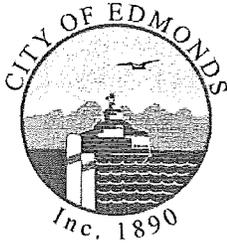


1

2



# CITY OF EDMONDS

121 5<sup>th</sup> Avenue North, Edmonds WA 98020

Phone: 425.771.0220 • Fax: 425.771.0221 • Web: [www.edmondswa.gov](http://www.edmondswa.gov)

DEVELOPMENT SERVICES DEPARTMENT • PLANNING DIVISION

3

8

## BEFORE THE HEARING EXAMINER FOR THE CITY OF EDMONDS

9

Phil Olbrechts, Hearing Examiner

10

RE: Edgewood Baptist Church  Sign Code Variance and Design Review Sign Area Modification  PLN-20130034 and PLN 20130035	<b>FINDINGS OF FACT, CONCLUSIONS          OF LAW AND FINAL DECISION</b>
--	---

11

12

13

14

15

### INTRODUCTION

16

17

18

19

20

The applicant requests a street setback variance and design review sign area modification to allow for a 36 square foot free standing sign to be placed within three feet of 76<sup>th</sup> Ave. W. The sign is for a church and includes an electronic reader board to advertise church services and events. The required street setback is 15 feet and the maximum sign area without design review approval is 24 square feet. The requested street setback variance and design review modification are approved.

21

### ORAL TESTIMONY

22

23

24

25

Kernen Lien, planner, stated that Edgewood Baptist Church is requesting a new, freestanding sign. The church is located at 20406 76<sup>th</sup> Avenue West. The request includes placing the sign within 3 feet of the street lot line which requires a setback variance. The church also wishes to increase the maximum allowable sign area to up to 36sqft which is acceptable if approved by the Architectural Design Board (ADB). The code allows a 24sqft plan, but the ADB can approve variances for up to 50 percent greater. The permit process has been consolidated. Because the sign is taller than 3ft, it must meet the setback criteria of 50ft. However, the church has requested a street setback variance to make the sign more visible from the street. In regard to location of the sign, the church site is made up of four parcels, totaling approximately

1 3 acres. The proposed sign possibly would be located near one of the lines separating  
2 two of the parcels which would subject it to a side setback requirement of 10ft. The  
3 city is recommending the church undergo a lot combination to remove the parcel line.  
4 A site plan is needed in order to know if the sign will be located near the parcel lines.  
5 The proposal is consistent with the comprehensive plan and zoning ordinance. The  
6 staff report discusses how the application meets the appropriate criteria. In regard to  
7 the electronic reader board, ECDC 20.60.020 allows signs with reader boards that  
8 change at intervals of 20 seconds or less, but the boards cannot move.

9  
10 In regard to illumination of the sign, city code dictates that a commercial sign cannot  
11 be lit after 11pm, but this is the only guidance provided. The proposed sign will be in  
12 a residential area so the hearing examiner should consider a time limit for lighting. In  
13 regard to removing the landscaping to make the sign more visible, the trees around  
14 the site were required as part of the development process of the property. The trees  
15 are the required landscaping buffer for the area.

#### 16 Applicant Testimony

17 Steve Bullock, member of Edgewood Baptist Church, stated the applicants have  
18 reviewed the staff report and support its findings. The church intends to comply with  
19 all codes, including those that regulate the reader board time change intervals. In  
20 regard to illumination of the sign, the church will comply with the commercial use  
21 regulations detailed in the code and will not light the sign after 11pm.

#### 22 Public Testimony

23 Cheryl Carlson stated that the church is a respectful and good neighbor, but she is  
24 concerned with the new sign fitting in with the character of the neighborhood. The  
25 proposed sign is very large and includes a reader board which makes it more  
appropriate for use in a commercial area, not a residential neighborhood. Although  
there are similar signs on 76<sup>th</sup> Avenue, they are much further down the road and  
located in a more commercial area. This is an inadvertent commercialization of this  
stretch of street. The digital part of the sign adds to the commercial nature of the  
sign. Ms. Carlson lives behind the church on 77<sup>th</sup> Avenue.

### 26 EXHIBITS

27 The July 30, 2013 staff report along with its eight attachments was admitted into the  
28 record as Exhibit 1 at the hearing. All references to "att." in this decision are  
29 referring to the attachments of the staff report.

### 30 FINDINGS OF FACT

#### 31 Procedural:

1. Applicant. The applicant is Edgewood Baptist Church.

1 2. Hearing. The Hearing Examiner conducted a hearing on the application  
2 on August 8, 2013 at 3:00 p.m. at the Edmonds Public Safety Complex in the Council  
3 Chambers.

4 **Substantive:**

5 3. Site/Proposal Description. The applicant requests a street setback variance  
6 and design review sign area modification to allow for a 36 square foot free standing  
7 sign to be placed within three feet of 76<sup>th</sup> Ave. W. The sign is for a church and  
8 includes an electronic reader board to advertise church services and events. The  
9 required street setback is 15 feet and the maximum sign area without design review  
10 approval is 24 square feet.

11 The Edgewood Baptist Church site is comprised of four separate parcels totaling three  
12 acres. All of the parcels making up the Edgewood Baptist Church site are fairly level  
13 with little topographical change across the site.

14 The Edgewood Baptist Church site has significant amounts of landscaping. The  
15 property between the church building and 76<sup>th</sup> Avenue West is landscaped with a  
16 number of trees, shrubs and lawn. The parking lot south of the church has  
17 landscaping within the parking area as well as trees along 76<sup>th</sup> Avenue west. A grove  
18 of mature evergreen trees separate the church building from the residential property to  
19 the west.

20 Due to the fact that the project site is composed of more than one parcel, at the time  
21 of the hearing staff did not have sufficient information to determine whether the sign  
22 would be in compliance with side yard setbacks. The conditions of approval require  
23 staff verification of the location of the sign in relation to side yards and also require  
24 approval of a lot combination if side yard setback requirements are not met.

25 The most troubling feature of the sign from an aesthetic standpoint is the electronic  
reader board. Electronic signs are certainly "commercial" in nature and detract to  
some degree from surrounding residential character. If that degree is significant, the  
sign could be approved on condition that the electronic reader board is removed from  
the proposal. However, in assessing the degree of impact, it must be acknowledged  
that the applicant is authorized to have a 24 square foot reader board within 15 feet of  
76<sup>th</sup> Ave. W. The impact under consideration is an additional 12 square feet of reader  
board located within three feet of 76<sup>th</sup> Ave. W. Given the large amount of  
landscaping, the high quality and compatible sign design and the school across the  
street, the requested increase in the size of the reader board is not significant.

4. Characteristics of the Area. This property is located in a multi-family  
residential zone (RM-3) as are the properties to the north and south of the site  
(Attachment 4). West of the subject property is a single family neighborhood zoned  
RS-8. To the east of 76<sup>th</sup> Avenue is the City of Lynnwood. College Place

1 Elementary School is located directly across the street from the project site and a  
2 single family neighborhood is located just north of College Place Elementary.  
3 According to the City of Edmonds' Transportation Plan, 76<sup>th</sup> Avenue North is  
4 considered a "Minor Arterial." There are no other signs within the immediate  
5 vicinity.

6 5. Adverse Impacts. There are no adverse impacts associated with the  
7 proposal. No critical areas are located at the proposed sign location. The most  
8 significant impact is neighborhood compatibility. As noted by Cheryl Carlson in her  
9 testimony against the proposal, the sign is located in a residentially zoned area and  
10 surrounded by residential uses on three sides. Great care should be taken that sign  
11 variances not be used to allow for the commercialization of residential  
12 neighborhoods. That is a very valid concern, but the unique circumstances of the  
13 application and its high quality design do not make it a problem in this application.

14 As to immediate compatibility, as shown in the first page of att. 2, the architectural  
15 features of the sign mimic to an exacting degree the features of the church itself and  
16 thereby ensure compatibility in its use of materials, colors, design and proportions  
17 with the church. The scale of the sign will be obscured to a large degree by the  
18 surrounding landscaping and is dwarfed by the size of the building site and the  
19 building itself. For all these reasons, the scale and location of the sign will not create  
20 any significant visual encroachment, or commercialization, of the surrounding  
21 residential neighborhood. On this issue it is also noteworthy that the closest land use,  
22 across the street, is a school. It is also important to note that the Edmonds  
23 Architectural Design Board, with expertise on building design, has reviewed the  
24 proposal for compatibility under the criteria of the design review modification criteria  
25 of ECDC 20.60.015(B)(1) and also found it to be compatible.

As to setting any type of precedent, the unique circumstances of the project site, as  
outlined in FOF No. 6 below, make it unlikely that this situation would occur with  
any regularity. Even if it did, the cumulative aesthetic impacts of such a precedent  
would arguably not be significant, i.e. a 36 square foot sign of high quality design  
obscured by an extensive amount of vegetation every 600 feet would be far removed  
from the aesthetic blight caused by the dilapidated billboards lining SR 99 in Seattle.

6. Unique Circumstances. Unique circumstances justify both the street  
setback variance and the increase in sign area as follows:

- A. Street Setback: As shown in the site plan in Att. 3 and the photographs of Att.  
2, a sign located more than three feet away from 76<sup>th</sup> W. Ave. would be very  
difficult to see from any travelling motorist along that road due to the  
significant amount of landscaping and on street parking at this location. As  
explained in the excellent application narrative, att. 2, the applicants are  
authorized in the RM-3 zone to construct a 280 square foot wall mounted sign.  
However, this option is not reasonably available to them because the  
landscaping and the low building height/mansard roof overhang combination

1 would obscure such a sign from the travelling public. Due to these unique  
2 circumstances, the requested setback variance is the only reasonable means  
3 available to adequately designate the entry to the church as well as to  
advertise the existence of the church's location and presence in the  
community.

4 B. Sign Area. As noted previously, there is a significant amount of landscaping  
5 at the project site and even with approval of the street setback variance the  
6 sign will still be difficult to see. Also as noted previously, a free standing sign  
7 is the only signage option available to the applicant such that they cannot take  
8 advantage of the 280 square foot allowance available to them (and all other  
9 conditional nonresidential uses in the RM-3 zone) for wall mounted signs.  
Finally, the sole free standing sign the applicants propose will be the only sign  
advertising a premises with 600 lineal feet of street frontage along 76<sup>th</sup> Ave.  
W. For all of these reasons, the requested increase in minimum sign area from  
24 to 36 square feet is amply justified by the unique conditions of the site.

## 11 CONCLUSIONS OF LAW

### 12 Procedural:

13 1. Authority of Hearing Examiner. ECDC 20.85.020 provides the Hearing  
14 Examiner with the authority to review and act upon variance applications as Type III-  
15 A decisions in accordance with ECDC 20.06. The request design review  
16 modification to sign area is reviewed on its own as a Type I decision by the  
17 Architectural Design Board. However, in this case the design review has been  
consolidated with the setback variance to be heard by the examiner in accordance  
with ECDC 20.01.002(B).

### 18 Substantive:

19 2. Comprehensive Plan and Zoning Designations. The Comprehensive Plan  
20 designates the site is "Multifamily – Medium Density" and is zoned RM-3.

21 3. Review Criteria and Application. The applicant seeks a variance from the  
22 15 foot street setback required by ECDC 16.30.030 for signs in the RM-3 zone.  
23 ECDC 20.60 provides that the variance criteria of ECDC 20.85.010 shall apply to  
24 sign code variances. The applicant also seeks a modification to applicable sign area  
25 requirements. ECDC 20.60.045(B) provides that conditional nonresidential uses in  
residential zones are allowed the maximum sign area authorized in the BN zone. Free  
standing signs in the BN zone are permitted a maximum area of 24 square feet. Up to  
a 50% increase in maximum area, as proposed by the applicant, is authorized if the  
criteria of ECDC 20.60.015 are met. The criteria of ECDC 20.85.010 (setback  
variance) and ECDC 20.60.015(B)(1) (sign area modification) are quoted below in  
italics and applied through corresponding conclusions of law.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

**STREET SETBACK VARIANCE CRITERIA**

**ECDC 20.85.010:** *No variance may be approved unless all of the findings in this section can be made.*

**ECDC 20.85.010(A) – Special Circumstances:** *That, because of special circumstances relating to the property, the strict enforcement of the zoning ordinance would deprive the owner of use rights and privileges permitted to other properties in the vicinity with the same zoning.*

*1. Special circumstances include the size, shape, topography, location or surroundings of the property, public necessity as of public structures and uses as set forth in ECDC 17.00.030 and environmental factors such as vegetation, streams, ponds and wildlife habitats.*

*2. Special circumstances should not be predicated upon any factor personal to the owner such as age or disability, extra expense which may be necessary to comply with the zoning ordinance, the ability to secure a scenic view, the ability to make more profitable use of the property, nor any factor resulting from the action of the owner or any past owner of the same property;*

5. For the reasons identified in FOF No. 6, there are special circumstances as required by the criterion quoted above. The extensive landscaping (required by City code) and extensive street frontage of the property necessitate the placement of the proposed sign within three feet of the 76 Ave. W. in order to give the applicant a reasonable opportunity to advertise its location and its services.

**ECDC 20.85.010(B) – Special Privilege:** *That the approval of the variance would not be a grant of special privilege to the property in comparison with the limitations upon other properties in the vicinity with the same zoning;*

6. The applicant simply seeks a reasonable opportunity to use signage to advertise its location, a privilege granted to any other nonresidential commercial use in a residential zone, including the RM-3 zone in which the applicant’s church is located. As discussed in FOF No. 6, the design of the church, its extensive street frontage and extensive landscaping do not make it reasonably possible for the applicant to use wall mounted signs as authorized for other nonresidential uses in residential zones.

**ECDC 20.85.101(C) – Comprehensive Plan:** *That the approval of the variance will be consistent with the comprehensive plan;*

7. The proposal is consistent with the comprehensive plan as outlined in Section VIII of the staff report, adopted by this reference as if set forth in full.

1 **ECDC 20.85.010(D) – Zoning Ordinance:** *That the approval of the variance will be*  
2 *consistent with the purposes of the zoning ordinance and the zone district in which*  
3 *the property is located;*

4 8. The relevant purpose of the RM-3 zone as identified in ECDC 16.30.00(B)  
5 is to provide “*for those additional uses which complement and are compatible with*  
6 *multiple residential use*”. For the reasons identified in FOF No. 5, the proposal is  
7 compatible and complimentary with multi-family use.

8 **ECDC 20.85.010(E) – Not Detrimental:** *That the variance as approved or*  
9 *conditionally approved will not be significantly detrimental to the public health,*  
10 *safety and welfare or injurious to the property or improvements in the vicinity and*  
11 *same zone;*

12 9. There are no significant adverse impacts associated with the proposal as  
13 determined in FOF No. 5. Consequently the criterion is met.

14 **ECDC 20.85.010(F) – Minimum Variance:** *That the approved variance is the*  
15 *minimum necessary to allow the owner the rights enjoyed by other properties in the*  
16 *vicinity with the same zoning.*

17 10. The proposed sign is very modest in size given the size and visual  
18 constraints of the premises. It is the most the applicant could request for a single sign  
19 under the ECDC and arguably isn’t enough to provide for what would be considered  
20 minimum reasonable signage for the property. The criterion is met.

21 **DESIGN REVIEW SIGN AREA MODIFICATION**

22 **ECDC 20.60.015(B)(1):** *Any sign permit application that requests a modification to*  
23 *any of the standards prescribed by this chapter. The ADB shall only approve*  
24 *modification requests that meet all of the following criteria:*

25 a. *The request is for signage on a site that has a unique configuration, such as*  
*frontage on more than two streets or has an unusual geometric shape;*

11. The project site has a unique configuration in that the applicant is only  
able to use a 36 square foot sign for a relatively large project area that has 600 feet of  
street frontage, for the reasons identified in FOF No. 6(B). This lengthy street  
frontage in addition to the extensive (required) landscaping of the site makes it  
difficult for passing motorists to find the entrance to the property or the other  
information the applicants would like to post on the sign.

**ECDC 20.60.015(B)(1)(b):** *The subject property, building, or business has site*  
*conditions that do not afford it the opportunity to provide signage consistent with or*  
*similar to other properties in the vicinity;*

1 12. As discussed in FOF No. 6(B), there are conditions unique to the site that  
2 necessitate the requested modification in order to provide an opportunity for a  
3 reasonable amount of signage as is available to other similarly sized properties in the  
4 RM-3 zone.

5 **ECDC 20.60.015(B)(1)(c):** *The design of the proposed signage must be compatible in  
6 its use of materials, colors, design and proportions with development throughout the  
7 site;*

8 13. As determined in FOF No. 5, the proposed signage is compatible in its use of  
9 materials, colors, design and proportions with development throughout the site.

10 **ECDC 20.60.015(B)(1)(d):** *In no event shall the modification result in signage which  
11 exceeds the maximum normally allowed by more than 50 percent.*

12 14. The applicant's request is limited to an increase of 50%.

### 13 DECISION

14 As conditioned below, the proposed street setback variance and design review  
15 modification meet all the criteria of ECDC 20.85.010 and ECDC 20.60.015(B)(1) and  
16 are therefore approved as conditioned:

- 17 1. Approval of this design application and variance shall not be interpreted to mean  
18 approval of the improvements as shown on the preliminary plans.
- 19 2. The proposed sign shall be constructed in a location that allows for proper sight  
20 distance for vehicles exiting the site. As currently configured the sign distance  
21 requirements appear to be met.
- 22 3. The reader board portion of the sign shall be limited to alphanumeric messages only.
- 23 4. A landscaping plan consistent with the requirements of ECDC 20.60.045.G shall be  
24 submitted at the time of building permit application for the sign.
- 25



---