

BOARD OF ZONING APPEALS STAFF REPORT
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TYPE OF APPLICATION: Major Variance **FILE #**14-093588
APPLICANT: BILAL ALSADI
HEARING DATE: February 19, 2014
LOCATION: 1200 RICE STREET
LEGAL DESCRIPTION: Stinsons Rice Streetaddition Subj To Esmt Lots 10 Thru Lot 14 Blk 2
PLANNING DISTRICT: 6
PRESENT ZONING: B2 **ZONING CODE REFERENCE:** 64.405(e)(3)
North End Special sign District
REPORT DATE: February 10, 2014 **BY:** Yaya Diatta
DEADLINE FOR ACTION: April 4, 2014 **DATE RECEIVED:** February 4, 2014

A. **PURPOSE:** Two variances of the sign code requirements in order to install a 21 square foot sign with dynamic display on a multi-tenant free standing sign at the southeast corner of Rice Street and Maryland Avenue for the businesses on this site. The sign code requires a sign with dynamic display in a B2 district located within 100 feet of a residential use to: 1) Be monochromatic; the applicant is proposing a full color sign. 2) Have a display message that does not change faster than every 20 minutes; the applicant is proposing a display message that would change every 60 seconds.

B. **SITE AND AREA CONDITIONS:** This is a 155 by 126-foot lot with an available alley and off-street parking accessed from both Maryland Avenue and Rice Street. There is a new 4-foot high wooden obscuring fence is along the alley on the east side of the property. There are residential properties to the west across Rice Street and to the east across the alley. Commercial uses are to the north and south.

Surrounding Land Use: A mix of commercial and residential uses.

C. **BACKGROUND:** A free standing sign was located on this site where a gas station and a convenience store existed previously. The site was recently razed as part of the site re-adjustment after a portion of the property was acquired by Ramsey County for a street reconstruction project and was combined with the lot to the south. A new gas station that includes a convenience store and two rental spaces is currently being constructed at this location. The construction project includes a multi-tenant free standing sign that would

include two signs with dynamic display consisting of LED gas price changers and the proposed message center sign.

D. CODE CITATIONS:

Sec. 64.121. - S

Sign with dynamic display. Any sign capable of displaying words, symbols, figures or images that can be electronically or mechanically moved or changed by remote, automatic or electronic means. Signs providing only time and/or temperature information are not considered to be signs with dynamic display for regulatory purposes.

Sec. 64.405. – Signs with dynamic display

- e) Image characteristics, duration, and transition. The following standards shall apply to image duration, transition, and other characteristics of signs with dynamic display. Additional district-specific restrictions are contained in Sec. 64.502 and 64.503.
 - (1) Except at professional sport facilities, signs with dynamic display that are oriented towards the public right of way shall not include moving video images.
 - (2) Business and identification signs with dynamic display may either have stable text and/or stable images, or they may have scrolling text and/or scrolling images. Signs with dynamic display which contain stable text and/or stable images may not change their text or image more than once every twelve (12) seconds. Signs with dynamic display which contain scrolling text and/or scrolling images may not scroll at a rate faster than one (1) word per second, where words contain an average of five (5) characters each.
 - (3) Dynamic displays on business and identification signs within one hundred (100) feet of a residential use, measured from the sign to the nearest residential property line, shall not scroll and shall be turned off between 11:00 PM and 7:00 AM or after business hours, whichever is later, except that interior window signs six (6) square feet or less in area with only text providing only open/closed information may have more than one (1) color.
 - (4) For stable text and/or stable images, the transition from one static display to another must be direct and immediate without any special effects except for fading and dissolving that takes less than one (1) second;

- (5) Dynamic display text on business and identification signs shall be monochromatic. Dynamic display images may be full color.
- (6) Signs with dynamic display shall not emit sound except for those at drive-through sales and services as allowed under section 65.513
- (7) Other modes of displaying messages are prohibited. Modes which cause the message to flash are prohibited.

Sec. 64.504. B2—B3 business and IT industrial districts.

(a) Business and identification signs:

- (5) In the B2 district, dynamic displays shall be monochromatic if located within one hundred (100) feet of a residential use, measured from the sign to the nearest residential property line, shall not scroll or change their displays faster than every twenty (20) minutes, and shall be turned off between 11:00 p.m. and 7:00 a.m. or after business hours, whichever is later, except that interior window signs six (6) square feet or less in area with only text providing only open/closed information may have more than one (1) color.

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.

E. FINDINGS:

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

The proposed sign with dynamic display is 21 square feet in size and would be mounted on a 103 square foot multi-tenant free standing sign. The free standing sign would also include the names of the businesses on site and LED gas price changers. LED gas price changers are considered signs with dynamic display. However, they would only have one color and would not change faster than every 20 minutes, consistent with the code; therefore a variance is not required for the LED gas price changers.

The free standing multi-tenant sign would be placed at an angle at the southeast corner of Maryland and Rice to allow drivers on both streets to read it. Since the proposed digital display sign would be mounted on a multi-tenant sign, it is important that it stands on its own and not blend with the rest of the signage on the same structure in order to increase its visibility, hence the request for a full color sign.

Additionally, the sign is intended to draw the public's attention on periodic product promotions sold on site, therefore, it is important to capture as many viewers as possible in a short period of time, which explains the request for the 60 second display change. The requested display change is shorter than the required 20 minutes but yet longer than the 12 seconds that would otherwise have been allowed had the sign been placed 100 feet from the nearest residential use.

Because the proposed sign with digital display is located on a commercial stretch that already has significant lighting, it would have a minimal impact on neighboring residences. Among the purposes of the zoning code is to "encourage a concern for visual environment which makes the city a more desirable place to live" and to "regulate the time, the place, and manner in which signs may be exhibited". The proposed sign would be professionally designed and scaled to complement the appearance of the site; it would not counteract the above stated purposes of the zoning code. This finding is met for both variance requests.

The variance request does 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.

The street widening project caused this parcel to shift to the south closer to residential uses on Rice Street and affect the applicant's ability to construct the proposed sign without a variance. Had the property line not been altered as a result of the street widening project, the proposed sign could have been installed at the corner which would have been more than 100 feet away from a residential use and a variance would not have been required. This condition is met.

b. The sign would not create a hazard.

The applicant states that the sign would not be distracting or created a hazard. Although illuminated, the sign would be lit to the lighting standards allowed under the zoning code. This condition is met.

c. The sign would not be objectionable to adjacent property owners.

No objections to the requested variances have been raised from adjacent property owners. This condition is met.

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

Although located in proximity to residential uses, this relatively small sign located in a commercial area with abundant lighting would not have a significant adverse impact on those properties. This condition is met.

e. The sign is in keeping with the general character of the surrounding area.

The proposed sign is keeping with the general character of the surrounding area. There are at least three signs with digital display on Rice Street within a mile of this property. This condition is met.

2. The variance is consistent with the comprehensive plan.

The proposed sign would allow the business to compete with similar businesses and it is consistent with a goal of the Comprehensive Plan to support local businesses. This finding is met for both variance requests.

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 site has undergone major changes due to the street widening project that caused the property to shift to the south closer to residential uses, which subsequently made it difficult for the applicant to install the proposed sign without a variance. However, there are no practical difficulties in complying with the requirement that the sign be only one color and change its display once every 20 minutes. This finding is not met for both variance requests.

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

The shifting of the property closer to residential uses is a circumstance unique to the property not created by the applicant. This finding is met for both variance requests.

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

Signs are allowed in all zoning districts. The requested variances, if granted will not change the zoning classification of the property. This finding is met for both variance requests.

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

There are a number of signs with digital display in the area. The request will not change the character of the area. This finding is met for both variance requests.

- F. **DISTRICT COUNCIL RECOMMENDATION:** Staff has not received a recommendation from District 6.
- G. **CORRESPONDENCE:** Staff received a letter from a citizen at 1790 Hague Avenue in opposition of the requested variances.
- H. **STAFF RECOMMENDATION:** Based on findings 3, staff recommends denial of the requested variances.