

BOARD OF ZONING APPEALS STAFF REPORT

TYPE OF APPLICATION: Major Variance **FILE #:** 11-306845

APPLICANT: J J Haywood, owner of Pizza Luce

HEARING DATE: December 27, 2011

LOCATION: 1170 SELBY AVENUE

LEGAL DESCRIPTION: Anna E Ramsey Add Ex Ave Lot 3 Blk 10

PLANNING DISTRICT: 13

PRESENT ZONING: B3 **ZONING CODE REFERENCE:** 63.310(c) & 63.312

REPORT DATE: December 12, 2011 **BY:** Tom Beach

DEADLINE FOR ACTION: January 14, 2012 **DATE RECEIVED:** December 5, 2011

- A. **PURPOSE:** 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.

- B. **SITE AND AREA CONDITIONS:** There is a small vacant commercial building at the front of the lot. The area behind the building is paved with asphalt but there is no access for a car to get to this area and park.

Surrounding Land Use:

North: Mixed use (Single-family residential, multi-family residential and commercial) B3, B2 and RM2

South: Single-family residential (R4)

East: Commercial (B3)

West: Single-family residential (R4)

- C. **BACKGROUND:** The proposed parking lot would be for customers of Pizza Luce. Pizza Luce is located across the street on the north side of Selby.

In 2006, the Board of Zoning Appeals approved an 11 space parking variance for Pizza Luce to move into 1185 Selby Avenue subject to the condition that two lots, 1183 and 1185 Selby

Avenue, are combined as a single parcel under one property identification number. (File 06-079138) Pizza Luce has 8 parking spaces in the small lot (1183 Selby Avenue) next to its building.

Pizza Luce acquired the house immediately west of its building and parking lot on the north side of Selby, at 1193 Selby, with the intent of enlarging the parking lot. However, the property needed to be rezoned from residential to commercial and Pizza Luce was not able to obtain the signatures of nearby property owners that it needed to apply for a rezoning. So Pizza Luce was not able to expand its current parking lot to the west.

Since then Pizza Luce bought the property at 1170 Selby. They want to remove the existing commercial building on the property and build a parking lot with 11 spaces for their customers. This property is already zoned commercial and does not need to be rezoned for parking. However, the lot is only 40' wide and it is not possible to develop it as a parking lot without variances.

D. CODE CITATION:

Section 63.310(c) Entrances and exits.

Entrances and exits to and from all parking facilities located in land zoned other than RL - RT2 shall be at least twenty-five (25) feet from any adjoining property in RL—RT2 zoning districts.

Section 63.312 Setback.

Except as otherwise provided in section 66.442(a) or section 66.431(b) off-street parking spaces shall not be within a required front or side yard and shall be a minimum of four (4) feet from any lot line.

Section 63.304 Parking location, nonresidential.

Off-street parking for other than residential use shall be either:

(b) In a VP vehicular parking district within the same or a less restrictive zoning district as the principal use or within a more restrictive zoning district providing the principal use is also an allowed use in that zone. This parking shall be located within three hundred (300) feet of the building it is intended to serve, measured from the nearest point of the building to the nearest point of the off-street parking lot;

E. FINDINGS:

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 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.

- F. **DISTRICT COUNCIL RECOMMENDATION:** The Union Park District Council met on December 13 and voted to support the variances.
- G. **CORRESPONDENCE:** As of the date of this report, staff has not received any correspondence.
- H. **STAFF RECOMMENDATION:** Based on findings 1 through 6, staff recommends 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.