

FILE
12-047595

BOARD OF ZONING APPEALS STAFF REPORT
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TYPE OF APPLICATION: Major Variance **FILE #**12-063863
APPLICANT: ROBERTA BONOFF for CREATIVE KIDSTUFF
HEARING DATE: June 25, 2012
LOCATION: 1074 GRAND AVENUE
LEGAL DESCRIPTION: Summit Park Addition Tost Pa E 19 92/100 Ft Of Lot 1o And All Of Lot 9 Blk 38
PLANNING DISTRICT: 16
PRESENT ZONING: B2; Sign-Grand **ZONING CODE REFERENCE:** 64.745
REPORT DATE: June 8, 2012 **BY:** Yaya Diatta
DEADLINE FOR ACTION: July 29, 2012 **DATE RECEIVED:** June 4, 2012

A. **PURPOSE:** The applicant is requesting a variance of the sign code requirement in order to install new signs for the Creative Kidstuff business. The Grand Avenue Special Sign District limits signage to 80 square feet in this zoning district. The business has currently one wall and one projecting sign totaling 103 square feet on the building facing Grand Avenue. The applicant is proposing to remove the existing signage and install three new wall signs and one projecting sign totaling 225 square feet for a variance of 145 square feet.

B. **SITE AND AREA CONDITIONS:** This is a 59 by 150-foot lot with alley access and off-street parking.

Surrounding Land Use: Residential uses to the south and commercial uses on other sides.

C. **BACKGROUND:** The applicant states that this business is a children specialty toy retailer which has been part of the Twin Cities community for 30 years. It is committed to creating a fun, "do touch" atmosphere for both children and adults to shop in. The amount of total signage allowed on this property is 80 square feet but there is currently 103 square feet of signage existing. The applicant's proposal to remove the existing signage and install 225 square feet of signage cannot be accomplished without a variance.

C. **CODE CITATIONS:**

Sec.64.104. - B.

Business sign. A sign which directs attention to a business, profession, commodity, service or entertainment which is conducted, offered, sold or manufactured on the premises upon which the sign is placed. It shall be considered as an accessory sign.

Sec.64.121. - S.

Sign. The use of words, numerals, figures, devices, designs or trademarks the purpose of which is to show or advertise a person, firm, profession, business, product or message.

Amendments to the Grand Avenue Sign District Plan under Council Resolution File (#09-832) adopted in August of 2009 states:

The sum of the gross surface display area in square feet of all business signs shall exceed one (1) times the lineal feet of the lot frontage or seventy-five (75) square feet, whichever is greater.

Sec. 64.207. – Sign Variances.

Applications for variance from the strict enforcement of the provisions of this chapter shall be filed and reviewed according to the provisions in chapter 61, administration and enforcement. In addition to the requirements for variances in section 61.601, the applicant shall demonstrate that such variance is needed due to unusual conditions pertaining to sign needs for a specific building or lot, and that the sign would not create a hazard, would not be objectionable to adjacent property owners, would not adversely affect residential property through excessive glare and lighting, and would be in keeping with the general character of the surrounding area.

Sec. 64.504. - B2—B3 business and IR industrial districts

(a) Business and identification signs:

(1) The sum of the gross surface display area in square feet of all business signs on a lot shall not exceed two (2) times the lineal feet of lot frontage or seventy-five (75) square feet, whichever is greater.

D. FINDINGS:

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

This finding is not met. The intent of the Grand Avenue Special District Sign Plan is to provide strong, clear identification of businesses and to reduce the clutter and chaotic diversity of signage that impairs the effectiveness of business signs. This property is allowed a maximum of 80 square feet of signage and 103 square feet is existing. Therefore, the maximum allowable signage is already exceeded by 23 square feet. The applicant's request for an additional 145 square feet of signage over the maximum allowable of 80 square feet for a total of 225 square feet of signage is not in keeping with the above stated purpose and intent of the code.

This request does not conform to the provisions of Section 64.207, the findings necessary for sign variances, as follows:

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

This condition is not met. According to the applicant, the two tall cat signs are considered sculptural elements that are an integral part of the brand identity and not signage. The applicant further states that the brand identity is a way to break from the sea of sameness she sees all over the country with malls having the same mass market tenants. As a specialty retailer, she needs to be just that - special, which is the way this business competes against larger companies.

The code's definition of a sign is clear and unambiguous and does not make a distinction between what the applicant deems as a sculptural element that is part of a brand identity and signage. Other than the applicant's intent to give a special look to this storefront, there is nothing unusual about this property to justify her request for this amount of signage.

b. *The signs would not create a hazard.*

This condition is not met. The proposed wall sign on the sign band and the projecting sign would be replacing the existing signs; therefore, they would not cause any more distraction than the existing signs. However, the tall cat signs which would be as tall as the front facade of the building could be a source of attraction and distraction for drivers and pedestrians on this busy commercial strip on Grand Avenue. The proposed tall cat signs could create a hazard.

c. *The signs would not be objectionable to adjacent property owners.*

This condition is met. No objections to this request have been raised from adjacent property owners.

d. *The signs would not adversely affect residential property through excessive glare and lighting.*

This condition is met. There are no residential properties facing the signs.

e. *The signs are in keeping with the general character of the surrounding area.*

This condition is not met. Even though located in a commercial area, the proposed cat signs are not in keeping with the general character of the surrounding area. There are no other properties with similarly tall signs in the immediate area.

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

This finding is not met. The goal of Chapter 3.11 of the Comprehensive Plan is to encourage the coordination of business signs to achieve greater consistency among

business signs and signs of community interest and to reduce visual clutter. Coordinated signage will enhance the city's appearance and potentially make retail shopping districts safer by reducing the distractions for motorists. The tall cat signs are not in keeping with the above stated intent of the code; they could increase distraction for motorists on Grand Avenue.

- 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 not met. The existing 96 square foot sign on the sign band and the 7 square foot projecting sign would be replaced with a 31 square foot sign on the sign band and a 4 square foot projecting sign, leaving 68 additional square feet of signage available. Other than the business branding concept and the applicant's desire to create a unique storefront, there are no practical difficulties that would make compliance with the code unreasonable.

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

This finding is met. This property is located in a B2 zoning district where the code allows a maximum signage of two times the lot frontage which in this district is 160 square feet. The Grand Avenue Sign District Plan was amended under Council Resolution File (#09-832) adopted in August of 2009 resulting in the reduction of the amount of allowable signage from 160 square feet to 80 square feet for this property in the overlay sign district. This is a circumstance unique to the property not created by the landowner. Had this amendment not occurred, the requested amount of signage would not have been as substantial.

- 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. Business signs are considered accessory signs that are permitted in the B2 zoning district. The requested variance would not change the zoning classification of the property.

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

This finding is not met. Although located in a commercial area, the proposed cat signs which are as tall as the height of the building facade are not in keeping with the general character of the surrounding area which consists mainly of signs smaller in size than the proposed cat signs.

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- E. **DISTRICT COUNCIL RECOMMENDATION:** Staff has not received any recommendation from District 16.
- F. **CORRESPONDENCE:** Staff has not received additional correspondence.
- G. **STAFF RECOMMENDATION:** Based on findings 1 through 3, and 6, staff recommends denial of the variance.

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CITY OF SAINT PAUL
BOARD OF ZONING APPEALS RESOLUTION
ZONING FILE NUMBER: 12-063863
DATE: June 25, 2012

Deadline for Action: 07-29-12

WHEREAS, Roberta Bonoff for Creative Kidstuff has applied for a variance from the strict application of the provisions of Section 64.745 of the Saint Paul Legislative Code pertaining to the sign code requirement in order to install new signs for the Creative Kidstuff business. The Grand Avenue Special Sign District limits signage to 80 square feet in this zoning district. The business has currently one wall and one projecting sign totaling 103 square feet on the building facing Grand Avenue. The applicant is proposing to remove the existing signage and install three new wall signs and one projecting sign totaling 225 square feet for a variance of 145 square feet in the B2 zoning district at 1074 Grand Avenue (PIN: 022823320098); and

WHEREAS, the Saint Paul Board of Zoning Appeals conducted a public hearing on June 25, 2012 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 not met. The intent of the Grand Avenue Special District Sign Plan is to provide strong, clear identification of businesses and to reduce the clutter and chaotic diversity of signage that impairs the effectiveness of business signs. This property is allowed a maximum of 80 square feet of signage and 103 square feet is existing. Therefore, the maximum allowable signage is already exceeded by 23 square feet. The applicant's request for an additional 145 square feet of signage over the maximum allowable of 80 square feet for a total of 225 square feet of signage is not in keeping with the above stated purpose and intent of the code.

This request does not conform to the provisions of Section 64.207, the findings necessary for sign variances, as follows:

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

This condition is not met. According to the applicant, the two tall cat signs are considered sculptural elements that are an integral part of the brand identity and not signage. The applicant further states that the brand identity is a way to break from the sea of sameness she sees all over the country with malls having the same mass market tenants. As a specialty retailer, she needs to be just that - special, which is the way this business competes against larger companies.

The code's definition of a sign is clear and unambiguous and does not make a distinction between what the applicant deems as a sculptural element that is part of a brand identity and signage. Other than the applicant's intent to give a special look to this storefront, there is nothing unusual about this property to justify her request for this amount of signage.

b. *The signs would not create a hazard.*

This condition is not met. The proposed wall sign on the sign band and the projecting sign would be replacing the existing signs; therefore, they would not cause any more distraction than the existing signs. However, the tall cat signs which would be as tall as the front facade of the building could be a source of attraction and distraction for drivers and pedestrians on this busy commercial strip on Grand Avenue. The proposed tall cat signs could create a hazard.

c. *The signs would not be objectionable to adjacent property owners.*

This condition is met. No objections to this request have been raised from adjacent property owners.

d. *The signs would not adversely affect residential property through excessive glare and lighting.*

This condition is met. There are no residential properties facing the signs.

e. *The signs are in keeping with the general character of the surrounding area.*

This condition is not met. Even though located in a commercial area, the proposed cat signs are not in keeping with the general character of the surrounding area. There are no other properties with similarly tall signs in the immediate area.

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

This finding is not met. The goal of Chapter 3.11 of the Comprehensive Plan is to encourage the coordination of business signs to achieve greater consistency among business signs and signs of community interest and to reduce visual clutter. Coordinated signage will enhance the city's appearance and potentially make retail shopping districts safer by reducing the distractions for motorists. The tall cat signs are not in keeping with the above stated intent of the code; they could increase distraction for motorists on Grand Avenue.

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 not met. The existing 96 square foot sign on the sign band and the 7 square foot projecting sign would be replaced with a 31 square foot sign on the sign band and a 4 square foot projecting sign, leaving 68 additional square feet of signage available. Other than the business branding concept and the applicant's desire to create a unique storefront, there are no practical difficulties that would make compliance with the code unreasonable.

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

This finding is met. This property is located in a B2 zoning district where the code allows a maximum signage of two times the lot frontage which in this district is 160 square feet. The Grand Avenue Sign District Plan was amended under Council Resolution File (#09-832) adopted in August of 2009 resulting in the reduction of the amount of allowable signage from 160 square feet to 80 square feet for this property in the overlay sign district. This is a circumstance unique to the property not created by the landowner. Had this amendment not occurred, the requested amount of signage would not have been as substantial.

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. Business signs are considered accessory signs that are permitted in the B2 zoning district. The requested variance would not change the zoning classification of the property.

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

This finding is not met. Although located in a commercial area, the proposed cat signs which are as tall as the height of the building facade are not in keeping with the general character of the surrounding area which consists mainly of signs smaller in size than the proposed cat signs.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Board of Zoning Appeals that the request to waive provisions of Section 64.745 to allow the installation of 3 new wall signs and one projecting sign totaling 225 square feet on property located at 1074 Grand Avenue; and legally described as Summit Park Addition Tost Pa E 19 92/100 Ft Of Lot 1o And All Of Lot 9 Blk 38; in accordance with the application for variance and the site plan on file with the Zoning Administrator.

IS HEREBY DENIED.

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Resolution

MOVED BY:
SECONDED BY:
IN FAVOR:
AGAINST:

MAILED: June 26, 2012

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.

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 June 25, 2012 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, JUNE 25, 2012

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

ABSENT: None

The meeting was chaired by Joyce Maddox, Chair.

Roberta Bonoff (#12-063863) 1074 Grand Avenue: The applicant is requesting a variance of the sign code requirement in order to install new signs for the Creative Kidstuff business. The Grand Avenue Special Sign District limits signage to 80 square feet in this zoning district. The business has currently one wall and one projecting sign totaling 103 square feet on the building facing Grand Avenue. The applicant is proposing to remove the existing signage and install three new wall signs and one projecting sign totaling 225 square feet for a variance of 145 square feet.

Mr. Diatta showed slides of the site and reviewed the staff report with a recommendation for denial.

One letter was received opposing the variance request from a neighbor at 1073 Lincoln Avenue and one letter from the Grand Avenue Business Association in support.

One letter was received from District 16 opposing the variance request.

Mr. Courtney and Mr. Diatta discussed the current sign square footage and whether the applicant was grandfathered in for the 103 square feet of signage existing.

The applicant **ROBERTA BONOFF**, 3939 East 46th Street, was present with Michael O'Rourke, landlord, 101 5th Street East, U.S. Bank, Bruce Albinson, 400 Clifton Avenue South, from Architectural Alliance. Ms. Bonoff contended that the tiger/lion is not a sign but a sculpture therefore it should be allowed. Mr. O'Rourke stated that the bank is making an investment in this property. They consider the proposed sculptures on the entrance to be architectural elements and not a logo or signage. Ms. Bonoff stated the letter from the Grand Avenue Business Association states the lion and tiger are unique sculptures and not intended to be signage. Ms. Bonoff submitted the letter from the Grand Avenue Business Association to the Board and read from the St. Louis Park Zoning discussion that allowed the lion sculpture to be installed at the St. Louis Park store.

Mr. Courtney asked Ms. Bonoff if the legal description of a sign is the same in St. Louis Park as in the City of St. Paul. Ms. Bonoff stated that she did not put the two side by side to compare but most cities have required limits to signage, her cat sculptures are considered signage, and that has been her contention since she submitted the plans for the remodel of this building. She asserts that this is sculpture and art and not signage.

Ms. Bogen asked Ms. Bonoff where the Westend Mall in St. Louis Park is located? Ms. Bonoff replied that it is in St. Louis Park off of Highway 394 and Zynia(?). Ms. Bogen and Ms. Bonoff discussed that the store location in the Westend Mall which is about 1 block off the main street. Mr. Bruce Albinson discussed the layout of the Westend Mall which is set up with secondary streets and parking between the

streets with most of the shops are located in separate buildings with separate entrances along the streets not internally connected. Ms. Bogen contended that the Westend Mall it is not like Grand Avenue.

Ms. Bonoff asked Mr. Albinson to discuss the driver distraction. Mr. Albinson contended that most of the driver distraction is caused by blinking and flashing lights from dynamic displays, and these sculptural elements do not have any blinking lights or flashing displays, therefore, will not be a distraction along Grand Avenue.

Mr. Wilson asked how after all the testimony, the applicant thinks her cat sculptures' don't meet the definition of a sign? Ms. Bonoff replied that she does not believe the cats are a sign. Contending that like the Snoopy's all over Grand Avenue, they are not an advertisement for the writer. She sees it as an artistic embellishment.

There was opposition present at the hearing.

Jeff Roy, 860 St. Clair Avenue, Executive Director of the District 16 Community Council, stated that although the District appreciates everything that Creative Kidstuff adds to the community, the District Council feels that the cat figures do not fit into the Historic Commercial District, within a Historic Residential District. Mr. Roy stated that the District Council was concerned that if this variance were granted there would be nothing to stop a business such as Cupcake from installing a giant cupcake in front of the building, or for a liquor store from installing a giant beer bottle, etc. The Land Use Committee voted 3-1 against this variance and the full board does not meet again before this hearing so the vote of the Land Use Committee stands as the vote of the District 16 Council for this matter.

Mr. Roy and Ms. Morton discussed the photo of the cats in the BZA packet and Mr. Roy suggested that the neighbors might have responded to the mailing if they had seen a rendition of the proposed cats on the building.

Mr. Ward and Mr. Roy discussed the cat figures and whether the District Council objected to the size of the figures or the images themselves. Mr. Roy stated that it was the size of the images that do not fit into the area or the block and could be a distraction, and there are enough problems on Grand Avenue with pedestrian safety without adding to it.

Mr. Courtney asked Mr. Roy whether any benefit would be derived from having a full District Council Committee hear this matter and vote on it, or if it would be the same vote as the Land Use Committee. Mr. Roy replied no, it would come out the same.

Ms. Bonoff stated that she and the architect went through many renditions of the figures and design options and they feel that these cats are in good taste and will fit into Grand Avenue.

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

Ms. Bogen moved to deny the variance and resolution based on findings 1 through 3 and 6.

Ms. Morton stated she is voting against the motion because she thinks that this is not a sign, it is a piece of architecture and does not think that this would be a distraction.

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Mr. Courtney asked Mr. Warner whether this is a sign or an architectural element. Mr. Warner stated that the Zoning Administrator determined that this is a sign, which is based on the reasonableness of that conclusion. He pointed out that one of the findings taken right from the applicants' submittal stated that the cat figures are sculptural elements that are an integral parts of the brand identity of this business.

Mr. Courtney stated that if the Grand Avenue Business Association were really supporting this request then they should be here, he is voting for denial.

Ms. Porter stated that the Board members have to remember that they are dealing with a special sign district and there is a reason that it is a special sign district.

Mr. Ward seconded the motion, which passed on a roll call vote of 6-1(Morton).

Submitted by:

Approved by:

YaYa Diatta

Gloria Bogen, Secretary