

RESOLUTION NO. PC 285-94

A RESOLUTION DENYING SIGN VARIANCE NO. 81-94
SUBMITTED BY MEADOW OUTDOOR ADVERTISING TO
ERECT A BILLBOARD WITH A THREE FOOT SETBACK
WHERE FIVE FEET IS REQUIRED

WHEREAS, the Planning Commission conducted a public hearing on April 7, 1994, on Sign Variance No. 81-94 submitted by Meadow Outdoor Advertising to erect a billboard which did not meet the requirements of a five foot set back from the side property line; and

WHEREAS, a staff report was presented to the Planning Commission, and public testimony was received during the hearing; and

WHEREAS, following the close of the public hearing, the Planning Commission deliberated and voted 6 to 0 to deny the application for Sign Variance No. 81-94, submitted by Meadow Outdoor Advertising, based upon findings of fact; and

WHEREAS, the Planning Commission concurred with staff's suggestion that staff prepare a resolution denying the application, and setting forth findings of fact made by the Planning Commission;

NOW, THEREFORE, be it resolved that the Planning Commission of the City of The Dalles adopts the following findings of fact:

1. The subject property is located at Allen's Auto Sales, 3100 West Sixth Street, and is further described as Township 2 North, Range 13 East, Section 29DD, tax lot 7101. The applicant is Meadow Outdoor Advertising. The zoning for the subject parcel

is "CG" General Commercial. The existing land use is auto sales, and the surrounding land use is commercial.

2. The applicant submitted a request for a variance from the requirements of Section 14.3(D)(2) of Zoning Ordinance No. 80-986, which requires a five (5) foot setback for structures within the General Commercial District. Section 3 of the zoning ordinance defines a "structure" to include billboards. The pole for the requested building was installed by the applicant under a building permit issued on February 1, 1994. The setback was not specified on that permit. After the pole was installed, it was discovered the pole was placed within three (3) feet of the side property line, instead of five (5) feet, as required by the City's zoning ordinance.

3. The Planning Department withheld a separately required sign permit pending resolution of site compliance issues related to landscaping. When the landscaping was completed, the department was not in a position to issue the sign permit. Section 41 of the zoning ordinance provides that any permit issued in violation of the ordinance is void. Under the circumstances, the building permit issued to the applicant on February 1, 1994, was invalid.

4. The applicant presented testimony that the sum of \$2,867.00 had been expended in locating the pole upon the site. The applicant presented additional testimony that it would cost the applicant the sum of \$4,500.00 if the pole were required to be moved. As an alternative, the applicant proposed to construct

an offset that would result in the sign face being placed an additional six (6) feet back from the side property line.

BASED UPON THE FOLLOWING FINDINGS OF FACT, THE PLANNING COMMISSION MAKES THE FOLLOWING CONCLUSIONS OF LAW:

1. The application for Sign Variance No. 81-94 of Meadow Outdoor Advertising is denied, because the applicant has failed to satisfy all of the criteria set forth in Section 33(B) and (E) of Zoning Ordinance No. 80-986, which are set forth as follows:

(B) Variances may be granted when the following circumstances are found to apply.

1. That the Variance granted shall be subject to such conditions as will assure that the adjustment thereby authorized shall not constitute a grant of special privilege inconsistent with the limitations upon other properties in the vicinity and district in which the subject property is situated.
2. That because of special circumstances applicable to subject property, including size, shape, topography, location or surroundings, the strict application of Ordinance No. 915, as Amended, is found to deprive subject property of privileges enjoyed by other properties in the vicinity and under identical zone classification.
3. Alternative materials or methods of construction are suitable to achieve the purposes stated in Section 1, Ordinance No. 915, as Amended.

(E) The application for Variance shall include a plan of the details of the Variance requested, and evidence showing:

1. That the granting of a Variance will not be contrary to the intent of this Ordinance, or to the public safety, health and welfare.
2. That due to special conditions or exceptional characteristics of the property, and its location, the strict application of Ordinance

No. 915, as Amended, would result in difficulties and unnecessary hardship.

2. The applicant proposed on the site plan that the existing pole be offset six (6) feet by a horizontal extension to arrive at a nine (9) foot setback for the actual sign face. Under this proposal, the 34 foot high, three (3) foot diameter column would be the only structure not in compliance with the zoning ordinance. The alternative method of construction proposed by the applicant could satisfy the criteria set forth in paragraph B(3). However, the Planning Commission concludes this condition would constitute a grant of a special privilege inconsistent with the limitation upon other properties in the vicinity and district in which the subject property is situated. Other structures within the "CG" General Commercial district must comply with the five (5) foot setback requirement from the side property line.

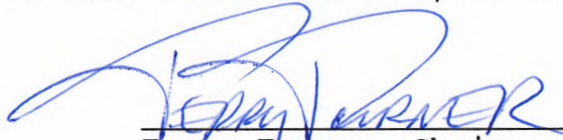
3. The applicant presented testimony concerning the economic hardship which applicant would suffer, if required to move the structure, to justify the granting of the variance. The applicant did not present any testimony establishing that the hardship applied to the land, and not to the applicant, or that the hardship resulted from a condition or circumstance inherent in the land that was either exceptional or unique, and not common to other property in the vicinity of the subject parcel. The applicant failed to submit testimony which could satisfy the criteria set forth in paragraphs B(2) and E(2) of Section 33.

4. Concerning the criteria set forth in paragraph E(1), there was no evidence in the record establishing that public safety or welfare would be compromised, or that the intent of the sign ordinance would be violated, if the variance was granted. The City Fire Marshall submitted a memorandum dated March 4, 1994, indicating that fire safety would not be compromised if a reduced setback was allowed for the structure.

5. Any party of record may appeal a decision of the Planning Commission to the City Council for review. Appeals must be made according to Section 36 of the Zoning Ordinance, and must be filed with City Clerk within ten (10) days of the date of resolution.

The Secretary of the Commission shall (a) certify to the adoption of the Resolution; (b) transmit a copy of the Resolution along with a stamped, approved/denied site plan or plat to the applicant.

APPROVED AND ADOPTED THIS 5TH DAY OF MAY, 1994.



Terry Turner, Chairman
Planning Commission

I, Scott Keillor, Secretary to the Planning Commission of the City of The Dalles, hereby certify that the foregoing Resolution was adopted at the regular meeting of the City Planning Commission, held on the 5th day of May, 1994.

AYES: Terry Turner, David Peters, Michael Maier and Thomas Quinn
NOES: None
ABSENT: Walt Hoffman, Ken Farner and Marianne Barrett
ABSTAIN: None

ATTEST: 

Secretary, Planning Commission