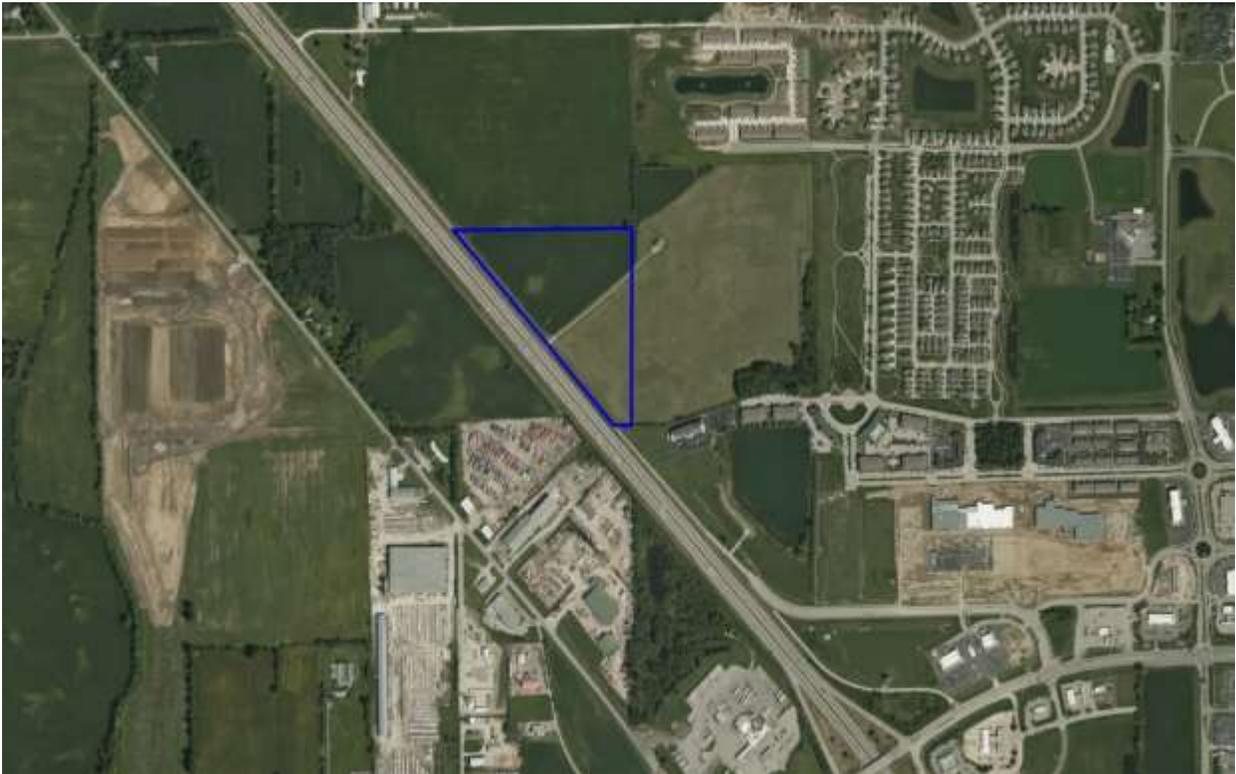




Staff Report BZA21-002-VA

Emmis Parcel Billboard Use Variance

Docket BZA21-002-VA Emmis Parcel Billboard Use Variance. The petitioner is requesting approval of a variance for allowing relocation of a billboard on a property. Subject site 5875 Perry Worth Road (commonly known as the Emmis Property) located off Perry Worth Rd. The owner and the petitioner is Innovative Emmis Indiana Broadcasting LP.



Site Location

The site is located east side of Perry Worth Road and I-65. The surrounding area is characterized by residential uses. The site has previously been known as the Emmis Parcel.

Zoning

The site is zoned MU-COR. The MU-COR District is “established to accommodate developments containing a variety of commercial, office, and residential uses. Development in this district requires connection to public water and sewers and development plan approval.” Permitted uses within this district include single family homes, multi-family dwellings, retail sales, restaurants, and offices.

Background and History

1. In July 2018, the Whitestown Plan Commission provided a favorable recommendation for a Zone Amendment from I-1 to UB for the site in question (PC18-015-ZA).
2. In February 2021, the Whitestown Plan Commission provided a favorable recommendation for a Zone Amendment from the UB to the MU-COR zoning classification. (PC20-068-ZA)

Unified Development Ordinance

The petitioner is requesting a variance form the sign regulations within the Whitestown UDO sec 8.3 as shown below.

“The following signs are prohibited unless protected by state statute, or otherwise allowed in this chapter:”

- Abandoned signs.
- Animated signs.
- Balloon signs.
- Billboards.
- Blinking signs.
- Flashing signs.
- Inflatable signs.
- Intermittent signs.
- Moving signs.
- Offsite commercial signs.
- Pole signs.
- Reflective signs.
- Rotating signs.

Petitioner Request

Emmis is seeking a variance to relocate an existing billboard in order to develop the Real Estate in a contiguous manner along Perry Worth Road. The relocation would also allow for the modernization of the billboard. The existing billboard was originally installed in 2007 and is a supported by three pillars, with a dual face sizes of 10 feet by 36 feet at a total height of 20 feet. The proposed, modernized billboard unit will be approximately 39 feet high on a monopole with dual face signs approximately 12 feet by 49 feet in size. The existing billboard is illuminated and the proposed relocated billboard will also be illuminated.

Decision Criteria

Under the Unified Development Ordinance (“UDO”), a billboard is a non-permitted use of property. The petitioner, therefore, requires a variance of use in order to move their billboard. Under UDO Article 11.14, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements of the Indiana Code IC 36-7-4-918.4, when taking action on all variance of use requests:

1. The use will not be injurious to the public health, safety, morals, and general welfare of the community.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner.
3. The need for the variance arises from some condition particular to the property involved.
4. The strict application of the terms of the Ordinance will constitute an unnecessary hardship if applied to the property seeking the variance.
5. The use does not interfere substantially with the Comprehensive Plan.

Only upon written findings satisfying each element shall the variance be approved.

Petitioner’s Proposed Findings (petitioner did not include two of the three required)

1. The approval of the use variance will not be injurious to the public health, safety, morals and general welfare of the community because: the location is within the I-65 corridor development with commercial business and not immediately affecting residential users.
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: the area and location of the existing and proposed billboard locations are withing the MU-COR zoning classification.

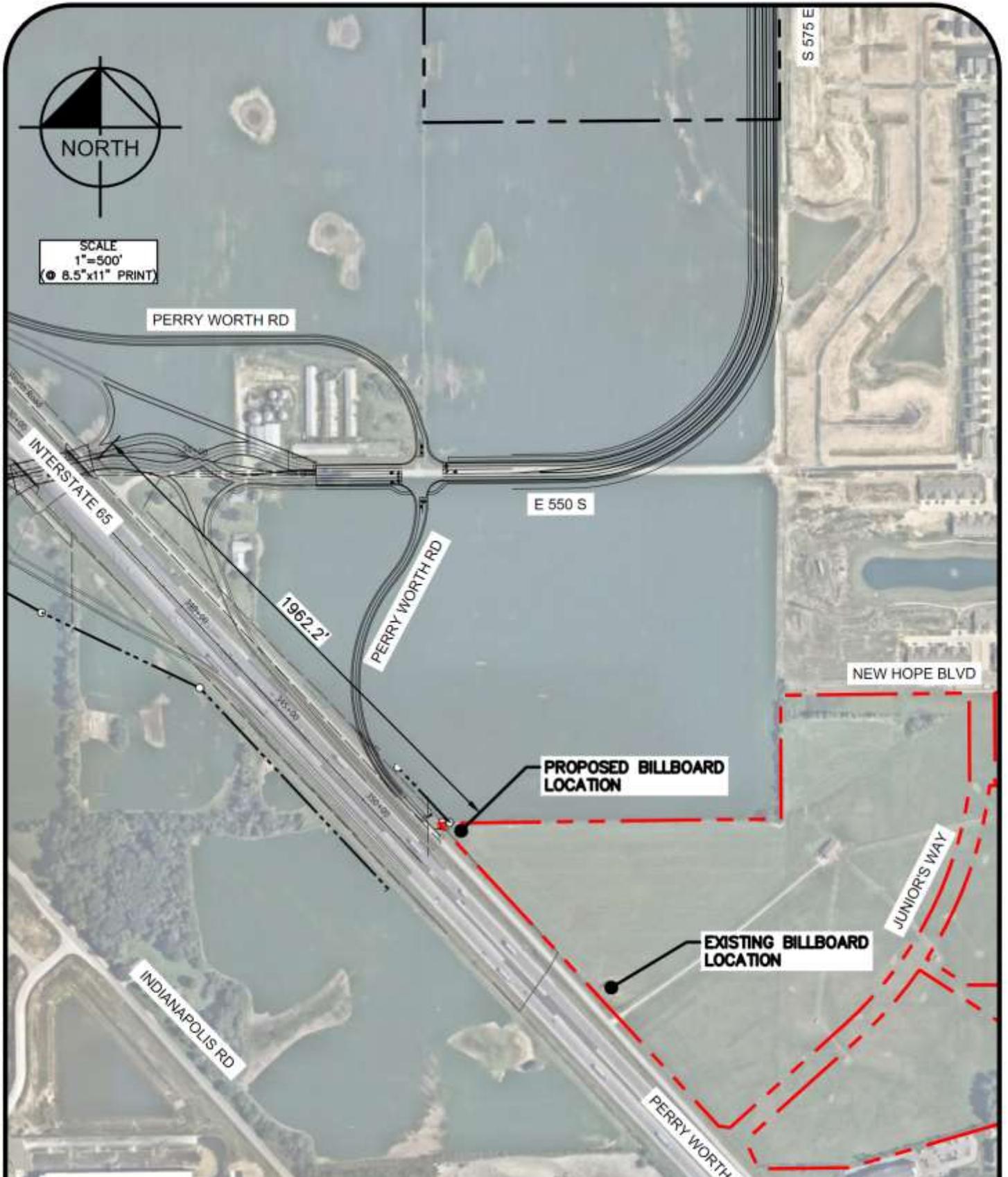
3. The strict application of the terms of the zoning ordinance will result in unusual and unnecessary hardship as applied to the property for which the variances are sought because: without the variance, the existing billboard location will detrimentally impact the owner's ability to develop the real estate in a continuous manner. Further, the new, modernized billboard will provide a safer viewing area, being taller and unobstructed by landscaping or other structures.

Staff Recommendation

Staff recommends the variance be denied with the following finding of facts for the variance request:

1. The approval of the use variance will not be injurious to the public health, safety, morals, and general welfare of the community because: **Allowing the billboard to be replaced in a different location will not be injurious to the public health, safety, morals, or general welfare of the community because a billboard is currently existing on the site.**
2. The use and value of the area adjacent to the property included in the variance will not be affected in a substantially adverse manner because: **Currently a billboard sits on the existing property, moving the location on the same parcel would not affect the value of adjacent properties since one is already in existence.**
3. The need for the variance does not arise from some condition peculiar to the property involved: **The need for the variance arises from the applicant developing their property. The circumstances are the result of actions of the applicant from which relief is sought. The site faces no physical or peculiar condition that would require the billboard to be permitted.**
4. The strict application of the terms of the zoning ordinance will not result in unusual and unnecessary hardship as applied to the property for which the variances are sought because: **The need to remove and relocate the billboard is a result of the applicant's actions, not the Unified Development Ordinance. Strict application to the terms of the zoning ordinance will bring the site to conformance with the Unified Development Ordinance and does not place an unnecessary or unusual hardship on the applicant.**
5. The approval does interfere substantially with the comprehensive plan: **As part of the Comprehensive Plan Implementation recommendations, the Plan recommends "Updating signage regulations to discourage clutter while providing for a streamlined approval process for new and expanding businesses and institutions." The Unified Development Ordinance's signage standards were updated as recommended by the Comprehensive Plan. The revised UDO does not permit billboards. The Comprehensive Plan continuously promotes wayfinding signage throughout the Town, but makes no mention to encourage billboards.**

Materials Submitted by the Applicant



PROJECT NARRATIVE AND EXPLANATION OF ZONING REQUEST

Emmis Indiana Broadcasting LP (“Emmis”) is the owner of a parcel of real estate that is approximately 21 acres in size and is generally located east of Perry Worth Road, north of Whitestown Parkway and south of New Hope Boulevard, having a common address of 5875 Perry Worth Road, Whitestown, IN 46075 (the “Real Estate”). The Real Estate is currently zoned MU-COR (Mixed Use – Commercial, Office, Residential).

Emmis is seeking a variance to relocate an existing billboard in order to develop the Real Estate in a contiguous manner along Perry Worth Road. The relocation would also allow for the modernization of the billboard. The existing billboard was originally installed in 2007 and is supported by three pillars, with a dual face sizes of 10 feet by 36 feet at a total height of 20 feet. The proposed, modernized billboard unit will be approximately 39 feet high on a monopole with dual face signs approximately 12 feet by 49 feet in size. The existing billboard is illuminated and the proposed relocated billboard will also be illuminated.