



APPLICATION FOR APPEAL

Department of Safety and Inspections

375 Jackson Street, Suite 220

Saint Paul, MN 55101

651-266-9008

RECEIVED IN D.S.I.

MAR 24 2014

Zoning office use only

File no. 14-190098

Fee 440.00

Tentative hearing date:

04-16-14.

APPLICANT

Name: District 6 Planning Council

Address: 171 Front Avenue

City: St. Paul State: MN Zip 55117 Daytime phone 651-488-4485

Name of owner (if different)

PROPERTY LOCATION

Address 1200 Rice Street Saint Paul, MN 55117

Legal description: Stinsons Rice Street addition Subj To Esmt Lots 10 Thru Lot 14 Blk 2

(attach additional sheet if necessary)

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

☐ Board of Zoning Appeals ☒ City Council

under the provisions of Chapter 61 Section 702, Paragraph A of the Zoning Code, to appeal a decision made by the Board of Zoning Appeals

on March 18, 2014, 2014. File number: 14-093588
(date of decision)

GROUND 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 Board of Zoning Appeals or the Planning Commission.

Please see attached

(attach additional sheet if necessary)

Applicant's signature

Raymond J. Olesen

Date

3/20/14

City agent

District 6 Planning Council hereby makes application to the City Council under the provisions of Chapter 61 Section 702 Paragraph A of the Zoning Code, appeal of the Board of Zoning Appeals (BZA) decision and resolution dated March 18, 2014

Bilal Alsadi has applied for variances from the strict application of the provisions of Section 64.504(e)(3) of the Saint Paul Legislative Code pertaining to the sign code requirements in order to install a 21 square foot sign with dynamic display on a multi-tenant free standing sign at the southeast corner of Rice Street and Maryland Avenue for the businesses on this site.

The sign code requires a sign with dynamic display in a B2 district located within 100 feet of a residential use to: 1) Be monochromatic; the applicant is proposing a full color sign. 2) Have a display message that does not change faster than every 20 minutes; the applicant is proposing a display message that would change every 60 seconds.

The BZA found that the conditions necessary to grant two sign variances were met. District 6 Planning Council argues that the variance request does not meet the following conditions:

The variance is due to the unusual conditions pertaining to sign needs for a specific building or lot.

Even though the street widening project resulted in a shift to this property, the original building, gas pumps were removed thereby making the lot a blank slate. It is the applicant that ultimately chose the type of building and approved any site plans and this does not fall under unusual circumstances but circumstances created by the applicant.

The sign would not create a hazard

The BZA resolution references "the applicant states that the sign would not be distracting or create a hazard". The applicant cannot possibly predict that the proposed multi colored fast scrolling sign at a busy intersection would not create a hazard. In 2011 the BZA Resolution 11-245743 in regards to a proposed sign to be located at Como/Front/Dale states "Based on the zoning study conducted in 2009 on signs with dynamic display, the use of monochromatic color without moving video images causes less driver distraction. Since this sign is intended to be read by drivers on a busy intersection, is not monochromatic, and contains moving video images, it could create a traffic hazard." Subsequently the 2011 application was denied.

There has not been a review of the Maryland Avenue/Rice Street intersection to determine if the proposed sign would interfere with traffic lights.

The sign would not be objectionable to adjacent property owners

The adjacent neighbors have objected to the proposed sign, citing "there are three 2 story homes along the south side of Rose Ave between Rice St. and Park St. All three of these homes have 2nd story bedrooms with windows on the north and west sides. As there is nothing to block this sign, a full color rapidly flashing sign would be extremely disruptive and detrimental. There is also concern regarding the considerable distraction that this type of sign would create in an already extremely dangerous and congested intersection. This is an extremely busy intersection that is already the sight of frequent and dangerous accidents."

The North End Business Association recommended approval with conditions of the variances, citing "NEBA is on record maintaining the belief and operational understanding that good commercial centers cannot exist without good surrounding residential communities. We are committed to making the North End both a good place to live and shop. Having said this, and understanding that the size and set back requirements are satisfied, NEBA is inclined to support the variance requesting multi-color dynamic display. The world is in color. We have no evidence that a 20 minutes change is either excessive or would lend to pedestrian and vehicle safety at the intersection or at any other location on either street for that matter. **We will not support the variance for change cycle until such time that evidence affords accurate measures for safety.** The NEBA board had one member favoring the D6 position." Clearly, NEBA voiced concerns regarding safety at this corner.

The sign would not adversely affect residential property through excessive glare and lighting

The BZA findings state "Although located in proximity to residential uses, this relatively small sign located in a commercial area with **abundant lighting** would not have a significant adverse impact on those properties." Clearly, the residents have indicated that the proposed sign would be disruptive and would adversely affect their quality of life. The BZA found that there is abundant lighting. The Bing definition of abundant is:

plentiful: present in great quantities

well-supplied: providing a more than plentiful supply of something

Since current lighting is "present in great quantities", there is no reason to add more light to this area.

We argue that it is difficult for the BZA to find that lighting would not have a significant adverse impact on neighbors, there is no data to define or quantify excessive lighting, therefore if the residents state it would be disruptive and detrimental, then that should be the measure.

The proposed digital display sign will be on the corner of Rice and Maryland and since there is sufficient lighting on the corner it does not mean that the proposed sign would have a minimal impact on the neighbors, we argue it would have a maximum impact on the neighbors as well as on the street and would counteract the purposes of the zoning code.

The sign is keeping with the general character of the surrounding area.

Even though The BZA states there are "at least three signs with digital display on Rice Street within a mile of this property", the signs, although there are no specific locations noted in the BZA resolution, we are assuming the signs are the Holiday Stations and Super America, the signs located at Holiday stations and Super America do not scroll and are not multi-colored. The referenced signs are not located in what is termed lower Rice, but towards University and by Larpenieur, which are distinctly differing sections of Rice Street and neighborhoods. The proposed sign is not in keeping with the general character of the neighborhood.

The sign is consistent with the comprehensive plan

The BZA finds that the proposed sign would allow the business to compete with similar businesses and it is consistent with the goal of the Comprehensive Plan to support local businesses. District 6 and the neighborhood support business, however the comprehensive plan Sec.3.11 states that a goal of the comprehensive plan is to encourage the coordination of signs to achieve greater consistency among business signs and enhance the City's appearance. To operate the sign in a manner different from other signs in the area is inconsistent with the above referenced goal and thereby not consistent with the comprehensive plan.

The applicant has established that there are practical difficulties in complying with the provision, that the property owner proposes to use the property in a reasonable manner not permitted by the provision. Economic considerations alone do not constitute practical difficulties.

Even though the site has undergone changes due to the street widening project, the applicant decided to erect the building that is going up, has decided to have tenants in the building and ultimately chose the site design. There is no hard data as to the hindering of visibility because of a freestanding sign across the street the changes are due to the applicant not the "lay of the land" and this alone does not establish any practical difficulties.

The plight of the landowner is due to circumstances unique to the property not created by the landowner.

As mentioned, the applicant chose the rebuild as it is and this fact is not unique to the property but was created by the landowner. The landowner has failed to show any true unique property circumstances that were not created by the landowner.

The variance will not alter the essential character of the surrounding area.

Even as stated there are other digital display signs with a mile of the property, there are none in the immediate area and this fact alone will alter the character of the neighborhood. Rice Street and Maryland Avenue, a "commercial corner" both streets are home to residential properties in close proximity. The requested variances to allow a mode of sign display not permitted under

the code in the proposed location is not in keeping with the essential character of the neighborhood.

The Saint Paul Zoning Code is established to promote and protect the public health, safety, morals, aesthetics, economic viability and the general welfare of the community.

We conclude that The Board of Zoning Appeals was in error when it found that all the conditions were met to grant the requested variances and a sign that meets the strict application of the code is sufficient at this site.