

**CITY OF SAINT PAUL
BOARD OF ZONING APPEALS RESOLUTION
ZONING FILE NUMBER: 11-306845
DATE: December 27, 2011**

WHEREAS, J J Haywood, owner of Pizza Luce has applied for a variance from the strict application of the provisions of Section 63.310 and 63.312 of the Saint Paul Legislative Code pertaining to two variances to build a new parking lot for an existing restaurant. Access to a parking facility must be at least 25 feet from the nearest residential district. The driveway for the new parking lot will have a zero setback from the residential district to the west, for a variance of 25 feet. A side yard setback of 4 feet is required for parking spaces and a 1 foot setback is proposed from the east property line, for a variance of 3 feet in the B3 zoning district at 1170 Selby Avenue. PIN: 032823110133; and

WHEREAS, the Saint Paul Board of Zoning Appeals conducted a public hearing on December 27, 2011 pursuant to said application in accordance with the requirements of Section 61.601 of the Legislative Code; and

WHEREAS, the Saint Paul Board of Zoning Appeals based upon evidence presented at the public hearing, as substantially reflected in the minutes, made the following findings of fact:

1. *The variance is in harmony with the general purposes and intent of the zoning code.*

This finding is met. The variances would allow Pizza Luce to provide additional off-street parking for its customers and reduce the number of customers that currently park in the neighborhood on the street. Pizza Luce is not required to provide additional parking under the 2006 variance.

The reduced setback for the parking spaces will not result in any negative impacts on the commercial property to the east. The building to the east does not have any windows facing the parking lot and there is a parking lot behind the building. However, without the standard 4' setback, cars could hit the wall of the adjacent commercial building unless a bumper guard is provided. Therefore to be consistent with the intent of the zoning code a condition should be added that requires a bumper guard.

The setback of the driveway from the adjacent residential property is consistent with the purposes and intent of the zoning code because it allows the parking spaces to be further from the residential property and this will reduce the impact of the parked cars. The wooden privacy fence reduces the impact of the driveway.

2. *The variance is consistent with the comprehensive plan.*

This finding is met. The comprehensive plan supports providing adequate parking for

commercial uses to reduce their impact on the neighborhood.

- 3. 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.*

This finding is met. The lot is only 40' wide and this prevents the lot from being used as a parking lot without the variances that have been requested.

- The dimensional standards in the zoning code require that a parking lot with a single row of parking and a drive lane must be at least 38' wide, therefore, the lot is not wide enough to accommodate the parking and the required 4' setback.
- The entrance to the parking lot cannot be located 25' from the adjacent residential property as required by the zoning code. The entrance could be located 20' from the adjacent residential property if it was moved to the east side of the lot. But Public Works has concerns about sight lines and traffic safety if the driveway is located on the east side. Also, locating the driveway on the east side would move the parking spaces to the west side of the lot where they would have more impact on the adjacent residential property.

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

This finding is met. Pizza Luce has been trying to provide additional off-street parking since they opened in 2006. This lot is the only property in the immediate area that is zoned correctly for parking and that is available.

- 5. The variance will not permit any use that is not allowed in the zoning district where the affected land is located.*

This finding is met. Accessory parking lots that are located within 300' of the business they serve are a permitted use in the B3 zoning district. The accessory parking lot at 1170 Selby Avenue is located 115 feet from Pizza Luce at 1183 Selby Avenue.

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

This finding is met. The variances will allow the site to be used for parking and will not alter the essential character of the surrounding area. The parking lot will be screened from

File #11-306845
Resolution

adjacent residential property and landscaping (ornamental fence, hedge and a tree) will be provided between the front of the parking lot and the public sidewalk.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Board of Zoning Appeals that the provisions of Section 63.310 and 63.312 are hereby waived to build a new parking lot for an existing restaurant *subject to the following conditions: 1) bumper guards shall be installed on the east side of the parking lot to keep parked cars from hitting the commercial building to the east; and, 2) the applicant obtains site plan review approval prior to obtaining a building permit for any construction or grading on the site*, located at 1170 Selby Avenue; and legally described as Anna E Ramsey Add Ex Ave Lot 3 Blk 10; in accordance with the application for variance and the site plan on file with the Zoning Administrator.

MOVED BY: Bogen
SECONDED BY: Ward
IN FAVOR: 5
AGAINST: 1

MAILED: December 28, 2011

TIME LIMIT: No decision of the zoning or planning administrator, planning commission, board of zoning appeals or city council approving a site plan, permit, variance, or other zoning approval shall be valid for a period longer than two (2) years, unless a building permit is obtained within such period and the erection or alteration of a building is proceeding under the terms of the decision, or the use is established within such period by actual operation pursuant to the applicable conditions and requirements of the approval, unless the zoning or planning administrator grants an extension not to exceed one (1) year.

APPEAL: Decisions of the Board of Zoning Appeals are final subject to appeal to the City Council within 10 days by anyone affected by the decision. Building permits shall not be issued after an appeal has been filed. If permits have been issued before an appeal has been filed, then the permits are suspended and construction shall cease until the City Council has made a final determination of the appeal.

File #11-306845
Resolution

CERTIFICATION: I, the undersigned Secretary to the Board of Zoning Appeals for the City of Saint Paul, Minnesota, do hereby certify that I have compared the foregoing copy with the original record in my office; and find the same to be a true and correct copy of said original and of the whole thereof, as based on approved minutes of the Saint Paul Board of Zoning Appeals meeting held on December 27, 2011 and on record in the Department of Safety and Inspections, 375 Jackson Street, Saint Paul, Minnesota.

SAINT PAUL BOARD OF ZONING APPEALS

Debbie M. Crippen
Secretary to the Board

MINUTES OF THE MEETING OF THE BOARD OF ZONING APPEALS
CITY COUNCIL CHAMBERS, 330 CITY HALL
ST PAUL, MINNESOTA, DECEMBER 27, 2011

PRESENT: Mmes. Maddox, Bogen and Morton; Messrs. Courtney, Ward, and Wilson of the Board of Zoning Appeals; Mr. Warner, City Attorney; Ms. Tilley, Ms. Lane and Ms. Crippen of the Department of Safety and Inspections.

ABSENT: Tienne Linden*

*Excused

The meeting was chaired by Joyce Maddox, Chair.

Pizza Luce (#11-306845) 1170 Selby Avenue: Two variances in order to build a new parking lot. 1) Access to a parking facility must be at least 25 feet from the nearest residential district. The driveway for the new parking lot will have a zero setback from the residential district to the west, for a variance of 25 feet. 2) A side yard setback of 4 feet is required for parking spaces and a 1 foot setback is proposed from the east property line, for a variance of 3 feet.

Ms. Tilley showed slides of the site and reviewed the staff report with a recommendation for approval, subject to the condition that bumper guards be installed on the east side of the parking lot to keep parked cars from hitting the commercial building to the east.

Twelve letters were received and one petition signed by 62 neighbors opposing the variance request.

One letter was received from District 13 supporting the variance request.

The applicant **J. J. HAYWOOD - PIZZA LUCE**, 401 2nd Avenue North Suite 210, was present. Ms. Haywood stated that Pizza Luce has been in this location for 5 years and they would like to add more parking for their business. She stated that all the lots are very narrow and there are no alleys on either side of Selby Avenue.

There was opposition present at the hearing.

Eunice Smith, 1156 Dayton Avenue, contended that the Union Park Council did not get sufficient input from the neighbors to recommend approval of the variances. She opposes the variances and feels that Pizza Luce is in violation of their previous variance. Ms. Smith read the letter she submitted to the Board into the record. She contended that Pizza Luce is not a good neighbor and requested that the Board deny the variances.

Andrew Nelson, 1209 Selby Avenue, stated he is in agreement with Ms. Smith opposing the variance request. He does not like that the new lot will require people coming and going from the same driveway, many times having to backing out onto Selby Avenue.

Walter Jirik, 1184 Dayton Avenue, submitted the petition opposing the variance request. He stated that there were many more neighbors that wanted to sign the petition that were unable to sign because they are away for the holidays. Mr. Jirik and some of the neighbors feel that there has been some kind of conspiracy to exclude the neighbors from being heard on this issue. Mr. Jirik suggested that the City and Pizza Luce could make the proposed parking lot into neighborhood open space rather than parking.

Charles Doerr, 1205 Selby Avenue, stated he likes Pizza Luce, but they do not have enough parking and sometimes it looks like a circus on the street with all the people coming and going from the restaurant. He opposes this because the lack of parking is causing safety issues with traffic stopping to allow cars coming and going from the existing parking lot and delivery trucks parked in the street.

Paul Slattery, 1204 Hague Avenue, stated he also likes Pizza Luce, however, all the neighbors have to back out of their driveway and he is concerned with the customers having to back out onto Selby Avenue creating more traffic safety issues. He would like to see Pizza Luce stay small and is against their variance request.

Mr. Courtney and Mr. Slattery discussed the neighbors original support and excitement about Pizza Luce locating on Selby.

Ms. Haywood stated that they purchased this lot a year ago and at that time the City was not granting variances. She contended that they did speak with the District Council and the adjoining property owners at that time but did not widely flyer the neighbors. Ms. Haywood stated that they will address issues as they come up, just let them know if there is a problem. Ms. Haywood stated that they purchased the lot next to their present parking lot but could not get the needed signatures from the neighbors to create a parking lot that allows for separate in and out drives. She stated that they are just trying to add parking because of the parking issues in the neighborhood.

Ms. Bogen and Ms. Haywood discussed whether they were trying to add a patio which would remove some of their existing parking spaces.

Ms. Haywood and the Board discussed how cars would be able to pull in to park and how they would get out when they leave.

Mr. Ward and Ms. Haywood discussed making a drive thru over the two neighboring properties to the east of the proposed lot. Ms. Haywood noted that both lots would lose parking spaces and the one building has apartments on the second floor thus needing more parking.

Hearing no further testimony, Ms. Maddox closed the public portion of the meeting.

Mr. Wilson and Ms. Tilley discussed the requirement that maneuvering not be preformed in the public right of way.

Ms. Bogen commented that with the neighbors all testifying that parking is an issue she is surprised that there is so much opposition to this variance request.

Ms. Bogen moved to approve the variance and resolution based on findings 1 through 6, subject to the condition that bumper guards be installed on the east side of the parking lot to keep parked cars from hitting the commercial building to the east and that they follow the site plan with plantings and lighting for the site.

Mr. Courtney stated he has a problem with people having to back out onto Selby Avenue so he is against this variance.

Mr. Ward seconded the motion, which passed on a roll call vote of 5-1(Courtney).

Submitted by:

Approved by:

Corinne Tilley

Gloria Bogen, Secretary