None of their customers have difficulty getting there. It is so simple...you come off the highway from the west, you come to the top, make a right turn and you're right there at their building. There is no way to miss it. The road turns and ends at their property. If they are coming from the east, you turn left over the highway and follow the road there's no way to miss it. We don't need a sign that big, you need a sign that's attractive and catches peoples eyes once their driving by it, but to advertise down to the freeway doesn't make sense to us as a neighborhood.

Mr. Gates: I would note though, as I drove in towards town on 394 that there is a sign advertising the Laurie Besicoff building high on the building that kind of peaks over and if you're looking for it, you can see it. There may be a beautiful one down low as well...but they have felt the need to reach up higher to attract.

Ms. Ditter: But, my understanding is that that one is within code.

Mr. Gates: Maybe, could well be.

Ms. Ditter: We did talk with, and they were willing to talk to us about lowering the height, but when Joffee was talking with the neighborhood about lowering the height, we were talking about one or two feet and one or two feet does not make a difference. Either you're all the way down to ... we declined to give them how far we would be willing to go, we said, you come with a suggestion, but one or two feet is no different than 24 feet. So if the neighborhood is not binding

them to the eight feet height, we are saying we are willing to talk and we'll support you if you come with something that is reasonable. One or two feet short of 24 does not seem reasonable to us. They may yet come back and talk to us on that. I hope they do, because we'd like them to be here. We have a letter with you so I'm not going to repeat everything else that's on the actual letter; I was just trying to address some of the other issues that were raised today. There is a land use plan that Bryn Mawr did. It was approved by the City Council. It went through several neighborhood meetings where the residents came out and spoke and we've had it reviewed. Generally speaking what people would like to see at that location is something that is more pedestrian friendly. We have the trails down below. If we're lucky and the southwest light rail goes down there as well, there will be lots of people walking to that location, and we would like to keep it something that is pedestrian friendly, well landscaped and whatever.

Mr. Gates: Thank you; we have a question from Mr. Koch.

Mr. Koch: Did the neighborhood group investigate buying the Palm property ever?

Ms. Ditter: At the price that was set, there is no way in God's Green Acre that we could have even...no, we don't own any property as a neighborhood group. We don't own any property.

Mr. Koch: Okay, that was my question.

Mr. Manning: Am I right that before the building of 394 and the digging out of its much wider valley than required by Wayzata Boulevard that the neighborhood was holistically more or less whole. The south side and the north side were linked; there wasn't a massive interstate in the middle.

Ms. Ditter: Before...when it was Wayzata Boulevard, it was ... there were roads that crossed it so that it was like any other large Avenue and it was one neighborhood.

Mr. Manning: Was the width expanded for the roadway?

Ms. Ditter: What was the question?

Mr. Manning: The Width ... is 394 wider north/south than what used to be there?

Ms. Ditter: Oh, absolutely.

Mr. Manning: That's what I'm driving at is...I'm curious to know ... if this particular awkward triangular corner was created as a function of the interstate being dug in the on ramp and off ramps being placed. In other words, is this actually sort of an odd property in that sense.

Ms. Ditter: I'm trying to remember what it looked like there 30 years ago and I'm sorry, I'm not drawing up the picture any more. It has been like that triangle now for the last 20 ... since I think the 70's when the...394 was first built, so it's ... that ...Wayzata Boulevard now being what we call the south frontage road created that property that way. For the last 30 years.

Mr. Manning: Okay, wonderful, thank you so much.

Mr. Gates: Is there anyone else here to speak in opposition to this application?

Doug Kress: I am Council Member Lisa Goodman's Policy Aide and I'm here to represent the 7th Ward or Council Office today. We too are very grateful that you have joined our community and our Ward itself, however, one of the things that we saw when we first got this notice is that there is no hardship that they are bringing forward for this particular request and for this variance, and we encourage you to support the staff recommendation today. Thank you.

Mr. Gates: Is there anyone else here to speak in opposition? I see no one; we'll close the public testimony on this item and take comment from the Board.

Mr. Finlayson: To give it a historical perspective, I would never have described it as one neighborhood at anytime in my lifetime. It was always split by Wayzata Boulevard which was a main commuter route in the 50's and 60's it had all kinds of commercial buildings lining up with all kinds of signage there. I think that to say that putting this sign up will de-beautify this area in any extent is like saying a 2 cm wart on the belly of an obese man makes him unattractive. This is ridiculous. The hardship that is innate to this is not in the applicants making it is in the way the streets are designed, the way the property lays, all the changes that have been rocked ... the federal government with their interstate program, all the things that had been done by the city over the years and this...it's a commercial/industrial area plain and simple. I'm a real estate appraiser. I get into this area all the time. You can't differentiate that building or that proposed sign from anything else, if you go further down, there's a big Discover Mortgage sign hanging on top of a building, which is typical. It just comes to mind because I'm in the real estate business. So really when you look at it the hardship is not created by the applicant. The hardship is in the location of a property, the way the roads are at that particular point. I think that having inadequate signage does two things. First of all it de-values the commercial value of the building...its taxation value. We're not talking about a financial hardship necessarily for the applicant, but just as a business reality that a business has to have good signage, adequate signage. The other is that that is a very confusing area. If you get off the interstate coming from the west, it's pretty hard to tell where to go there. A sign of this nature is actually going to enhance public safety by allowing people to spot the location, the entrance to this particular building right off the bat, so, having said all of that, I propose we grant the variance as requested.

Mr. Gates: Is there a second. That's a motion, correct?

Mr. Finlayson: That's a motion.

Mr. Gates: Is there a second.

Mr. Koch: I'll second that motion.

Mr. Gates: Mr. Manning did you have a point to make?

Mr. Manning: I think so. I'll try and I'll try to be brief. I don't like the sign, but I feel compelled to support the motion. I think the sign is unique. There's a shift as you come east along 394 and to an extent the sign would be visible from the freeway, it would be unique for the few miles to its west, so I'm very sensitive to the neighborhoods concerns. I also happen to agree with the staff that I don't think the code requires or grants you the right to have your signs visible from the freeway and a lower sign would be visible from Wayzata Boulevard. I share some of Mr. Finlayson's concerns regarding the unique nature of this property which I think is created by the interstate program, which split neighborhoods and I haven't been in Minneapolis long enough to know what this neighborhood was like. But lots of neighborhoods got split and you got a funny little property here. My greatest sense of frustration is the notion that a legal fiction of separating the light industrial ownership from the current zoning which is the OR2 ownership, in other words, creating an LLC called put a sign on my lot LLC and selling it. The light industrial spot, would, as I understood the staff, would allow put a sign on my lot LLC to erect a 24 foot sign within the existing zoning, and so, I ... saying that you can't have the sign in the right place for the building when ... the issue is a single ownership and it would be permissible 10-15 feet away, if I've understood Mr. Schaffer, works a kind of strict adherence that I think is not what this Board is supposed to do ... to encourage legal game making in order to make something permissible and take it out of the realm of the Board. So, unless Mr. Byers is going to correct Mr. Schaffer; I can't decide if the tilt of his head suggests that he needs to. I'm going to support the motion.

Mr. Gates: Thank you Mr. Manning. Further commentary?

Ms. Luepke Pier: I actually will not be supporting the motion. Although, I drive this route all the time, it's the road between my work place and my husband's work place, so I literally drive it all the time. To tell you the truth, I'm not so sure a 24 foot high sign would actually help you, because, if you're going to an eye center it's not like you are going shopping where you pop in and see what's going on. You probably have an appointment, so if you are going to round the curve your eyes are usually looking in front of you or off the peripheral. You're not looking up, so you'd know it is probably at the intersection of Penn and 394, so you'd be off and I'd probably whiz right by it if it was 24 feet above me, but if it were a four by eight sign at an eye level, I'd probably have a higher chance of seeing it. Although I am concerned about you're concern, that people with bad eyesight are having trouble seeing it, because I don't know if I want them driving to your place of business anyway, but that's a whole other issue. So, I understand the site, maybe I can partially see it. Maybe there's hardship there, I don't know, but the only hardship I can see making is that it would be financial and I can't rule on that so, whether or not it impacts a pedestrian more being on the ground or at 24 feet I can't say, but, just based on the information in front of me I have to go against the motion.

Mr. Gates: Thank you Ms. Luepke Pier.

Mr. Koch: Well, it seems that this is, however it's zoned, a defacto commercial property and I think it's reasonable for a commercial property owner to be...to expect the benefits of that defacto status. It's clear that the property owner is a good citizen; he's done wonderful things to this building. It's beautiful. He's improved the site which has, really improved the neighborhood. It seems that he has taken a reasonable approach to establishing this business and it seems like it should be treated reasonable. That's why I'm seconded the motion.

Mr. Byers: Mr. Chair and Board Members with due respect to your deliberation, staff just thinks it is important for you to keep in mind the issue of precedent. We have many properties along freeways in Minneapolis. Many are commercial, many are industrial, many of whom I'm sure would prefer to have everyone from the freeway see their business and signs very visibly and obviously it would be difficult for this city to accommodate all such requests in the future.

Mr. Gates: Thank you Mr. Byers. Typically in my role as Chair, I play a natural role and don't vote or even comment on these matters until after they are acted upon. However, because we only have five members tonight including myself, I need to either vote or we do no business at all, so I will be taking a position tonight. This is an interesting case. I can certainly understand the competing interests of the commercial property owner and the neighborhood. We really appreciate the very thoughtful testimony that we got from the neighborhood representative. I can understand why neighborhood residents would like to emphasize the residential character of the neighborhood. When I went out to the site to take a look, one of the rules that we have is that we don't, as Board Members, enter onto private property when we're trying to assess a situation, and there was no where for me to go. I couldn't get out of my vehicle or even park my vehicle without entering onto private property. There was no sidewalk; there was no place to pull over. As much as we would like to see that have more of a pedestrian friendly character, right now, it really does not at all have that character. I'm sensitive to Mr. Finlayson's comments about the nature of the corridor and the history of that. I'm finding that there is in fact, some uniqueness about the property, looking at the map that is on the screen right now, it seems to me that Wayzata Boulevard typically parallels 394 quite closely, but at this eastern end of it, because it needs to make that turn onto the bridge crossing over the freeway, the property has to pull back to the south away from the freeway, so in fact this lot, unlike many others, is much further away from 394 than most of the other properties along there for miles to the west. So that to me is a unique characteristic of the property that would merit hardship and that would not be setting precedent because again, the vast majority of the commercial properties along Wayzata are much nearer to the freeway. I found the images that were submitted by the applicant to be somewhat compelling. I have a little bit of a problem with the eight foot tall man ... nobody who is in the sign business should make that mistake. People who use images of human figures that are put in those

drawings are put there for one purpose only...to give a correct reading of the scale of the sign. That was a gross error, which makes me kind of question all the subsequent information that is shown. So exactly how to assess how high this sign really needs to be I'm left not quite being sure whether a 24 foot high sign is merited or a 16 foot high sign, that's a judgment call which we need to make here, but the applicant did ... I was somewhat impressed by the images that were submitted in that they weren't focusing on trying to address 394, but simply addressing the property once someone has exited 394 and is trying to find out ... where do I go from here? An eight foot high sign would clearly not be visible from say the ramp exiting westbound on 394 from the north side of 394. So, all that said, I'm having difficulty in determining exactly how that...how high that sign should be, but lacking any further information and seeing a clear hardship, despite my desire to actually contribute towards creating that a pedestrian environment, I think it's a long way from that right now and that the applicant will be harmed by not being able to get some relief from the code in this matter, so I believe that I'm going to support the motion.

Mr. Gates: Any final comment. I see none. We have a motion and a second to approve the variance as requested. Please call the roll

Gates: Yes

Finlayson: Yes

Koch: Yes

Luepke Pier: Yes

Manning: Yes

Mr. Gates: That motion carries, the variance is granted.

**Department of Community Planning and Economic Development – Planning
Division**

Variance Request
BZZ-3923

Applicant: Petar Poucki, on behalf of Joffee MN Property LLC

Address of Property: 1011 Madeira Avenue

Contact Person and Phone: Petar Poucki, (612) 799-1863

Planning Staff and Phone: Brian Schaffer, (612) 673-2670

Date Application Deemed Complete: January 29, 2008

Publication of Staff Report: February 14, 2008

Public Hearing: February 21, 2008

Appeal Period Expiration: March 3, 2008

End of 60 Day Decision Period: March 29, 2008

Ward: 7 **Neighborhood Organization:** Bryn Mawr Neighborhood Association

Existing Zoning: OR2 High Density Office Residence District

Proposed Use: A medical clinic

Proposed Variance: A variance to increase the height of a freestanding sign from 8 feet to 24 feet and a variance to increase the area of a freestanding sign from 32 square feet to 44 square feet to allow for an internally illuminated freestanding pole sign at 1011 Madeira Avenue.

Zoning code section authorizing the requested variance: 525.520 (21)

Background: The subject site is located on the southwest corner of the intersection of Penn Avenue and Interstate 394. The site has street frontage along both Wayzata Boulevard & Madeira Avenues. To the south of the property lies the Cedar Lake park, trail and railroad corridor. The subject site is zoned OR2 and is adjacent to property zoned I1 Light Industrial and R1 Single Family.

The applicant recently acquired the subject site, 1011 Madeira, and also 1013, 1031, and 1035 Madeira. The applicant is currently remodeling the office building at 1011 Madeira

into a medical clinic that will offer eye exams, laser vision correction, and a spa for cosmetic services. The applicant is proposing a 24 foot tall 44 square foot internally illuminated freestanding pole sign.

The property is zoned OR2 High Density Office Residence District and the maximum height for a freestanding sign is 8 feet and the maximum area is 32 square feet. A variance to increase the height and area of the sign is required.

Findings Required by the Minneapolis Zoning Code:

1. The property cannot be put to a reasonable use under the conditions allowed by the official controls and strict adherence to the regulations of this zoning ordinance would cause undue hardship.

The applicant has requested a variance to increase the maximum height of a freestanding sign from 8 feet to 24 feet and to increase the maximum area of a sign from 32 to 44 square feet. The applicant states that “Signs which are visible from the 394 freeway are critical to visually establish our location for visitors.” The applicant is allowed an 8 foot tall, 32 square foot freestanding sign. Staff believes the sign area and height allocated by the zoning ordinance is sufficient in directing visitors and passersby into the subject site. Signs in the OR2 District are not regulated in a way that requires them to be visible from highway. Staff does not believe there is undue hardship caused by strict adherence to the zoning ordinance.

2. **The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

Staff believes the circumstances for which the variances are sought are not unique to the parcel of land as the location is highly visible from the adjacent roads of Madeira, Wayzata Boulevard and Penn Avenue. The subject site is located along Wayzata Boulevard, which for all intents and purposes, acts as a frontage road to Interstate 394. The Cedar Lake trail and rail corridor is located to the south and is zoned R1 Single Family District. The trail corridor is located approximately 25 feet below the grade of the subject site and the nearest residential structures is over 300 feet from the subject site. The subject site is one of a few nonresidential zoned parcels and is the eastern most nonresidential property west of the intersection with Penn Avenue and Interstate 394.

The location of the subject site allows the property to be very visible from Penn Avenue/ Wayzata Boulevard and the fact that there are very few other commercial properties nearby results in very little other signage for the subject site to compete with.

- 3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

Granting the variance will not be in keeping with the spirit and intent of the ordinance. The purpose of the OR2 High Density Office Residence District is to offer as a transition between the higher densities of downtown and the low density residential areas of Minneapolis. The reason for limiting the area and height of sign is to aid in the transition from commercial to residential uses. The purpose of allowing sign height is not to increase the visibility of a sign from the highway.

Staff believes the proposed sign will negatively alter the essential character of the locality. The adopted Bryn Mawr Land Use Plan calls for the area containing the subject site to be a pedestrian friendly gateway and connector into the Bryn Mawr neighborhood. Staff believes that the proposed height and size of the freestanding sign is not at a pedestrian friendly scale and the increased height and size only serves as advertisement for the business to the vehicular traffic on the highway.

- 4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

Granting the variances would not likely increase congestion in the area or increase the danger of fire safety, nor would the proposed parking reduction variance be detrimental to welfare or public safety.

Findings Required by the Minneapolis Zoning Code for a sign adjustment:

- 1. The sign adjustment will not significantly increase or lead to sign clutter in the area or result in a sign that is inconsistent with the purpose of the zoning district in which the property is located.**

The subject sign will not significantly increase or lead to sign clutter. There are very few commercial structures in the surrounding area.

- 2. The sign adjustment will allow a sign of exceptional design or style that will enhance the area or that is more consistent with the architecture and design of the site.**

The proposed sign is a well designed internally illuminated freestanding pole sign. Staff believes that proposed height and area of the sign will not enhance the area.

Recommendation of the Department of Community Planning and Economic Development -Planning Division:

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the findings above and **deny** a variance to increase the height of a freestanding sign from 8 feet to 24 feet and **deny** a variance to increase the area of a freestanding sign from 32 square feet to 44 square feet to allow for an internally illuminated freestanding pole sign at 1011 Madeira Avenue OR2 High Density Office Residence District.

Attachments:

1. Applicant statement
2. Map of subject site
3. Location and design of proposed sign
4. Photographs of site