

MINUTES
BOARD OF ZONING APPEALS
15 W KELLOGG BLVD, ROOM 330
ST PAUL, MINNESOTA, JUNE 22, 2017

PRESENT: Mmes. Bogen, Trout-Oertel and Younkin Viswanathan; Messrs. Rangel Morales, Miller and Saylor of the Board of Zoning Appeals; Mr. Warner, City Attorney; Mr. Benner II, Ms. Lane and Ms. Crippen of the Department of Safety and Inspections.

ABSENT: Katrice Albert

The meeting was chaired by Gloria Bogen, Chair.

Zephyr Group LLP (#17-045181) 1770 Old Hudson Road: The applicant is proposing to install three additional signs for the Holiday Station store, two of which would be signs with dynamic displays placed on the north and south facades of the building; the other sign would be a freestanding sign located in the rear of the property facing Interstate 94. 1) The zoning code states that signs with dynamic display in the T3 zoning district, in which this property is located, must be monochromatic and may not scroll or change their content faster than every 20 minutes; the applicant is requesting a variance of these conditions to allow these wall signs to be full color and change their content every 12 seconds. 2) The White Bear Avenue Special Sign District Plan states that freestanding signs must not be taller than 20 feet and are only allowed when the building has a setback of 35 feet from the property line; the applicant is requesting a variance of these conditions to allow a sign of 37-1/2 feet in height, for a variance of 17-1/2 feet, and to allow a freestanding sign within a yard of less than 35 feet.

Mr. Benner showed slides of the site and reviewed the staff report with a recommendation for approval of the free-standing sign, based on findings 1 through 6; and denial of the dynamic display signs based on finding 3.

Two letters in opposing to the variance request were received by staff, one from the neighbor at 396 White Bear Avenue, no address was on the other letter of opposition.

Mr. Benner and the Board discussed how the building sets on the lot and where the signs will be located until they all understood the locations for the signs on the site plans.

Ms. Younkin stated this plan in comparison to the previous plans from past variance requests they are no longer planning on having a dynamic display sign on the corner of White Bear Avenue and Old Hudson Road. Mr. Benner replied that is correct, the dynamic displays will no longer be located on the free-standing sign. They will be placed on the north and south elevations of the building. Ms. Younkin continued that the other sign the tall one was also proposed last time. Mr. Benner replied yes. Ms. Bogen commented that the Board denied that one. Mr. Benner replied that is correct. There are also dynamic display signs within the immediate area on the Subway, and the SA (Super America) gas station across the street and kitty-corner from this property, and the Walgreens store has one as well.

No correspondence was received from District 1 regarding the variance request.

The applicant **ZEPHYR GROUP LLP, MICHAEL CRONIN** - 4567 American Boulevard West, Bloomington, was present. Mr. Cronin thanked the Board for taking a second look at this application, which gave them time to meet with the District 1 Community Council who originally opposed the dynamic sign. After meeting with the District 1 Community Council they removed their objection to the dynamic display sign. We also talked about the traffic hazard and talked with Ramsey County who had a

great concern about the sign. They met with a representative of Ramsey County Traffic Management and that is why the two dynamic display signs are now located on the building. There is a letter from the County and the City saying they no longer have an issue with the dynamic display signs.

Mr. Cronin stated that staff approved all the findings except for finding 3. He continued that they discuss the dynamic display signs on pages 198-199 of the BZA packet which was part of their original application. He stated that they believe that the more restrictive considerations which will not allow us to change these signs for 19 minutes and 38 seconds as well as not being able to use full color or any images on the sign is an unintended consequence of the 2015 Gold Line Rapid Transit Rezoning. As Mr. Benner said it called for a radically different pattern of development than what is there now. There has been no progress made toward this and it has affected a vast section of the city, from Knard Street to the City limits on both sides of Highway 94. Page 210 of the packet shows this large district for rezoning and a new character of development. The Metropolitan Council now says that the best case for the bus rapid transit is now 2023. This was a big planning deal; it was important to the City of St. Paul and it was a vast area and talked about a radical change. He is not certain that the discussion at that time got down to the level of whether a sign with dynamic display could change every 12 or 20 minutes. Or whether a dynamic sign could have color and images or just has to be monochrome text. He is confident had Mike stood up and said no, no don't do this rezoning because it is going to change the character and the regulation for dynamic signs, they would have just rolled over him the City would not have stopped this rezoning. He stated that this is an example of a classic zoning request of where a big city decision is made and a couple of years later someone comes back with this fell through the cracks and given what has been going on with our neighbors, this is a case where a zoning variance will allow the Board to take an individual look at something and see if there is a way to reduce the harm while remaining compatible with the development. Mr. Cronin stated that there are two questions. One is the request reasonable and will it be compatible. Staff has found that operating the sign as provided in the B3 district, we are not asking for custom regulation, they are just asking for a return to the previous pattern of regulation, it is compatible staff has found that. Secondly what is unique or what is the practical difficulty in complying. Mr. Cronin stated again that they are not asking for custom zoning but for the B3 that their neighbors have. He contended that approval of this request will make their store much more viable, allowing them to communicate about specials in the store. He stated that he can almost guarantee that the price of gas will almost always be the same at this store as across the street at SA, that is not how they are going to compete. The way they are going to compete is in what is inside our stores, what are the values, what is the selection. It will be very difficult for them to not have the ability to match what their neighbor's across the street especially when it is compatible and reasonable throughout the area. Mr. Cronin submitted their suggestion of how they would like the finding to read. That would allow them to move forward with their business. They believe that the sign is compatible and reasonable, without this approval it will be a great practical difficulty to the success of this new investment in St. Paul. The last two sentences of the first paragraph of finding three reads: "The applicant has not established a practical difficulty in complying with the provisions of this code. This finding is not met for the dynamic display signs." Their version of the last two sentences: "*The applicant has ~~not~~ established a practical difficulty in complying with the provisions of this code. This finding is ~~not~~ NOW met for the dynamic display signs.*"

Mr. Rangel Morales stated that he thinks that Mr. Cronin makes a good argument that they are not competing for gas sales, you are competing for selling what is within the stores. His concern is that the Super America is changing every five minutes which he would imagine would be their main competitor, why change the text every twelve seconds? Mr. Cronin stated that is the city wide standard, he believes that Super America could operate at twelve seconds. He would be glad to condition it that their sign change at the same rate as the Super America signs, he believes that is a reasonable condition. The

twelve seconds is what the stores operate at everywhere else. The Walgreens sign, is monochromatic, but it is changing every twelve seconds. Mr. Cronin stated that he was at Super America and their sign was changing a little faster than every five minutes.

There was no opposition present at the hearing.

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

The Board split the vote on the two variance requests.

#2) 1-Free standing sign:

Mr. Saylor moved to approve the variance and resolution based on findings 1 through 6, to allow a freestanding sign of more than 20 feet tall with a setback of less than 35 feet from the south property line.

Ms. Bogen stated she does not like the way that is phrased, "to allow a freestanding sign of more than 20 feet tall with a setback of less than 35 feet from the south property line" which means he can put a sign 50 feet tall there. She thinks that it has to read that we are allowing "a free standing sign of 37.5 feet tall, for a variance of 17.5 feet, within the yard that is less than 35 feet wide." Mr. Saylor and Ms. Trout-Oertel accepted the modification.

Ms. Trout-Oertel seconded the motion, which passed on a roll call vote of 6-0.

Mr. Rangel Morales stated that the applicant stated that the District Council is now in favor of the wall signs now. Mr. Saylor stated that the district council had rescinded their objection. Ms. Bogen stated that is what she heard, however, the Board does not have anything from the district council.

Ms. Trout-Oertel stated that she is not ready to make a motion yet; she thinks that the dynamic display signs are setback from the street quite a bit and perhaps the intent of the zoning requirements may be for things that are on the street frontage. Mr. Rangel Morales stated that he had a question about that as well, if the signs are going to be affixed to the building, will there be a problem with the amount of signage on the building? The Board has also dealt with buildings that had limitations on the amount of signage allowed. Mr. Benner stated that staff has not looked at the proposal to see if these signs if placed on the building if they would exceed the allowed signage but it is something that we can consider.

Ms. Bogen stated it seems that those signs are 11 feet from White Bear Avenue, at least from the property line so she thinks that they are close to the street. Ms. Trout-Oertel stated one street but not the other. Ms. Bogen stated that they are both near White Bear Avenue. Mr. Miller questioned that one sign is facing Highway 94, is that correct. Ms. Bogen replied that one is facing the 94 side and one is facing the Old Hudson Road side of the property. The south elevation sign is at a diagonal to White Bear Avenue. Ms. Trout-Oertel replied yes, it is visible.

Ms. Bogen asked staff if the Board allowed the applicants to have the text change at the same speed as the neighboring Super American, how would that be monitored. Unless the Board says it can change every five minutes, whatever Super America is at and if Super American changes the applicant would have to come back and get another variance. How is it monitored? Mr. Benner stated that when staff has gone out it has been because we received complaints. There isn't any kind of enforcement that takes place unless the City staff has been notified that someone has noticed that the sign is changing faster than allowed in the code. Enforcement would be rather difficult unless someone complains.

Ms. Lane stated that whenever there is a variance granted we automatically follow up on it with an inspection to make sure that all conditions are met, usually a year or two later. Once the work has been completed depending on what kind of a variance was granted. Once we determine that they are in compliance than any further follow-up would be done on a complaint basis only.

#1) 2-Wall signs:

Mr. Rangel Morales moved to deny the variance and resolution for the dynamic display wall signs, based on finding 3. That the applicant has not demonstrated that there are difficulties in complying with the provision.

Ms. Bogen stated that she agrees that the variance being requested for the twelve seconds, this is not a B2 district. The applicants want to have some color and some changing of it, but she thinks that the twelve seconds would be too distracting for the cars on White Bear Avenue. That is a hard place to drive and not get hit anyway.

Ms. Younkin seconded the motion, which passed on a roll call vote of 5-1(Saylor).

Submitted by:

Approved by:

Jerome Benner II

Diane Trout-Oertel, Secretary