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January 21, 2013

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Mr. John Kornowski
Chairman
Village of Howard Board of Zoning Appeals
1561 W. Deerfield Ave.
Green Bay, WI 54313



Re: Next Media Outdoor, Inc.
August 29, 2012 Proceedings

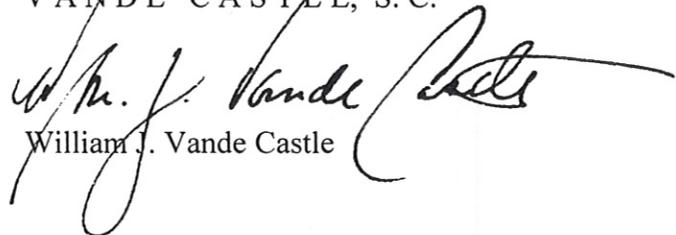
Dear Chairman Kornowski:

Enclosed for consideration by your Board is a draft of the proposed FINDINGS OF FACT, CONCLUSIONS OF LAW AND DECISION from the August 29, 2012 proceeding before the Board concerning the Village's motion for reconsideration of the Board's May 10, 2012 Decision regarding the Next Media sign at 2244 Shawano Ave. (the "Wallaby's Sign"). I apologize for not getting this document to you sooner. I have been out of the office for much of the last several months due to health issues.

If there are any questions regarding the enclosed draft, please let me know. Again, I apologize for the delay.

Very truly yours,

VANDE CASTLE, S. C.


William J. Vande Castle

WJVC/jb
Enclosures

cc: Attorney Dennis Duffy w/enclosures
Attorney Chad Levanetz w/enclosures
Attorney Cynthia Treleven w/enclosures
Ms. Leigh Ann Wagner-Kroening w/enclosures

**VILLAGE OF HOWARD
BOARD OF APPEALS**

APPELLANT: NEXT MEDIA OUTDOOR, INC.

PROPERTY: 2244 Shawano Avenue

HEARING DATE: August 29, 2012

**FINDINGS OF FACT, CONCLUSIONS OF LAW
AND DECISION**

This matter comes before the Village of Howard Board of Appeals (the "Board") on a petition for reconsideration by the Village of Howard (the "Village") of a Decision of the Board of May 10, 2012 in regard to contested appeal of the decision of the Director of Code Administration of the Village of Howard, James Korotev, to deny the Appellant's petition for realignment and relocation of an off-premises outdoor advertising sign formerly located on property at 2244 Shawano Avenue in the Village. In its May 10, 2012 Decision, the Board found and determined that that the Director of Code Enforcement's interpretation of the Village Ordinances and Zoning Code, with respect to the proposed relocation and realignment of the "Wallaby's Sign" on 2244 Shawano Avenue in the Village, was not sustained and that Appellant's proposed modifications to the "Wallaby's Sign", as more particularly described in the Exhibits on file herein, were only those that were specifically necessary to move the structure and maintain that structure's structural integrity in compliance with current Village Code requirements. On July 11, 2012, the Village moved for reconsideration and to vacated the Board's May 10, 2012 Decision on the basis of new evidence to be presented to the Board.

On August 29, 2012, the Appellant, NEXT MEDIA OUTDOOR, INC., appeared by Don Snyder, its General Manager, and by its attorneys, Chad Levanetz of WEBB, KLASE & LEMOND, LLC., and Cynthia Caine Treleven of METZLER, TIMM, TRELEVEN, PAHL & BECK, S.C. The Village appeared by its Director of Code Administration, James Korotev, and by its Attorney Dennis Duffy of CALEWARTS, DUFFY & GAGAN, Associated Attorneys.

The Board acknowledged the receipt of various position statements, memoranda and briefs by counsel for both Parties prior to the commencement of testimony all of which are in and have been made a part of the record herein. The Board further heard Attorney Levanetz's objection and cited authorities in opposition to the Board's authority to reconsider its May 10, 2012 Decision. The Board also heard Attorney Duffy's position in support of the Village's authority to seek a reconsideration of the Board's May 10, 2012 Decision.

The hearing was recorded and all witnesses were sworn by a court reporter. The following witnesses were sworn and provided testimony before the Board:

Curt Van Erem, Real Estate Project Manager for the Wisconsin Department of Transportation.

John Sobotik, Attorney for the Wisconsin Department of Transportation.

All documents and Exhibits that were presented to the Board were received and reviewed by the Board and accepted into the record of these proceedings and made a part of record of the proceedings. All Exhibits presented by the Parties are on file in these proceedings.

FINDINGS OF FACT

Having heard all such evidence, the Board of Appeals makes the following Findings of Fact:

1. That the Appellant was the owner of an off-premises non-conforming billboard sign adjacent to State Highway "29" on the property located at 2244 Shawano Avenue in the Village of Howard; which sign was sometimes known as and referred to as the "Wallaby's Sign".
2. That the Appellant had, pursuant to an agreement with Stange Investments, LLP, the owner of the land at 2244 Shawano Ave, the right to construct and maintain an off-premises billboard sign at that location.
3. That the Appellant's "Wallaby's Sign" was originally constructed in the early 1980's.
4. That in connection with the Wisconsin Department of Transportation's (the "DOT") Highway "41" and Highway "29" reconstruction project (the "Project") and the right-of-way acquisitions associated with that Project, the DOT purchased and acquired from Stange Investments, LLP, a portion of the land at 2244 Shawano Avenue that included the land on which the Appellant's "Wallaby's Sign" was located.
5. That in connection with the Project, the DOT also purchased from the Appellant, the Appellant's right, title and interest in and to the Appellant's "Wallaby's Sign" and the sign site on that portion of 2244 Shawano Avenue that the DOT purchased from the land owner, Stange Investments, LLP, which purchase also included the right to erect signs along that portion of Highway "29" abutting the property at 2244 Shawano Avenue in the Village.

6. That on October 25, 2011, the Appellant, submitted an application to the Village's Department of Code Administration requesting a sign permit to allow the realignment and relocation of the "Wallaby's Sign" on an adjacent portion of the property located at 2244 Shawano Avenue that continued to owned by Stange Investments.
7. That after receipt of the Appellant's Permit Application, James Korotev, Director of Code Administration for the Village reviewed the requests and on November 16, 2011 issued a determination denying the Appellant's October 25, 2011 Permit Application on the ground that the Applicant's proposal did not comply with the provisions of Section 50-1296(3) of the Village Zoning Ordinance and the provisions of Village Ordinance #2011-19.
8. That on December 15, 2011 the Applicant filed with the Village an "Application For A Zoning Variance & Appeal" appealing the decision and determination of Mr. Korotev with respect to the proposed relocation and realignment of the "Wallaby's Sign" to a portion of the remaining property at 2244 Shawano Avenue within the Village owned by Stange Investments, LLP.
9. That following the purchase of that portion of the property at 2244 Shawano Avenue upon which the Appellant's "Wallaby's Sign" was located and Appellant's signage rights on that property, the Appellant was subject to a signage removal order from the DOT.
10. That in January, 2012 the Appellant removed it's "Wallaby's Sign" from that portion of 2244 Shawano Avenue that was previously acquired by the DOT from Stange Investments, LLP.
11. That the Applicant's proposed realignment and relocation of the "Wallaby's Sign" called for constructing the sign at a new location on a portion of 2244 Shawano Avenue that remained under the ownership of Stange Investments, LLP that was approximately fifty (50) feet south of its former location.
12. That upon review, Mr. Korotev concluded that the Applicant's permit application to relocate and realign the "Wallaby's Sign" did not comply with Village ordinances and code provisions and that the permit application must therefore be denied.
13. That an Award of Damages between the DOT and Stange Investments, LLP and Next Media Outdoor, Inc., reflecting the DOT's purchase and acquisition of property and the signage rights on that property, including the Appellant's "Wallaby's Sign", was filed and recorded in the Office of the Brown County Register of Deeds on February 10, 2012.
14. That the information provided to the Board by the DOT regarding its purchase and acquisition from the Appellant of its signage rights on that portion of the

property at 2244 Shawano Avenue acquired from Stange Investments, LLP was new information and not known by the Board during its consideration of this matter on May 10, 2012.

CONCLUSIONS OF LAW

Upon hearing, reviewing and considering all of the evidence and arguments presented, the Board of Appeals makes the following Conclusions of Law:

1. That prior to the commencement of the Project, the “Wallaby’s Sign” on 2244 Shawano Avenue was an off-premises sign that was a “non-conforming sign” as those terms are defined in the Village Zoning Code.
2. That in connection with the Project the DOT acquired ownership of and title to that portion of the land at 2244 Shawano Avenue on which the Appellant’s “Wallaby’s Sign” was located.
3. That in connection with the Project the DOT also purchased and acquired from the Appellant all signage rights on the that portion of the property at 2244 Shawano Avenue acquired from Michael Strange including ownership of all right, title and interest in and to the Appellant’s “Wallaby’s Sign” and the exclusive right to erect signage along that portion of Highway “29” abutting the property at 2244 Shawano Avenue in the Village.
4. That in fulfillment of its duties and responsibilities, the Board has the right and responsibility to consider all information that it determines to be significant and relevant to its review and consideration of questions before it.
5. That the new information provided to the Board by the DOT regarding its purchase and acquisition from the Appellant of its signage rights on that portion of the property at 2244 Shawano Avenue acquired from Stange Investments, LLP was significant and relevant and presented a substantial change in circumstances from that presented to the Board at the May 10, 2012 hearing.
6. That by the sale of its signage rights to the DOT on that portion of the property acquired by the DOT from Stange Investments, LLP, the Appellant had no continuing signage rights on which to base its application to relocated and realign the “Wallaby’s Sign” to a new location on the remaining Stange Investments, LLP property at 2244 Shawano Avenue in the Village.

DECISION AND ORDER

Based upon the foregoing Findings of Fact and Conclusions of Law, it is the determination of the Board of Appeals, upon a motion duly made, seconded and carried by

majority vote of its members, that on the basis of the new information presented to the Board by the DOT, which information was significant and relevant to the question before the Board and presented a substantial change in circumstances to that which was presented to the Board at the May 10, 2012 hearing, the Director of Code Enforcement's interpretation of the Village Ordinances and Zoning Code, with respect to the Appellant's proposed relocation and realignment of the "Wallaby's Sign" to a new location on the remaining property owned by Stange Investments, LLP at 2244 Shawano Avenue in the Village, was correct and is sustained and that the Appellant's aforesaid Application was duly and properly denied under the provisions of the Village's Zoning Code.

APPEALS

This Decision of the Board of Appeals may be appealed by any person in disagreement by the Decision or by any officer, department or bureau of municipality by filing an action in *certiorari* in the Circuit Court for this county within thirty (30) days after the date of filing this Decision.

HOWARD ZONING BOARD OF APPEALS

Date: _____

John Kornowski, Chair

Date: _____

Mike Soletski

Date: _____

Jeff McGlachlin

Date: _____

Lee Endris

Date: _____

Tim Meves

Date: _____

Jeff LeMay