July 11, 2019

City of Bellbrook
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Bellbrook, Ohio 45305

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Memorandum for the Board of Zoning Appeals / Property Review Commission

Subject: Public Hearing on July 16, 2019

This is to confirm that the Board of Zoning Appeals and Property Review Commission will conduct a public hearing on **July 16, 2019** at **6:15PM** to discuss one variance case. Please find enclosed: an agenda for the meeting, the minutes to approve from June 18, 2019 and case materials.

Variance Case #19-03: 3757 Upper Bellbrook Rd (Greene County Council on Aging)

The applicant Greene County Council on Aging (on behalf of the owner, Bellbrook/Sugarcreek Schools) located at 3757 Upper Bellbrook Rd is requesting a variance to allow for an additional ground sign along Upper Bellbrook Rd. The property is zoned R-1A One Family Residential. Per section 18.20.A(11)(d)(1) of the Bellbrook Zoning Code, only 1 detached ground sign is permitted per street frontage.

Please let me know if you have any questions on this material.

Sincerely,

Jeff Green
Planning and Zoning

Board of Zoning Appeals

July 16, 2019 6:15 PM

Agenda

1. Call to Order
2. Roll call
3. Approval of prior minutes of June 18, 2019
4. New Business:

   BZA Case V19-03: Variance Request – 3757 Upper Bellbrook Rd
   - Staff Summary
   - Property Owner
   - Public Input
   - Board Discussion/Decision
5. Old Business:
6. Open Discussion
7. Adjournment

BELLBROOK BOARD OF ZONING APPEALS
PUBLIC HEARING MINUTES
JUNE 18, 2019

PRESENT: Mr. Aaron Burke
Ms. Schroder arrived at 6:20 PM
Mr. Philip Ogrod
Mr. Robert Middlestetter
Chairperson Brinegar

CALL TO ORDER:

Chairman Brinegar called the meeting of the Board of Zoning Appeals to order at 6:15 PM. The Clerk called the roll. Mr. Burke, yes; Mr. Middlestetter, yes; Mr. Ogrod, yes; Ms. Schroder, yes; Chairman Brinegar, yes.

Mr. Ogrod moved to approve the prior minutes of May 21, 2019. Mr. Middlestetter seconded the motion. Roll was called. Mr. Ogrod, yes; Mr. Middlestetter, yes; Mr. Burke, yes; Ms. Schroder, yes; Mrs. Brinegar, yes. The motion carried 5-0.

It is noted for the record that Mr. Jeff Green, Planning and Zoning Assistant was in attendance.

NEW BUSINESS:

- **BZA Case V19-02:** Variance Request – 72 West Franklin Street

Michael Seiler (on behalf of the owner, Bellbrook Presbyterian Church) outlined the request for a variance to allow for an internally illuminated LED sign. Per section 18.20.B(4)(a)(7) of the Bellbrook Zoning Code, no sign in the Old Village District can be internally illuminated. Mr. Seiler explained that the church allows various organizations such as the Boy Scouts and Library to use their space and promote their events. There is an average of 20 activities/meetings a week which need to be advertised via the sign making it very time consuming. Mr. Seiler believes that the variance would not be considered substantial and would not negatively impact adjoining properties as two LED internally illuminated signs (Dot's and Road Dog) have previously been approved in the Old Village. He added that the new sign is programmable but with no animation or scrolling.

Mr. Middlestetter asked what the difference is in size of the old versus new signs. He also asked if the brightness can be adjusted. Mr. Seiler replied that the new sign is about a foot taller.

Mr. Ogrod asked how many lines of type would be on the sign. Mr. Seiler explained that it depends on the font size.

Mr. Burke asked who was in charge of the messages being displayed. Mr. Seiler said that the Pastor has the final decision. The sign will promote church and local meetings and events.

Mr. Steve Berryhill, 1901 Bellbrook Woods, said that the Seniors meet there. The current sign is old and difficult to update the message. He also submitted a letter from the Historical Society who also use the church's meeting rooms.

Ms. Tony Davis, 3936 Kim Court, asked if a lighted sign would be a distraction to drivers. She also asked about the aesthetics of the sign stating that she does not think that a square sign is not as pleasing as the current one with decorative edges. Mr. Green pointed out that the sign will not include motion or blinking and so should not be a distraction to drivers. He also explained that the Village Review Board has already approved the design of the sign.

Mr. Middlestetter recounted being part of the Board that originally drafted the sign ordinances. Dozens of meetings were held then City Council made it more functional respecting the needs of businesses. At the time LEDs had not been invented. He voiced his concern that this case could end up requiring Council to reconsider the ordinances. Mr. Green explained that any changes to ordinances have to go to the Planning Board first and then City Council.

Mrs. Brinegar stated she believes some of the ordinances are out of date. But she is not concerned about the safety of the sign in question and believes it will be an asset.

Mr. Burke asked if the Village Review Board had concerns about the signs to which Mr. Green answered that they did not have concerned. Mr. Burke commented that this decision will set a precedence and variance requests will keep coming.

Mrs. Schroeder stated that she prefers the aesthetics of the old sign better. She also agrees that the codes should be reviewed to look at all the aspects and parts.

Mrs. Schroder made a motion to approve BZA Case V19-02 Variance Request for 72 W. Franklin Street. Mr. Ogrod seconded the motion. The Clerk called the roll. Mrs. Schroder, yes; Mr. Ogrod, yes; Mr. Burke, yes; Mr. Middlestetter, yes; Mrs. Brinegar, yes. The motion passed 5-0.

- **PRC Case 19-01:** Request for Prosecution – 2088 Dane Lane

Mr. Green began by explaining that this is an extension of Case 18-05. This property has been the subject of numerous citations since 2012 and has been vacant the entire time. The violations have not been permanently corrected and/or maintained causing them to re-occur with further deterioration. There are paths made by rodents that are inhabiting the house. On May 24, 2019 Mr. Green sent a letter to Sia, the owner's sister concerning the fines and giving a 30 day deadline to pay them. Mr. Green showed the Board pictures he had taken at the property this week showing the state of disrepair. Mr. Green shared an email from the property owner's sister that he had received at 5:30 PM

this day. It again lists her reasons why the work has not been done at the property. The City staff recommends that the case move on to prosecution.

Mr. Middlestetter opined that this situation has gone on for a very long time. Mr. Green explained that the City has to go through certain steps.

Mrs. Schroder and Mr. Ogrod read the email, and both stated that the owners are making the same excuses they have made in the past. There has been plenty of opportunity to complete the work the property requires or to sell it.

Mr. Burke asked about timing of the notifications. He points to the email that says a contract was submitted within the deadline, but the City says it was after. Mr. Green argued that this has been about a year for the work to be done.

Mr. Green added that he tried to contact the attorney that the owner had used last year but could not find the person. There had been no work done and no communication from the owner between August 2018 through May 2019. He added that the next step is to send the case to prosecution by the County.

Mrs. Brinegar opened the floor to the owner, but no one was present. She then allowed the public to speak.

Mr. Richard Davis, 2122 Dane Lane, relayed his agitation that another year has passed with no improvement. He accused the Board of dragging its feet. He recently measured the height of the grass at 38". He requested the Board do something immediately.

Mr. Green shared an email from Mr. O'Rouke who lives on Dane Lane and is planning to put his home on the market. He is angry that the state of the Elias property hurts the value of his home.

Jim Loeb, 2089 Firebird Drive, explained that his property is directly behind 2088 Dane Lane. He recounted seeing racoons and other rodents in the house. He opined that the City should do something.

Matt Porter, 2076 Dane Lane, lives next door to the Elias property. He has tried to offer to help the property owners, even bringing his youth group over to do yard work. He stated that his son saw a dog-sized ground hog. Last year the owner purchased some wood, pavers, and other repair supplies. These have been left lying in the backyard and are rotting. Mr. Porter relayed conversations with contractors who have offered $60,000 to $80,000 for the property. The owner declines all offers. He also stated that contractors have refused to work for her after she has called their work, "shoddy", or quits paying for their services. He added that he agrees that the owner should be prosecuted.

Tom Davis, 3936 Kim Court, explained that they have watched the condition of the property decline since 2000. The house is without water or heat. He opined that it is a public nuisance and feels it should be condemned and torn down.

Jane Worth, 3524 Dane Court, asked if the taxes have been paid and if the City could use imminent domain as a legal way to take control of the property or condemn it. Mr. Green answered that the taxes have been paid but imminent domain would not apply. He added that to legally condemn it the City would have to hire a contractor to prove that the cost to repair the property is more than the value of it. Ms. Worth added that the overgrowth of plants like poison hemlock and the rodents are a nuisance.

Gail Longo, 3930 Dane Court, expressed her concerns about damages caused by 2088 Dane Lane to her property. Drainage issues caused her to lose two trees. Invasive plants are constantly crossing into her yard as are rodents. She cares about her property and wants the City to do something now.

Toni Davis, 3936 Kim Court, said that they love their home but never had a good relationship with the owners of 2088 Dane Lane. She added that the state of this property reflects poorly on our City. She added that she originally questioned the Dollar General store being allowed to open in Bellbrook.

Chairwoman Brinegar stated that the City has assessed the maximum fines which still have not been paid. The next step is to send the case for prosecution.

Mr. Green explained that the case file will be sent to the County Prosecutor who will present it to a judge. If the Judge agrees, the Court will give orders to serve the property owner who will need to appear before the Judge. Failure to do so could be jail time.

Mr. Middlestetter stated that everyone has to follow the property maintenance guidelines. He then made a motion to approve **PRC Case 19-01 Request for Prosecution** of the property at 2088 Dane Lane. Mrs. Schroder seconded the motion. The Clerk called the roll. Mr. Middlestetter, yes; Mrs. Schroder, yes; Mr. Burke, yes; Mr. Ogrod, yes; Mrs. Brinegar, yes. The motion passed 5-0.

OLD BUSINESS:

OPEN DISCUSSION:

ADJOURNMENT:

There being no further business to discuss, Mr. Ogrod made a motion to adjourn. Mrs. Schroder seconded the motion. With unanimous consent, the meeting adjourned at 7:20 PM.

Meredith Brinegar, Chairperson Date

Pamela Timmons, Secretary Date

Bellbrook

To: Board of Zoning Appeals

From: Jeff Green, Planning and Zoning Assistant

Date: July 11, 2019

Subject: Staff Report for BZA Case 19-03 – 3757 Upper Bellbrook

Summary of the Request

The property owner at 3757 Upper Bellbrook Rd. is requesting a variance to add an additional 6 sq. ft. ground sign to the property. Per article 18.20A(11)(d)(1), only one ground sign is permitted per street frontage. The Board of Zoning Appeals is being asked if the additional ground sign could be permitted.

Applicant Information

Owner: Greene County Council on Aging (GCCA)
1195 W 2nd St
Xenia, Ohio 45385

Applicant: BD of ED of Sugarcreek Local School District
3757 Upper Bellbrook Rd
Bellbrook, OH 45305

Current Zoning District

R-1A, One Family Residential District

Parcel Identification

Parcel ID # L35000100040000100

Relevant Code - 18.20A(11)(d)(1)

Signs for Institutional Uses: One (1) detached ground sign, not to exceed thirty-six (36) square feet per side or seventy-two (72) square feet total sign area, or six (6) feet in height. Such signs may be illuminated

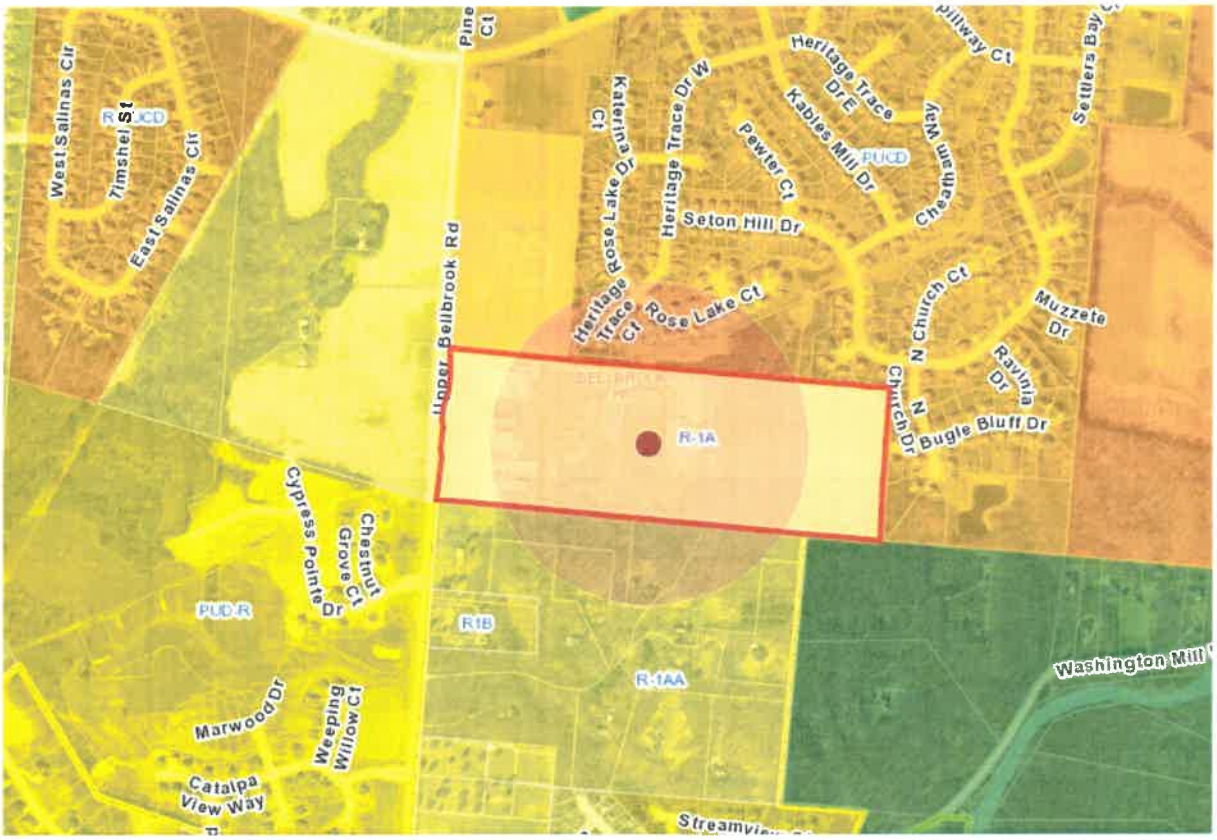
Applicant's Reason for the Request

Per the application submitted, the GCCOA believes that a lack of a sign along Upper Bellbrook is a significant barrier to the people finding the building and advertising its presence. Per the applicant, the only other option is a temporary sign, but as the name implies cannot be placed along the road permanently.

The applicant has had the design of the sign look similar to another sign that is already located on the property to not significantly impact the character of the area. The applicant believes that the spirit and intent of the code would be met by the granting of this variance.

Surrounding Land Use within 1,000 Feet

The land surrounding the subject property is for the most part single family residential, to the north, south and east. The property directly to the west is used for agriculture.



Similar Cases in the Past 5 years

No similar cases heard in the last 5 years

Flood Plain Information

The property is not within the flood plain

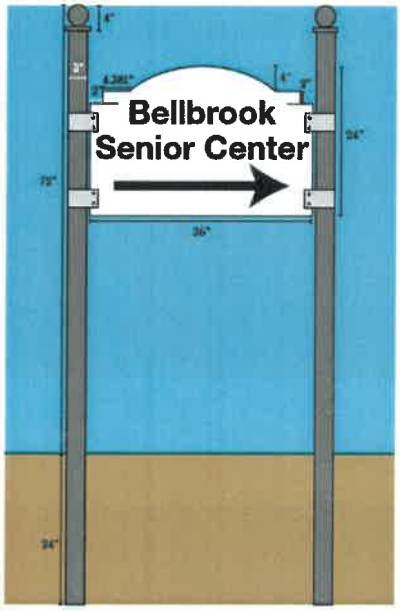
Comments from City and County Agencies

N/A

Supporting Maps & Graphics


Sep 2011

(937) 427-3431 | sales@signsnowdayton.com 3197 Beaver Vu Drive, Beavercreek, OH 45434



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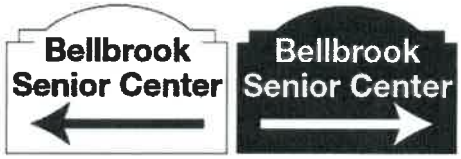

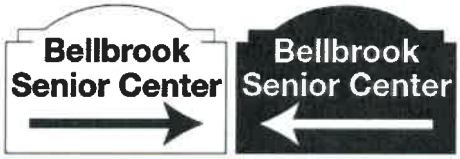

1 x 2 SIDED

- 1/4" Polymetal

6mm Polymetal panel
Curved Top
Post System- 2 Ornamental posts 3"x8'
6' Above Ground

47670 pg. 1/1

Your signature authorizes Signs Now of Beavercreek to produce the products described and rendered above. We will not produce any item without a written approval. Signs Now is only responsible for producing the item as approved on this proof. Customer to ensure spelling, quantity and colors. Critical colors should not be gauged by monitor color.

SIGNATURE: _____ DATE: _____

Staff Recommendation

Staff recommends the variance be approved as submitted. The intent of the code is to ensure that properties do not become overloaded with permanent signage. Staff believes that the important factor to consider is the amount of road frontage on site (roughly 950 feet) along Upper Bellbrook road. This in coordination, with the fact that the sign is relatively small (6 sq. ft.) means that the principal intent of the code would not be significantly impacted.

CITY OF BELLBROOK

APPLICATION FOR ZONING VARIANCE

15 East Franklin Street, Bellbrook, Ohio 45305
(937) 848-4666 www.cityofbellbrook.org

APPLICANT INFORMATION

Date Received 6 / 21 / 19 Application # V19-03

Property Owner Bellbrook Sugarcreek Schools Phone Number

Owner Address 3757 Upper Bellbrook Road

Applicant Name Greene County Council on Aging Phone Number (937) 376-5486

Applicant Address 1195 W. Second Street, Xenia, OH 45385

REQUEST INFORMATION

Property Address 3757 Upper Bellbrook Road Zoning District R-1A

Subdivision N/A Lot Number N/A Parcel ID L35000100040000100

Describe the General Nature of the Variance Addition of sign in front of the building's parking area and next to pedestrian path to provide direction to the Bellbrook Senior Center which is housed in the Bellbrook Sugarcreek Educational Services Center building.

See the reverse of this page for additional information to be included with an Application for Zoning Variance.

I understand that approval of this application does not constitute approval for any administrative review, conditional use permit, variance, or exception from any other city regulations which are not specifically the subject of this application. I understand that approval of this application does not constitute approval of a building occupancy permit. I understand further that I remain responsible for satisfying requirements of any private restrictions or covenants appurtenant to the property.

I certify that I am the applicant and that the information submitted with this application is true and accurate to the best of my knowledge and belief. I understand that the city is not responsible for inaccuracies in information presented, and that inaccuracies may result in the revocation of this zoning certificate as determined by the city. I further certify that I am the owner or purchaser (or option holder) of the property involved in this application, or the lessee or agent fully authorized by the owner to make this submission.

I certify that statements made to me about the time it takes to review and process this application are general. I am aware that the city has attempted to request everything necessary for an accurate and complete review of my proposal; however, after my application has been submitted and reviewed by city staff, I understand it may be necessary for the city to request additional information and clarification.

I hereby certify, under penalty of perjury, that all the information provided on this application is true and correct.

Applicant Signature Karen Puterbaugh Date 6 / 20 / 2019

OFFICE USE ONLY		
Application Fee	**Payment Type**	**Review Authority**
$ 100.00	Cash ☐ Check ☑ # 8124	Administrative, Board of Zoning Appeals
Board of Zoning Appeals	Meeting Date ___/___/___	Approved ☐ Denied ☐ Conditions ☐

AMENDING THE ZONING CODE

A. Procedures and Requirements for Variances (Zoning Code 20.13)

To vary the strict application of any of the requirements of this ordinance in the case of exceptionally irregular, narrow, shallow or deep lots, or other exceptional physical conditions, whereby such strict application would result in practical difficulty or unnecessary hardship - not economic in nature – that would deprive the owner of reasonable use of the land or building involved but in no other case. The fact that another use would be more profitable is not a valid basis for legally granting a variance. No nonconforming use of neighboring lands, structures, or buildings in the same district, and no permitted use of lands, structures or buildings in other districts shall be considered grounds for the issuance of a variance. The variance requested shall not alter the essential character of the locality, nor be in conflict with the Comprehensive Master Plan. In making this determination, the Board of Zoning Appeals shall be advised by the recommendation of the Planning Board. In cases involving properties situated within the Village District, as defined by Article 14, Section 14.02 of the Bellbrook Zoning Code, the Village Review Board shall, when possible, make a recommendation to the Board of Zoning Appeals regarding the disposition of the variance request.

B. Application and Standards for Variances (Zoning Code 20.13.2)

A variance from the terms of this ordinance shall not be granted by the Board of Zoning Appeals unless and until a written application for a variance is submitted to the Zoning Inspector and the Board of Zoning Appeals containing:

a) Name, address and phone number of applicants;

b) Legal description of property; and a site plan based on an accurate survey showing existing and/or future building locations and the locations of buildings on adjacent properties. This site plan should be prepared by a registered surveyor attesting to the accuracy of same;

c) Description of nature of variance requested;

d) Variances from the terms of the Zoning Ordinance shall be granted only where the property owner shows that the application of a zoning requirement to the property is inequitable causing the property owner practical difficulties in the use of the property. Factors to consider include, but are not limited to:

1) Whether the property in question will yield a reasonable return or whether there can be any beneficial use of the property without the variance;
2) Whether the variance is substantial;
3) Whether the essential character of the neighborhood would be substantially altered or whether adjoining properties would suffer a substantial detriment as a result of the variance;
4) Whether the variance would adversely affect the delivery of governmental services such as water, sanitary sewer or garbage removal;
5) Whether the property owner purchased the property with knowledge of the zoning restriction;
6) Whether the property owner's predicament feasibly can be obviated through some method other than a variance; and
7) Whether the spirit and intent behind the zoning requirement would be observed and substantial justice done by granting the variance. The Board shall determine, after and weighing the factors described above and any other factors the Board deems relevant, whether the property owner has shown practical difficulties so inequitable as to justify granting a variance to the property owner.

C. The Board asks the Applicant to answer items 1-7 above in writing to be included with this application.

Greene County Council on Aging/Bellbrook Senior Center

Application and Standards for Variances (Zoning Code 20.13.2)

1) WHETHER THE PROPERTY IN QUESTION WILL YIELD A REASONABLE RETURN OR WHETHER THERE CAN BE ANY BENEFICIAL USE OF THE PROPERTY WITHOUT THE VARIANCE;

The Bellbrook Senior Center has been in the Bellbrook Sugarcreek Educational Services Center building for just over ten years. The Center, operated by the Greene County Council on Aging (GCCOA), provides scheduled opportunities for Bellbrook-Sugarcreek adults age 50 and better to come together for educational and recreational activities and programs. The Center has experienced slow growth in numbers over the years, but the fact that there is no signage alerting the community that the Center is in the building or providing direction to just where the Center is for those who are aware, has been and continues to be a significant barrier and challenge.

2) WHETHER THE VARIANCE IS SUBSTANTIAL;

The only option that the assigned GCCOA staff have for signage is the placement of temporary signage (we use a molded plastic a-frame) just outside the building door, which is difficult to see because of the distance from the street to the building, and putting this same type of sign close to the road. This is done for a few special events/programs, but it is an unrealistic to do this the weekly programs and activities.

3) WHETHER THE ESSENTIAL CHARACTER OF THE NEIGHBORHOOD WOULD BE SUBSTANTIALLY ALTERED OR WHETHER ADJOINING PROPERTIES WOULD SUFFER A SUBSTANTIAL DETRIMENT AS A RESULT OF THE VARIANCE;

The proposed sign has the same design as the other signs in the area and should not have a negative impact on the essential character of the neighborhood.

4) WHETHER THE VARIANCE WOULD ADVERSELY AFFECT THE DELIVERY OF GOVERNMENTAL SERVICES SUCH AS WATER, SANITARY SEWER OR GARBAGE REMOVAL;

The proposed sign will not impact the delivery of governmental services.

5) WHETHER THE PROPERTY OWNER PURCHASED THE PROPERTY WITH KNOWLEDGE OF THE ZONING RESTRICTION;

The property owner, Bellbrook Sugarcreek Schools, is aware of the zoning restriction.

6) WHETHER THE PROPERTY OWNER'S PREDICAMENT FEASIBLY CAN BE OBVIATED THROUGH SOME METHOD OTHER THAN A VARIANCE; AND

All options have been explored.

7) WHETHER THE SPIRIT AND INTENT BEHIND THE ZONING REQUIREMENT WOULD BE OBSERVED AND SUBSTANTIAL JUSTICE DONE BY GRANTING THE VARIANCE. THE BOARD SHALL DETERMINE, AFTER AND WEIGHING THE FACTORS DESCRIBED ABOVE AND ANY OTHER FACTORS THE BOARD DEEMS RELEVANT, WHETHER THE PROPERTY OWNER HAS SHOWN PRACTICAL DIFFICULTIES SO INEQUITABLE AS TO JUSTIFY GRANTING A VARIANCE TO THE PROPERTY OWNER.

Granting the variance would maintain the spirit and intent behind the zoning requirement.

Heritage Trace Circle
N88-52-0W 2806.98
S88-52-0E 2805.00
N84-46-3W 780.00
Upper Bellbrook Rd
N1-15-0W 26
● - Represents approximate location of proposed sign (25ft from entrance & 30 ft from road)