



CITY OF SAINT PAUL
Christopher B. Coleman, Mayor

25 West Fourth Street
Saint Paul, MN 55102

Telephone: 651-266-6700
Facsimile: 651-228-3220

October 15, 2010

Ms. Mary Erickson
City Council Research Office
Room 310 City Hall
Saint Paul, Minnesota 55102

Re: Zoning File #: 10-900-721
File Name: Sandra Belisle Appeal
Address: 360 Clifton St, SE corner at Jefferson
Purpose: Appeal of a Planning Commission decision denying a change of non-conforming use permit to add pet boarding and pet day care to existing pet grooming business

City Council Hearing: November 3, 2010, 5:30 p.m., City Council Chambers

Staff Recommendation: Denial
District Council: District 9 made no recommendation
Zoning Committee Recommendation: Denial, vote: 4 - 1 (Wencil)
Support: 1 person spoke, 1 letter received
Opposition: 0 people spoke, 2 letters received
Planning Commission Recommendation: Denied, vote: 13-3 (Connolly, Halverson, Wencil)

Staff Assigned: Patricia James, 651-266-6639 *m*

Attachments: Planning Commission resolution: 10-72
Planning Commission minutes, 9/10/2010
Zoning Committee minutes, 7/8/2010; 9/2/2010
Deadline for Action Extension Letter
Correspondence received
Staff Report packet

cc: Zoning File #: 10-900-721
Applicant: Sandra Belisle; Jane Prince, Weinblatt & Gaylord PLC
City Council Members
District Council: 9
Donna Drummond
Wendy Lane
Allan Torstenson
Peter Warner



APPLICATION FOR APPEAL

Department of Planning and Economic Development
Zoning Section
1400 City Hall Annex
25 West Fourth Street
Saint Paul, MN 55102-1634
(651) 266-6589

Zoning Office Use Only
File #: 10-900721
Fee: 435⁰⁰
Tentative Hearing Date:
To Be Scheduled

APPELLANT

Name Sandra Belisle
Address 360 Clifton St.
City St. Paul St. MN zip 55102 Daytime Phone 651/644-6475

PROPERTY LOCATION

Zoning File Name Sandra Belisle
Address / Location 360 Clifton St., SE corner of Jefferson

TYPE OF APPEAL: Application is hereby made for an appeal to the:

- Planning Commission**, under provision of Chapter 61, Section 701, Paragraph c of the Zoning Code, of a decision made by the Planning Administrator or Zoning Administrator

OR

- City Council**, under provision of Chapter 61, Section 702, Paragraph a of the Zoning Code, of a decision made by the Planning Commission

Date of decision: Sept. 10, 20 10 File Number: 10-506-183

GROUNDS FOR APPEAL: Explain why you feel there has been an error in any requirement, permit, decision or refusal made by an administrative official, or an error in fact, procedure or finding made by the Planning Commission.

see attached

*OK 17564
435⁰⁰*

Attach additional sheets if necessary

Appellant's Signature Sandra K. Belisle Date 9-16-10 City Agent ADD 9-20-10

**Rec'd 9/20/10 SL*

GROUNDNS FOR APPEAL

FILE NUMBER: 10-506-183
FILE NAME: Sandra Belisle
FILE ADDRESS: 360 Clifton St./SE Corner of Jefferson

Explain why you feel there has been an error in any requirement, permit, decision or refusal made by an administrative official or an error, fact, procedure or finding made by the Planning Commission.

1. The Planning Commission erred by basing its denial of this application on a staff report that included incomplete and misleading statements of fact.
2. The Planning Commission erred by adopting the findings of a staff report based on an outdated determination of similar use (1984) and a 2007 Statement of Clarification by the Zoning Administrator that does not address pet boarding.
3. The City of Saint Paul zoning code is silent on pet boarding.
4. At its meeting on Sept. 2 when the zoning committed voted to deny the application, the zoning committee packet prepared for the meeting did not include the full record of the public hearing.
5. The Applicant has legally operated her pet grooming and boarding business at various locations in Paul for over 30 years, formerly under a pet shop license, and as of 2006, under its current legal nonconforming use permit. The City established its pet boarding *license* in 2008, and the applicant will obtain said license as required if zoning approval is granted.
6. At Zoning Committee meetings on July 8, 2010 and again on Sept. 2, 2010, zoning staff did not know whether applicant required a change or an expansion of the nonconforming use permit, calling into question the entire basis for these proceedings. The Applicant's inclusion of boarding and day care in her business does not represent either a change or an expansion when it was granted its original nonconforming use permit in 2006.
7. According to the staff report, use of this parcel for pet grooming, boarding and day care, is consistent with the comprehensive plan, for its location on a "mixed use corridor," which are suitable for "a mix of residential, commercial, retail, office, small scale industry, institution and open space uses."

Prepared for Sandra Belisle by:
Jane L. Prince, Attorney
Weinblatt & Gaylord PLC
111 East Kellogg Blvd., Suite 300
Saint Paul, MN 55102

city of saint paul
planning commission resolution

file number 10-72

date September 10, 2010

WHEREAS, Sandra Belisle, in File # 10-506-183, has applied for a change of nonconforming use to add pet day care and boarding to the existing pet grooming business under the provisions of § 62.109(c) of the Saint Paul Legislative Code, on property located at 360 Clifton St, Parcel Identification Number (PIN) 112823130033, legally described as Ramseys Sub Of B21 Stinson Br Lot 34 Blk 21; and

WHEREAS, the Zoning Committee of the Planning Commission, on July 8, 2010, held a public hearing at which all persons present were given an opportunity to be heard pursuant to said application in accordance with the requirements of §61.303 of the Saint Paul Legislative Code; and

WHEREAS, the Zoning Committee laid the matter over for additional findings to be made and considered the application again at its meeting on September 2, 2010; and

WHEREAS, the Saint Paul Planning Commission, based on the evidence presented to its Zoning Committee at the public hearing as substantially reflected in the minutes, made the following findings of fact:

1. The applicant's current nonconforming use permit was approved by the Planning Commission on December 15, 2006, subject to the following conditions: 1. The number of employees/independent contractors shall be limited to 7. 2. The hours of operation shall be Monday through Saturday, 7:00 a.m. to 8:00 p.m. 3. Four off-street parking spaces shall be provided at the rear of the property and constructed as required by site plan review staff in the Office of License, Inspections, and Environmental Protection (LIEP). 4. Signs for the business shall comply with the sign regulations for size and placement unless a variance is approved by the Board of Zoning Appeals.
2. It appears that the property is in compliance with conditions 1, 2, and 4. However, the garage has been removed, and there are now only 1 or 2 off-street parking spaces on the lot rather than the 4 required by the Planning Commission in the 2006 permit. The area previously occupied by the garage has been fenced in along with the rest of the back yard and is now used for outdoor storage and a dog exercise area, based on photos provided by the applicant. Further, as part of this application, on-street parking for both employees and customers is proposed.
3. In response to a complaint that animal boarding was occurring on the site, staff in the Department of Safety and Inspections (DSI) notified the applicant that animal daycare and boarding could not occur without a license for these activities, and that a rezoning of the property to an industrial classification would also be needed, based on a Zoning Administrator's 2007 statement of clarification that animal day care was similar to uses in the IR, I1, and I2 districts. The applicant is instead applying for a change of nonconforming use.

The following changes are being proposed to the business's operation to accommodate the new uses: 1) one additional staff member would be added, bringing the total to eight (8) plus the owner. 2) The use would expand to include an outdoor exercise area in the back yard for the day care and boarded animals, where, according to the application, they would spend much of the day. These

moved by Kramer

seconded by _____

in favor 13

against 3 (Connolly, Halverson, Wencil)

animals would be supervised by the additional staff person. The application does not make clear the hours of work for the additional staff, including if the staff would stay at the business at all times when animals are being boarded or if the animals would at times be in the building or outdoors without an employee or the owner present. 3) Animals would be boarded for up to eight (8) days. 4) The applicant states that the number of boarders and length of stay will be "strictly limited," but does not provide a specific total number of animals that would be boarded at any one time. According to the plan and photos provided by the applicant, three cat cage areas and six dog cage areas are shown. It appears that some smaller cages would be stacked, so more than nine animals could potentially be accommodated. 5) The business would have one or two staff present to supervise the boarded animals for some duration of time on Sunday, increasing activity on the site to seven days per week, although the level of activity would be less on Sunday because the pet grooming business would be closed.

4. Section 62.109(c) states: *The planning commission may allow a nonconforming use to change to a use permitted in the district in which the nonconforming use is first allowed, or a use permitted in a district that is more restrictive than the district in which the nonconforming use is first allowed, if the commission makes the following findings:*
 - a. *The proposed use is equally appropriate or more appropriate to the neighborhood than the existing nonconforming use.* This finding is not met. The existing pet grooming business is classified as a service business, similar to the previous beauty shop use. These businesses are first permitted in the TN1 Traditional Neighborhood and OS Office Service districts. The Zoning Administrator has issued a statement of clarification that finds commercial animal daycare (having more than three animals total) is similar to uses first permitted in the IR Light Industrial Restricted zoning district. The statement of clarification also found that animal day care for no more than three total animals (including the homeowner's animals) is a permitted home occupation. While the applicant has not provided a specific number of animals for the day care and boarding, the basement appears to be set up for more than three animals. Therefore, the proposed use is first permitted in a less restrictive district than the existing use, and it is not equally or more appropriate to the neighborhood than the existing nonconforming pet grooming use.
 - b. *The traffic generated by the proposed use is similar to that generated by the existing nonconforming use.* This finding may be met. The applicant states that day care and boarded animals will arrive by appointment, similar to the existing pet grooming business. Depending on the number of animals in the day care or being boarded, the traffic generated may be similar to the existing pet grooming business.
 - c. *The use will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare.* This finding is not met. The daycare and boarding proposal states that the animals will spend "most of each day" in an outdoor exercise area, which creates an outdoor use where one is not present now. The application states that an employee will supervise the animals and will clean up after them. However, the zoning administrator's statement of clarification states that animal day care must be within a completely enclosed building in the IR and I1 districts, and that outdoor exercise areas are permitted in I2 districts only if the property does not adjoin a property occupied by a residential use. In this instance, besides the fact that the property is zoned R4 One-family Residential, it also adjoins a residential use to the south and abuts a residential use to the east. Having an unspecified number of animals outdoors during the day creates a situation that could be detrimental to the existing character of development in the immediate neighborhood and is inconsistent with the zoning administrator's statement of clarification. Depending on the operation of the business and the level of supervision provided for the animals, the use may be one that does not endanger the public health, safety, or general welfare.
 - d. *The use is consistent with the comprehensive plan.* This finding is met. The Randolph and Victoria intersection is within an area identified as "mixed use corridor," on the future land use map of the

Land Use chapter of the Comprehensive Plan. The plan finds that mixed use corridors are suitable for a mix of residential, commercial, retail, office, small scale industry, institutional, and open space uses.

5. Although not required by the zoning code for a change of nonconforming use, the applicant has also submitted a consent petition for the proposed use signed by owners of seven of the ten parcels within 100 ft. of 360 Clifton.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Sandra Belisle for a change of nonconforming use to add pet day care and boarding to existing pet grooming business at 360 Clifton St is hereby denied.