

HASTINGS BOARD OF ADJUSTMENT

A meeting of the Hastings Board of Adjustment has been scheduled for Thursday, May 7, 2026 at 4:00 PM at the Hastings Municipal Airport, 3300 W 12th St, Hastings, NE.

AGENDA:

1. Call to Order
2. Roll Call
3. Pledge of Allegiance
4. Motion to adopt the current agenda for the Planning Commission Meeting
5. Communications and Appearance Request
6. Public Notice -Official Notice of the Regular Meeting was published in accordance with Nebraska Revised Statute Section 84-1411. Pursuant to Nebraska Revised Statutes Section 84-1412, the public is advised that a copy of today's agenda and all reproducible written material, which will be discussed at today's meeting, is available for public review. Additionally, a current copy of the Nebraska Open Meetings Act is posted and accessible to the public. Neb. Rev. Stat 84-1411 (1bn).
7. Approval of Minutes
 - a. Meeting of Tuesday, February 5, 2026
8. Special Order of Business-Work Session
9. Unfinished Business
 - a. Continued Appeals or Requests
 - b. Tabled Appeals or Requests
 - c. Postponed Appeals or Requests
 - d. Unfinished Items
10. Reports
 - a. Committee Reports
 - b. Chair's Report
 - c. Staff Report
 - i. Presentation on State Statutes related to the Board of Adjustment.
11. Adjournment

CITY OF HASTINGS, NEBRASKA
MINUTES OF THE BOARD OF ADJUSTMENT
THURSDAY, FEBRUARY 5, 2026

Pursuant to due call and notice thereof, a meeting of the Hastings
The Board of Adjustment was conducted at Hastings Municipal Airport,
3300 W 12th Street, Hastings, Nebraska, February 5, 2026

The meeting was called to order at 4:00 p.m. in Regular Session by Chair Byron Jorgensen, with the following members present: Byron Jorgensen, Dan Schwartzkopf, Shawn Hartmann, and Nic Dowling.

City Officials present were Kevin Kubo, Director of Development Services; Ember Batelaan, City Planner; Danny Graves, Chief Building Inspector; Erik Nielsen, Director of IT, and Melissa Woodard, Administrative Assistant II.

Chair Jorgensen led the Commission in the recital of the Pledge of Allegiance to the United States of America.

Chair Jorgensen called for a motion to adopt the current agenda for the February 5, 2026, meeting. Moved by Schwartzkopf, seconded by Hartmann, to adopt the current agenda. Voice Roll Call: Ayes: Jorgensen, Schwartzkopf, Hartmann, and Dowling. Nays: None. Motion carried: 4-0.

PUBLIC NOTICE - Official Notice of the Regular Meeting was published in the Hastings Tribune on Saturday, January 24, 2026. Pursuant to Nebraska Revised Statutes Section 84-1412, the public is advised that a copy of today's agenda and all reproducible written material, which will be discussed at today's meeting, is available for public review. Also, a current copy of the Nebraska Open Meetings Act is posted and accessible to members of the public.

APPROVAL OF MINUTES

Meeting of July 25, 2024

Chair Jorgensen called for a motion to approve the October 24, 2024, minutes. Moved by Dowling, seconded by Schwartzkopf. Voice Roll Call: Ayes: Jorgensen, Schwartzkopf, Hartmann, and Dowling. Nays: None. Motion Carried: 4-0.

Special Order of Business

- a. Election of Chairperson: Acting Chair Jorgensen introduced the item and asked for nominations for the Board Chair.
Dowling moved to nominate Dan Schwartzkopf as Chairperson of the Board of Adjustment, seconded by Jorgensen. Motion carried 4-0.
- b. Election of Vice-Chairperson: Acting Chair Jorgensen introduced the item and

asked for nominations for the Vice-Chairperson.

Dowling moved to nominate Byron Jorgensen as Vice-Chairperson, seconded by Hartmann. Motion carried 4-0.

- c. Election of Second Vice-Chairperson: Acting Chair Jorgensen introduced the item and asked for nominations for the Second Vice-Chairperson. Jorgensen moved to nominate Nic Dowling as the Second Vice-Chairperson, seconded by Hartmann. Motion carried 4-0.

Unfinished Business

- a. Continued Appeals or Requests: None
- b. Tabled Appeals or Requests: None
- c. Postponed Appeals or Requests: None

Chair Schwartzkopf opened the Public Hearing

Public Hearing

- a. **A Variance request, filed by Shannon Hoff, PSK LLC, to allow for an off-site advertising sign in the C-3 Commercial Business District to be taller than the allowed 30 feet. The proposed sign is to be 40 feet tall. The property is commonly addressed as 2211 North Kansas Avenue, City of Hastings, Adams County, Nebraska.** Kubo presented the Staff Report to consider an off-site advertising sign in the C-3 Commercial Business District to be taller than the allowed 30 feet. Staff recommended the Board of Adjustment DENY the variance request to allow the construction of an off-site advertising sign to be taller than allowed by Sign Regulations, for the reasons listed in the staff report below:
 - 1. The strict application of the zoning regulations would **not** produce an undue hardship.
 - 2. Such hardship is shared generally by other properties in the same zoning district and the same vicinity.
 - 3. The authorization of such variance will not be of substantial detriment to adjacent property, and the character of the district will not be changed by the granting of the variance.
 - 4. The granting of such variance is **not** based upon reasons of demonstrable and exceptional hardship as distinguished from variations for purposes of convenience, profit, or caprice.

Hartmann asked Kubo if he was denying the request to make it taller? Kubo replied yes. Hartmann asked if he had read those four items wrong, and the things read said there was no problem with it. Kubo reread item number one,

stressing that it would NOT produce undue hardship. Batelaan pointed out that those four items come directly from State Statutes. The State Statutes say that only if it DOES produce an undue hardship, then you grant the Variance, and we had the word NOT in there. The same applies to item 4; if it does NOT create demonstrable and exceptional hardship, you may not approve the Variance. Those four criteria are the conditions they must meet; thus, we recommend denial. Hartmann asked if the State Statute requires no higher than 30 feet. Batelaan said the State requires there to be a hardship. In the staff report, there is no hardship to have it at 30 feet, because any property in that vicinity would have to meet the same 30 feet. We are not treating this property any differently. Hartmann said the recommendation is to say no. Kubo said to **DENY** the Variance. Hartmann was confused by the wording and said it sounded like they were ok with the 40 feet because there are no other problems with that, correct? After more explanation, Batelaan stated there is no reason to allow this one sign to be at 40 feet, as the zoning regulations say 30 feet, and other properties would have to meet the 30 feet. If that's the issue, then we need to change our zoning regulations to allow everyone to make it at 40 feet. The Zoning regulations say 30 feet. It is not unique to this property; that is why we are saying there is no hardship, it does not meet State Statutes, recommend denial.

Shannon Hoff, 1325 Highland Dr., Hastings, NE, representing PSK, LLC: Hoff started by saying he has two presentations. Everything in the first presentation is in the first application provided. Hoff gave a summary of the location at 2211 N Kansas Ave, including pictures of where the sign would be placed. This showed the relative location of the sign, and with this picture shows the relative location to 281 and why that is important for the application, will come later. The C-3 Sign Code, as it is today, is inconsistent. Specifically, a property owner may construct a 40-foot on-premises advertising sign, and they are not allowed to construct a 40-foot off-premises advertising sign. What they applied for was an off-premises sign, known as a billboard. A 40-foot billboard, the same size as an on-site advertising sign, is allowed. Second reason, C-3 properties in the immediate vicinity already have third-party advertising signs, some that are already at 40 feet. His final point, their sign location, would be five feet below where 281 is. Relative to the ground level of traffic traveling North or southbound, if it's already 5 feet lower than what the road is at. Going through the approval standards, the first one listed, as the applicant, would produce an undue hardship; there are already signs there at 35-40 feet. Already, they would be at a competitive disadvantage, with a sign lower than those already existing. Approval standards for part B. such hardship is not shared generally with properties in the same zoning district; as previously noted, there are already signs in the immediate area at 35-40 feet. Hoff pointed out that their application is more comparable to the C-3 advertising at 2415 Osborne Drive East, 35 feet. The sign requested is at 40 feet, as is allowed on premises, and they're five feet below the roadway.

Hoff read that the authorization of such variance will not be of substantial detriment to adjacent property, and the character of the district will not be changed by the granting of the variance. Their position was that the C-3 Commercial Business District along Highway 281 would **not** be changed, as there are already four signs in this view, already at the 35 or 40 feet. They do not believe there would be a substantial detriment to the area. After reading number four reason, Hoff inserted as previously stated, the zoning code for C-3, Commercial Business District allows a 40-foot on-premises advertising sign; they want to get an off-premises advertising sign at that same height. Structurally, they would contend that on-premises and off-premises signs are identical, as both are used for the same purpose of advertising. In that vicinity, there are already off-premises pole signs at that height, so there would be no detriment to the adjacent properties, and the character of the district would be unchanged. Their position is that C-3 property owners should be allowed to construct signage with the same level of visibility as other C-3 properties in the immediate vicinity. Finally, the request is not one made for parody, nor does it receive special treatment, and just wants a Variance to allow an off-premises sign to be the same height as on-premises signs.

Jorgensen wondered where the exact location of the sign would be. Hoff replied at the northwest boundary of the building. Hartman and Hoff discussed the location. Hartman asked about the existing sign he has there now, closer to North Kansas Ave., and if he was moving the other sign. Hoff is not removing the other sign; it wouldn't need to be for the proposed sign. Schwartzkopf wondered if the purpose of the sign was to rent it, or personal? Hoff told him that it's a third-party advertising sign. Hoff stated he could build a sign for Fill – n – Chill now at 40 feet, if it were kept as a Fill-N-Chill Sign, and kept it static. Schwartzkopf asked about revenue generation. Hoff said yes, that is the full expectation of this application. Hartman stated that is why you feel you're competing with the billboards on the other side of the road, because you're a third party like they are and they are 40 feet. Hoff said absolutely. They discussed other signs, mostly on-premises signs, that Batelaan had shared, being shorter. They were mostly static signs for a single business, effectively on-premises advertising. He wants off-premises and rotating advertisers. Schwartzkopf wondered from a liability perspective, for you or the public, if it's not on premises, does your liability insurance cover this sign? Is there any risk to the City because the sign would not be on your property? Hoff told him it is on their property. It will be a PSK Sign that will be on PSK land and will have liability insurance and be on PSK books. Schwartzkopf thought off premises meant it would be off their property. Hoff stated that the off premises are strictly advertising that will be on the sign. Jorgensen mentioned Motel-8 and Dairy Queen, not advertising signs, but wondered about their heights. Kubo said those signs were erected under a different code and they were built to those standards. The code was changed

back in May of 2025. Off-premises Sign Code changed from 35 feet and went through the Planning Commission and City Council; there were no comments at that time. The City Council passed it in June 2025. Schwartzkopf asked why the change was made. Batelaan informed them that the sign code had been revisited, as it had been many years since it was last updated. After a new Comprehensive Plan, that was the first section they revisited. Addressing the on-premises and off-premises signs having the same requirements, State and Federal regulations allow cities to regulate on-premises and off-premises signs differently. The State Beautification Act requires billboards to be set a certain distance away from highways for beautification purposes. The billboards already in the area are nonconforming and longstanding. Those signs were erected and in place for many years, and owners are allowed to maintain those signs, but what we are looking at now is a new sign being put up. The City has these regulations in place to support beautification and enhance the experience of visitors entering town, while also reducing the risk of traffic hazards associated with certain signage. Those are the things we look at when proposing sign regulations. The numbers put in at that point, after looking at other communities, were 40 feet for those on-premises signs advertising the business itself. The off-premises sign would be advertising another business, so the State views that as a billboard, and the State wants to limit those along their highways. That's why there are different regulations, and that is what was looked at. Jorgensen asked if anything had been approved or denied since the new code was enacted. Batelaan said this is the only billboard application that has been applied for. Hartmann said the trouble was being a commerce-driven person, and anything we do in the City, if it's not illegal, should help people try to generate any form of commerce. Even though the current code doesn't uphold what you're asking, the fact that there are signs within the same vision that are technically illegal makes it hard not to think they should make an exception in this case. If it stood alone without competing billboards nearby, the impact could be different. They would be handicapping the applicant from generating revenue by holding him to a statute that someone else was grandfathered in for. Hartmann knows why those ordinances are put in place; that's why we have groups of people to hear both sides and decide based on that. Hartman appreciates the city staff and their role, and if Hoff's competition were required to comply, we would look at it the other way. Batelaan pointed out that the Board of Adjustment is required to vote based on those four points in the State Statutes, and the hardship must be created by the property itself. Any property in that vicinity would have the same 30 feet. Thus, the Staff Report points out, it would not be a hardship. Those other signs are non-conforming. All we are looking at is that any new sign coming in would be subject to the same 30 feet, so it's not specific to this property. Considering it does not meet the first item under State Statutes, a denial was recommended. Under the Board of Adjustment, it must meet all four of those items for the Board to approve this application. Dowling brought up the elevation change as a

hardship of this property; could that be considered? The elevated roadway instead of a flat roadway? Visibility is a challenge, and could that be a consideration for hardship? Batelaan agreed that the five-foot reduction could potentially be considered but questioned the extent of the resulting hardship. Dowling asked before this code was changed in 2025, were the on-premises and off-premises signs different or the same? Batelaan said they were different in the previous code, and they did look at and measure all the signs along the higher corridor along 281 and couldn't recall what the requirements had been previously. Schwartzkopf asked Batelaan if voting in favor of the applicant would require the City to go back and change the coding? Batelaan said no, they wouldn't have to go back and change the code. If this type of situation were to come up again, they would have the opportunity to apply for a Variance again. If inclined to vote in favor of this application, it would be best to include a statement on how they meet each of those four criteria, as that is what State Statutes look at; as a Board of Adjustment, it needs to meet those four criteria. If in favor, we would need a statement on how it meets each of these criteria. Jorgenson, if you are measuring 30 feet or 40 feet, is that measurement off the ground, to the bottom of the sign, to the middle of the sign, or to the top of the sign? Batelaan explained how they measured those existing signs in that area, using online software that allows them to measure the heights of buildings and signs. They measure from the ground up to the top of the sign.

Hoff began his second presentation directly in response to the City's position. Hoff went through the four criteria, evaluating whether to make a Variance, starting with Standard A, on the strict application and undue hardship. Specifically calling out that the zoning regulations allow an off-site advertising sign on a pole to be 30 feet, which does not constitute an undue hardship. The first position that PSK takes is that an undue hardship is a legal standard, determined on a case-by-case basis. If one called out the YMCA sign, and they wanted to build a billboard there at 30 feet, would that be an undue hardship for them? Yes, you wouldn't be able to see it. It must be looked at individually, because it depends. Where our application is an undue hardship, given the sign location, the five feet relative to Highway 281, and the competitor's locations. Hoff stated they're proposing 40 feet because of the roadway differential and the presence of four other visible signs at 35 or 40 feet. Standard B: The hardship is not shared generally by other properties in the same zoning district and vicinity. Hoff would argue that the same hardship is shared by the same zoning district but not shared by the same vicinity. Again, the road differential of the five feet, as well as the other competitors in the area. As to the comments that the character of the district will be changed by granting the Variance, seeing as there are already 35-40-foot billboards in the area, he didn't see how having more of the same would create change. This includes the character of the area and the potential impacts of taller billboards, from traffic hazards to visitor perception. To

say that a height of 40 feet would cause additional hazards or visitor impacts is inconsistent with on-premises versus off-premises signs at 40 feet. Additionally, in the tri-city area, Grand Island has 50-foot billboard height requirements, and Kearney has 45-feet. They wouldn't have sign heights at that level if they were a traffic hazard. Lastly, the demonstrable and exceptional hardship, we say the hardship is not derived from the Sign Code itself, not the 30 feet, but the Sign Code and the unique circumstances of their property. Their position was that they should be allowed to construct signage at the same level of visibility as other similar zone properties in the immediate vicinity.

Hartmann discussed the need to quantify the hardship to put an ordinance out for it, and thought that was the main reason why it sits before the Board of Adjustments. As Jorgensen had pointed out, maybe their statement of fact as to why they allowed or did not allow the Variance. He said the hardship question was the sticking point for him, both now and in terms of future impact. Jorgensen felt there may be a pre-existing condition that creates the hardship, a competitive visual disadvantage, due to the location in relation to the existing grade of the road. It creates more visual advantage. Dowling agreed that if there is a hardship, it's the level of the roadway.

Chair Schwartzkopf closed the hearing.

Chair Schwartzkopf called for a motion to approve or deny. Moved by Hartmann to *approve* the application for a Variance, to allow for an off-site advertising sign in the C-3 Commercial Business District to be taller than the allowed 30 feet, based on the undue hardship discussed and the elevation changes that are involved. Seconded by Jorgensen. Voice Roll Call: Ayes: Jorgensen, Schwartzkopf, Hartmann, and Dowling. Nays: None. Motion Carried: 4-0.

11. Reports

- a. Committee Reports – None
- b. Chairman Comments – None
- c. Staff Reports – None

Adjourn

Chair Schwartzkopf called for a motion to adjourn at 4:37 p.m. Moved by Schwartzkopf, seconded by Jorgensen. Voice Roll Call: Ayes: Jorgensen, Schwartzkopf, Hartmann, and Dowling. Nays: None. Motion carried: 4-0.

Chair Dan Schwartzkopf

Department: Development Services
Staff Contact: Ember Batelaan, Kevin Kubo
Board of Adjustment Meeting Date: 5/7/2026
File No: 2026-211
Prepared By: Ember Batelaan, City Planner

AGENDA ITEM SUMMARY SHEET

Description of Item:

Presentation by Development Services Staff on States Statutes relevant to the Board of Adjustment, including their powers and duties, as well as the requirements to grant a variance. Additionally, the presentation includes two cases from other communities in which variances were appealed to the court.

Names of People/Business affected by this action:

Why Board of Adjustment action is required:

Type of action requested:

No Action Required

Suggested motion:

Deadlines associated with action:

Department head comments:

Recommendation: