



Cecile Bedor, Director



CITY OF SAINT PAUL

Christopher B. Coleman, Mayor

25 W. Fourth Street
Saint Paul, MN 55102

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

September 10, 2010

Ms Sandra Belisle
360 Clifton Street
St Paul MN 55102

Gregory Lehman
839 4th St E Apt #2
St Paul MN 55106-5225

Ms. Jane Prince
Weinblatt & Gaylord PLC
Suite 300 Kellogg Square
111 E. Kellogg Boulevard
Saint Paul, MN 55101

RE: Zoning File # 10-506-183

Sandra Belisle

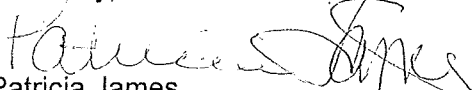
Dear Ms Belisle:

On June 9, 2010, you applied for a change of nonconforming use to add pet day care and boarding to the existing pet grooming business at 360 Clifton St. After a public hearing by the Saint Paul Planning Commission's Zoning Committee on July 8, 2010, and further discussion by the Committee on September 2, 2010, the Commission voted to deny your request on September 10, 2010. Enclosed is the Planning Commission's resolution stating its findings and decision.

The Planning Commission's decision may be appealed to the City Council by filing an appeal and fee (\$435) within ten days of the date of the Planning Commission's decision. Appeals are filed at the Zoning Counter, 1400 City Hall Annex. The appeal should be based on what you believe to be an error of fact, finding, or procedure of the Planning Commission. Enclosed is an appeal application.

Please call me at 651-266-6639 if you have questions.

Sincerely,


Patricia James
City Planner

Enclosures:

Resolution
Application for Appeal

cc: File # 10-506-183

License Inspector
District 9 Community Council

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.

**Saint Paul Planning Commission
City Hall Conference Center
15 Kellogg Boulevard West**

Minutes September 10, 2010

A meeting of the Planning Commission of the City of Saint Paul was held Friday, September 10, 2010, at 8:30 a.m. in the Conference Center of City Hall.

Commissioners Present: Mmes. Donnelly-Cohen, Halverson, Merrigan, Porter, Thao, Wang, Wencl; and Messrs. Alton, Connolly, Fernandez, Gelgelu, Kramer, Nelson, Schertler, Ward and Wickiser.

Commissioners Absent: Ms. *Young and Messrs. *Commers, *Spaulding.
*Excused

Also Present: Donna Drummond, Planning Director; Allen Lovejoy, Public Works, Patricia James, Ryan Kelley, and Sonja Butler, Department of Planning and Economic Development staff.

I. Approval of minutes August 27, 2010.

MOTION: *Commissioner Alton moved approval of the minutes of August 27, 2010. Commissioner Gelgelu seconded the motion. The motion carried unanimously on a voice vote.*

II. Chair's Announcements

Chair Donnelly-Cohen announced that there will be a change in the order of the items on the agenda for today, the Parks and Recreation Project update will come right after the Planning Director's announcements.

III. Planning Director's Announcements

Donna Drummond reported that the City Council and HRA have approved various finance and spending plans related to the Rebuild Saint Paul initiative. The HRA took final action on Wednesday, September 8th regarding these projects. The two major projects in downtown are the Penfield and Lofts at Farmers Market.

IV. Zoning Committee

Site Plan Review – List of current applications. *(Tom Beach, 651/266-9086)*

Two items will come before the staff Site Plan Review Committee on September 14, 2010. They are: Highland Park Golf Center and Putting Course, called the First Tee Denny Sanford Highland Learning Center, at 1403 Montreal Avenue, a new teaching facility building and putting greens; and the Penfield mixed use development (grocery store and apartments) at 10th and Minnesota,

for preliminary review.

OLD BUSINESS

#10-506-183 Sandra Belisle – Change of nonconforming use to add pet day care and boarding to existing pet grooming business. 360 Clifton Street, SE corner at Jefferson.
(Patricia James, 651/266-6639)

MOTION: *Commissioner Kramer moved the Zoning Committee's recommendation to deny the change of nonconforming use. The motion carried 13-3 (Connolly, Halverson, Wencil) on a voice vote.*

Commissioner Kramer announced the agenda for the next Zoning Committee meeting on Thursday, September 16, 2010.

V. Comprehensive Planning Committee

Currency Exchange/Industrial Loan and Thrift Study – Approve resolution recommending zoning code text amendments to the Mayor and City Council.
(Patricia James, 651/266-6639, and Ryan Kelley, 651/266-6562)

Ryan Kelley, PED staff, gave background on the Currency Exchange/Industrial Loan and Thrift Study. He said the City Council passed a moratorium on currency exchanges and industrial loan and thrifts that expires December 8, 2010. Mr. Kelley provided descriptions of the types of businesses covered by the proposed text amendments. He also stated that a previous zoning study on currency exchanges was done as a result of a state statute change in 1992, which added a distance requirement of one-half mile between establishments and added a system of notification so that the state would notify the municipality when a business is applying for a state currency exchange license. Denial or approval of that currency exchange license thus resided with the municipality; the state would follow whatever the municipality decided. The zoning study also added a distance requirement of 100 feet from the establishment to a residential district or residential dwelling.

Research for the study included identifying other licenses issued by the Department of Commerce that might allow a business to operate in the same manner as a currency exchange. Through this research the study also found that businesses referred to as payday loan lenders were not regulated in Saint Paul zoning code. The proposed text amendments combine these uses with currency exchanges under the umbrella use of alternative financial establishments. This use would include businesses licensed as currency exchanges, industrial loan and thrifts, consumer small loan companies and regulated loan companies. Mr. Kelley showed a map of where these establishments are currently located. He also showed a map of areas where these establishments would be allowed under the proposed zoning amendments.

Commissioner Alton commented that the proposed changes expand the separation from residential by 50%, from 100 to 150 feet and also add restrictions of distance between establishments. We are greatly reducing the area in which these legal businesses can operate. His concern was whether the City could restrict the location of a legal operation of business so that there is no place for it to open up and that the ordinance would therefore be unenforceable. It is a legal business and you can not zone it out of existence. University Avenue is an example

Commissioner Nelson reported that the Como Avenue Task Force will be meeting on Thursday, September 16, 2010 to review the summary for the Comprehensive Plan.

XI. Old Business

None.

XII. New Business

None.

XIII. Adjournment

Meeting adjourned at 9:38 a.m.

Recorded and prepared by
Sonja Butler, Planning Commission Secretary
Planning and Economic Development Department,
City of Saint Paul

Respectfully submitted,



Donna Drummond
Planning Director

Approved September 24, 2010
(Date)

Marilyn Porter
Secretary of the Planning Commission

MINUTES OF THE ZONING COMMITTEE
Thursday, July 8, 2010 - 3:30 p.m.
City Council Chambers, 3rd Floor
City Hall and Court House
15 West Kellogg Boulevard

PRESENT: Donnelly-Cohen, Kramer, Nelson, Wencil, and Wickiser

STAFF: Patricia James, Samantha Langer, and Peter Warner

The meeting was chaired by Commissioner Kramer.

Sandra Belisle - 10-506-183 - Change of nonconforming use to add pet day care and boarding to existing pet grooming business, 360 Clifton St, SE corner at Jefferson

Patricia James presented the staff report with a recommendation of denial for the change of nonconforming use permit. Patricia James also stated District 9 had not responded, and there was 1 letter in support, and 2 letters in opposition.

Upon inquiry from the Commissioners, Ms. James explained that the statement of clarification by the Zoning Administrator stated that boarding animals as a home occupation would need to meet the home occupation requirements. That would include that someone lives on site and would only allow up to three animals at the property. She explained that staff concluded a change of nonconforming use application was more appropriate than an enlargement of nonconforming use because an enlargement would generally involve a increasing a structure. She stated that there is not an established parking requirement for animal daycare or grooming. Ms. James stated that both the hours and number of employees were established in the previous permit; there was no limit set as to how many animals could be there for grooming. She stated that the animal cages in the basement currently exist, as well as the outdoor animal area, and she is not sure whether they are used to facilitate grooming or they are used for boarding animals. She also added that there are no zoning standards stating what material should be used for the outdoor area. The site plan in 2006 did not include the fenced in area.

Jane Prince, Weinblatt & Gaylord firm, the applicant's attorney, referred to a memo submitted (see attached).

Sandra Belisle, the applicant, stated that the maximum number of dogs she would like to board is eight and she would only board dogs less than 55 pounds. She would like to utilize the outdoor area for two and a half hour breaks in between the hours of 7:30 a.m. to 6:00 p.m. She explained in detail the area in the basement where the dogs will be kept when they are not outside. She stated that she has been boarding and grooming dogs since 1977. Most of the animals she boards begin as grooming customers, and she is worried if she loses the boarding capability she will lose her grooming business too. She added that she will take in other animals if their vaccinations are up to date and the dogs are not aggressive. Ms. Belisle stated she has a Contract for Deed on this property. She stated in order to keep operating at this location she needs to be allowed to board a small number of dogs.

At the inquiry of the Commissioners, Jane Prince explained that the applicant's previous nonconforming permit was issued prior to the Zoning Administrator's issuance of its statement of clarification and that Ms. Belisle understood her nonconforming use was permission for her to also have pet boarding.

Sandra Belisle responded to the letters of opposition. She stated that the only complaints she has heard about were a year ago. In response to the early morning barking, she stated that her dogs are not outside before 7:00 a.m. She also stated she doesn't know either of the people who have written letters

of opposition. Jane Prince noted that she has submitted a notarized petition signed by 70% of the property owners in the immediate area who support the change in the nonconforming use.

Barbara Pastick, 357 Fulton Street, Saint Paul, spoke in support. She stated she has two dogs of her own that may bark more than any dogs kept at Sandy's. She has never had any problems with the business.

No one spoke in opposition.

The public hearing was closed.

There was further discussion with concerns pertaining to parking, hours of operation, and the current permit requirements not being followed.

Upon inquiry from the Commissioners, Ms. James reiterated that there are no parking requirements for pet boarding or grooming. She assumed that the previous permit took into account the number of employees at the time or used the standards for a beauty shop. She confirmed there have been no complaints on file regarding parking.

At the inquiry of the Commissioners, Peter Warner, Assistant City Attorney, stated that in regards to the applicant's current business use being grandfathered in; it wouldn't meet the city standards as expressed in the Zoning Code. Mr. Warner stated that he hasn't seen any evidence presented on which to base another recommendation besides the one from staff. He recommended that the Committee direct staff to re-evaluate or consider another type of nonconforming use application; to permit the use to this applicant only, to minimize impact on the neighborhood, and get expertise from Animal Control. Mr. Warner also stated that the Department of Safety and Inspections cannot take any enforcement while there is a pending application on this property.

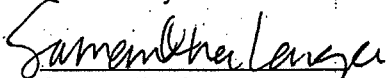
Commissioner Barbara Wencil moved lay over of the change of nonconforming use permit to allow the staff to research additional findings. Commissioner Kathi Donnelly-Cohen seconded the motion.

After further discussion regarding conditions or standards to consider in re-evaluating the application including, but not limited to, parking issues, maintenance standards of the enclosed outdoor area and limiting the use to this owner only, the motion passed by a vote of 5-0-0.

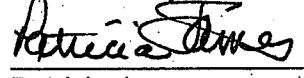
Jane Prince stated that Sandra Belisle is willing to waive the 60 day deadline for action that is August 8, 2010.

Adopted Yeas - 5 Nays - 0 Abstained - 0

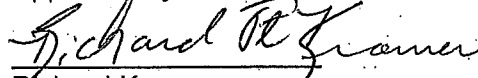
Drafted by:


Samantha Langer
Recording Secretary

Submitted by:


Patricia James
Zoning Section

Approved by:


Richard Kramer
Chair

MINUTES OF THE ZONING COMMITTEE
Thursday, September 2, 2010 - 3:30 p.m.
City Council Chambers, 3rd Floor
City Hall and Court House
15 West Kellogg Boulevard

PRESENT: Alton, Donnelly-Cohen, Kramer, Nelson, and Wencil

STAFF: Patricia James, Samantha Langer, and Peter Warner

The meeting was chaired by Commissioner Kramer.

Sandra Belisle - 10-506-183 - Change of nonconforming use to add pet day care and boarding to existing pet grooming business, 360 Clifton St, SE corner at Jefferson

Chair Kramer stated that the case is old business and is closed to public testimony.

Patricia James briefly refreshed the Committee on the staff report presented on July 8, 2010. Ms. James also presented a memo detailing further study of the application that was requested by the Committee at the previous meeting. She stated that a new application was not requested from the applicant, and that she believed the Committee could determine whether the permit should be for enlargement of nonconforming use rather than a change of nonconforming use. She also stated that she had provided findings for both types of application. Ms. James stated that her previous recommendation to deny the pet day care and boarding has not changed.

Upon further inquiry from the Commissioners, Ms. James confirmed that if the Committee did consider the application to be an enlargement of nonconforming use, it would not require another consent petition, since a petition had been submitted originally. She explained that the Zoning Code doesn't address this situation clearly, and can be interpreted to require either a change or enlargement of nonconforming use. She stated the Committee could make the decision, and a new public hearing wouldn't be necessary if they did determine it to be an enlargement of nonconforming use. Ms. James stated that a number of the proposed conditions of approval are requirements needed for an animal day care and boarding license with the City of Saint Paul. She explained that the number of animals allowed to be boarded would need to be clarified, as well as operating hours.

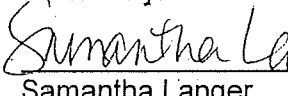
At further inquiry from the Commissioners, the applicant, Sandra Belisle, stated she would like to board up to eight animals. She explained she has the room and ability to accommodate eight animals with no problems.

Commissioner Kathi Donnelly-Cohen moved denial of the change of nonconforming use permit.
Commissioner Brian Alton seconded the motion.

After discussion regarding insufficient evidence that the use won't be detrimental to the existing character of the neighborhood, the motion passed by a vote of 4-1-0.

Adopted Yeas - 4 Nays - 1 (Wencil) Abstained - 0

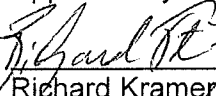
Drafted by:


Samantha Langer
Recording Secretary

Submitted by:


Patricia James
Zoning Section

Approved by:


Richard Kramer
Chair