



ZONING APPEAL APPLICATION

To/From Board of Zoning Appeals
Dept. of Safety & Inspections
Zoning Section
375 Jackson Street, Suite 220
Saint Paul, MN 55101-1806
(651) 266-9008

To / From Planning Commission
Dept. of Planning & Econ. Devt.
Zoning Section
1400 City Hall Annex, 25 W 4th St.
Saint Paul, MN 55102-1634
(651) 266-6583

Zoning Office Use Only	
File #	<u>19-111-438</u>
Fee Paid \$	<u>462⁰⁰</u>
Received By / Date	_____
Tentative Hearing Date	<u>To Be Scheduled</u>

PD-12

APPELLANT

Name(s) Keith Hovland
 Address 1476 Chelmsford St. City Saint Paul State MN Zip 55108
 Email Keith Hovland <hovla007@umn.edu> Phone 651-303-5240

PROPERTY LOCATION

Project Name Outfront Media LLC nonconforming Use Permit-Relocation
 Address / Location 2516 Wabash Avenue, West of Hwy 280

TYPE OF APPEAL: Application is hereby made for an appeal to the:

Board of Zoning Appeals, under provisions of Zoning Code § 61.701(c), of a decision made by the Zoning Administrator.

Planning Commission, under provisions of Zoning Code § 61.701(c), of a decision made by the Planning Administrator or Zoning Administrator.

City Council, under provisions of Zoning Code § 61.702(a), of a decision made by the Board of Zoning Appeals or the Planning Commission.

Date of decision 12-20, 20 19 File Number 19-103-405

GROUND FORS FOR APPEAL: Explain why you feel there has been an error in any requirement, permit, decision or refusal made by an administrative official, or an error in fact, procedure or finding made by the Planning Commission or Board of Zoning Appeals. Attach additional sheets if necessary.

*The Planning Commission was in error when it concluded that all findings required by law for a zoning variance were met.
See attached*

If you are a religious institution you may have certain rights under RLUIPA. Please check this box if you identify as a religious institution.

Appellant's Signature *Keith Hovland* Date 12-30-2019

*add - 12/30/19
ck 1474
462⁰⁰*

Rev 7.4.2019

Keith Hovland
1476 Chelmsford Street
Saint Paul, MN 55108

December 26, 2019

City of Saint Paul
Department of Planning & Economic Development
Zoning Section
1400 City Hall Annex
25 West Fourth Street
Saint Paul, MN 55102-1634

Re: Appeal of Planning Commission Decision
File #19-103-405 Outfront Media LLC

This is an appeal of the Planning Commission approval of a nonconforming use permit for conversion of an existing illuminated billboard to a billboard with a dynamic display and a variance to adjust the angle of the billboard. The billboard is located at 2516 Wabash Avenue and faces the west-bound lanes of I-94 at its intersection with MN-280. The Planning Commission approved the nonconforming use permit and variance at its meeting on December 20, 2019. The Planning Commission was in error when it concluded that all criteria required to approve a nonconforming use permit and zoning variance were met.

1. The Planning Commission was in error in finding that conversion of the billboard to dynamic display met the requirement of Zoning Code Section 62.109(d)(6) that such conversion not endanger the public health, safety or general welfare.

Conversion of the existing illuminated billboard to dynamic display is an expansion and relocation of the existing nonconforming use. Section 62.109(d)(6) of the Saint Paul Zoning Code requires a finding that the expansion “will not ... endanger the public health, safety, or general welfare”. This finding cannot be made here.

Section 64.302 of the Zoning Code recognizes the correlation between driver distraction from dynamic display billboards and traffic accidents. The main purpose of a billboard is to entice drivers to take their eyes off the road in order to read the billboard message. This billboard, if erected, would have a changing message every 12 seconds. The billboard industry tells advertisers “drivers won’t be able to avoid them” but tells public officials that the signs don’t pose a safety hazard.

This billboard is located at a critical point in the I-94 and MN-280 interchange. Road safety at this confusing interchange is already compromised in the best of times by the tangled highway design and traffic patterns. Installing a dynamic display billboard with bright glaring lights, changing images and flashy content directly in drivers’ faces as they round the bend on I-94

amid this interchange is a disaster waiting to happen.

This issue of public safety was among the primary concerns expressed by the St. Anthony Park Community Council and citizens who testified against the billboard conversion at the Zoning Committee public hearing. This interchange is widely recognized as one of the most hazardous and difficult in the city by those who regularly use it. One citizen called it terrifying. Where public safety is concerned, the default should be on the side of public health and welfare when making policy decisions.

City staff indicated they had studied available research on this issue and found it to be inconclusive. Staff may not have considered recently released information from over 40 research papers compiled at the following link:

<https://www.scenic.org/wp-content/uploads/2019/09/billboard-safety-study-compendium-update-d-february-2018.pdf>

This compendium includes the following statements that have particular bearing to a dynamic display billboard such as the one proposed for the highly confusing I-94 and MN-280 interchange (emphasis added):

“Several of the reported studies suggest that the distraction caused by outdoor advertising signs could be tolerated by experienced drivers and when attentional or cognitive demands of the driving task were low, **but that the risk increased when such signs competed for the driver’s visual attention with more demanding road, traffic, and weather conditions, when travel speeds were higher, or when an unanticipated event or action (sudden lane change or hard braking by a lead vehicle) occurred and the driver had to respond quickly and correctly.**

“In addition, ... the **drivers most susceptible to unsafe levels of distraction from roadside billboards are the young** (who are more prone to distraction and less adept at emergency vehicle response) **and the elderly** (who have more difficulty with rapidly shifting attention, poorer night vision and glare susceptibility, and slower mental processing time). ... **[T]hese concerns are heightened today, with our elderly driver population growing quickly, traffic increasingly dense, more roads under maintenance or repair (construction and work zones create added risks), and larger, brighter digital and video roadside advertising signs competing for the driver’s attention.**

“... **[R]ecent epidemiological studies (dating from 2014 and 2015) have begun to demonstrate what has long been suspected but not proven – that roadside billboards are associated with increases in crash rates where such billboards are located.**”

In addition, the comments in the compendium about increased risk during road construction also bear emphasizing as MnDOT intends to rebuild the Hwy 94 and MN-280 interchange in the not-too-distant future.

The compendium further states that the authors of a traffic study from Queensland Australia “recommend that Main Roads Queensland adopt advertising restrictions at known areas of high driver workload, including locations with high accident rates, non-junction related lane merges, curves/bend, hills and road/works/abnormal traffic flows” and that “this is broadly in line with a

report to the Maryland State Highway Administration which recommended a restriction of advertisements at times when driver decision, action points and cognitive demand are greatest - such as at freeway exits/entrances, lane reductions, merges and curves. Although useful for all road users, such restrictions would be of specific benefit to older drivers.”

As one resident of my community has said: “This is the worst possible place to put a digital billboard.”

2. The Planning Commission acted arbitrarily and capriciously by giving priority to the removal of other existing billboards in exchange for the conversion pursuant to Zoning Code Section 64.302(b)(6) without first giving proper consideration of the standards for highway safety.

Both the Zoning Committee and Planning Commission gave strong consideration to the condition that other existing billboards in the city be removed in exchange for converting an illuminated billboard to a billboard with dynamic display. Every Zoning Committee member who commented at the public hearing and all but one of the Planning Commission members who commented when the Zoning Committee’s action was approved by the Planning Commission indicated that a significant or primary reason for their support for relocation and expansion of the nonconforming billboard and granting the variance was to get rid of existing non-digital billboards. This is not one of the criteria for determining if a nonconforming use permit or a variance to allow conversion of the billboard to dynamic display should be granted, and should not have been the basis of their consideration. As provided in Zoning Code Section 64.302(a), the conversion of illuminated billboards to billboards with dynamic displays is subject to standards that maintain highway safety. Public safety and welfare must come first.

3. The Planning Commission was in error in finding that conversion of the billboard to dynamic display met the requirement of Zoning Code Sections 62.109(d)(3) and 62.109(d)(6) that such conversion be compatible with the adjacent property and neighborhood and not be detrimental to the existing character of development in the immediate neighborhood.

For many years after the existing billboard was first installed, the surrounding neighborhood was transit, commercial and industrial, but over the past ten years and with increasing frequency the neighborhood is being redeveloped and repurposed with new multi-family affordable and market-rate residential properties consistent with Saint Paul’s housing goals.

Several new projects are in the planning process, and it is highly likely that buildings in close proximity to the proposed dynamic billboard will be considered for conversion or new buildings will be built in the immediate vicinity. The Zoning Committee discussed this possibility and asked staff if having a dynamic billboard visible from residential windows would either decrease the value of the property or make it less desirable. The response was that people have different tolerances for this type of visual intrusion, the not-so-subtle implication being that tenants of lower cost units might have fewer objections than owner/renters of higher cost units. Regardless, it is the City’s policy to avoid dynamic billboards and other light pollution where they would impact residential property. While the re-alignment of the billboard may avoid

current residential units, new residential units that are highly likely for this area will not be so protected and the changed and changing character of the neighborhood will be negatively impacted.

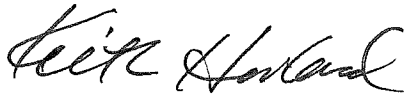
4. The Planning Commission was in error in finding that a variance to adjust the angle of the billboard met the requirements of Zoning Code Section 61.601(c) that there be practical difficulties (not just economic considerations) in complying with the zoning requirements.

The requested variance is required only because Section 64.302(b)(4) of the Zoning Code requires that the dynamic billboard not be in the visual field of any home in a residential or TN traditional zoning district. There is no practical difficulty for the existing billboard to remain in place. The applicant provided no information that the conversion or variance was for any reason except economic considerations. Dynamic billboards hold the promise of significantly higher revenues for the billboard company.

5. The Planning Commission was in error in finding that a variance to adjust the angle of the billboard met the requirements of Zoning Code Section 61.601(f) that the variance will not alter the essential character of the surrounding area.

As addressed in point 2 above, while the re-alignment of the billboard may avoid current residential units, new residential units that are highly likely for this area will not be so protected and the changed and changing character of the neighborhood will be negatively impacted.

Thank you for your consideration in this process.



Keith Hovland