



Legislation Text

File #: RES 17-1263, **Version:** 1

Memorializing the City Council's decision to deny an appeal of a Board of Zoning Appeals decision denying an application for two variances to allow changes to an existing dynamic display sign and the addition of a new freestanding business sign at the Holiday Stationstore at 1770 Old Hudson Road.

WHEREAS, on January 9, 2017, Joey Crary, d/b/a Indigo Sign Works ("Applicant"), 2885 Quail Road NE, Sauk Rapids, MN, on behalf of Fuhr Enterprises, owner of that real property commonly known as 1770 Old Hudson Road, Saint Paul, MN and legally described as Section 34 town 29 Range 22 Part Sly Of Old Hudson Rd And Nly of Hwy 392 And W Of White Bear Ave Of E 196 00/100 Ft Of Se ¼ Of Sec 34 Tn 29 Rn 22, duly applied to the Board of Zoning Appeals ("BZA") in BZA File No. 17-000219 for two variances from the provisions of Legislative Code §§ 64.503(a)(6) and 64.625 for the purposes of converting an existing static sign located at the southwest corner of Old Hudson Road and White Bear Avenue with a dynamic sign. The subject property is zoned T3. Sign regulations in T3 districts limit the text and images of dynamic signs to one color. Applicant requested a variance to allow full color text and images. T3 district sign regulations further prohibit dynamic messages from changing faster than every 20 minutes. Applicant requested a variance to allow messages to change every 30 seconds. For the purposes of this resolution, the dynamic sign is designated Sign A. Further, Applicant requested two variances from the requirements of the White Bear Avenue Special District Sign Plan in order to construct a new freestanding business sign along the southwest corner of the subject property. Pursuant to the Special Sign District Plan, freestanding signs are only permitted where buildings have a setback of at least 35 feet from a right-of-way. The gas station building presently under construction on the subject property will be setback 5.5 feet from the south property line. Applicant requested a variance to allow a freestanding sign within the setback area. In addition, the height of freestanding signs is limited to 20 feet. Applicant requested a 37.5-foot high sign for a variance of 17.5 feet. For the purposes of this resolution, the freestanding sign is designated Sign B; and

WHEREAS, on February 13, 2017, the BZA, pursuant to Leg. Code § 61.601, duly conducted a public hearing where all persons interested were afforded an opportunity to be heard and, following the end of testimony, the hearing was closed and upon deliberation, the BZA, with Applicant's consent, took no action on the requested variances in order to allow Applicant the opportunity to present its variance proposals to the District Community Council whereupon the matter was continued to March 27, 2017; and

WHEREAS, on March 27, 2017, the BZA again took up the matter. However, there was no appearance by the Applicant and BZA staff advised that the District Community Council and the Applicant were meeting on April 3, 2017, whereupon the matter was continued to April 10, 2017; and

WHEREAS, on April 10, 2017, the BZA again took up the matter. BZA staff advised that the Applicant and the District Community Council had met and that the Community Council had advised that it had no position with respect to the requested variances for Sign A (the dynamic sign) and that it recommended denial of the requested variances for Sign B (the freestanding sign); and

WHEREAS, having been advised of the position of the District Community Council and based upon all the files, reports, and testimony produced in the matter, the BZA, duly moved to deny all of the variances requested by the Applicant, as substantially reflected in the minutes based upon the BZA's findings of fact set forth in BZA Resolution No. 17-000219 as follows:

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

The applicant was hired by Holiday gas station to create a signage plan for the new construction of a gas station/convenience store/carwash. Sign a) The owner is proposing a full color dynamic display sign in the same location as the existing freestanding sign on the northeast corner of the property. Sign b) The owner is also proposing a 37.5' high pylon sign on the southwest corner approximately 5.5' from the south property line.

Sign a) In October, 2015, the parcel was rezoned to a T3, traditional neighborhood zoning district. Prior to the rezoning, all of the property owners received written notification about the rezoning. This district limits the sign display to monochromatic; the dynamic display sign copy can change no faster than once per 20 minutes; and the display must be turned off between 11 p.m. and 7 a.m. or after business hours, whichever is later. Holiday has not requested a variance of the requirement to turn off the display sign as specified. The applicant says the signage frame being re-used is similar to other signs located on the property to the north, Super America, and to the north-east, Subway, and they want to have similar dynamic displays on their sign. The Super America sign is full color and when staff timed it, it changed every five minutes. The Subway sign is full color and changes about every 12 seconds. In order to be competitive with the other commercial businesses, the applicant says Holiday needs to have a full color sign which changes copy more frequently than the allowed every 20 minutes.

Sign b) The intent of the White Bear Avenue Special Sign District Plan is to provide strong, clear identification of businesses and to reduce sign clutter. The sign plan provides a unified framework that will enhance the image of the business districts and foster pride in the adjacent neighborhoods. However, the Plan stipulates that a pole sign must be located 35' from the right-of-way at a maximum height of 20'. Due to the grade difference between the property to the west and the Holiday gas station, the owner is concerned that the pylon sign would be hidden behind the wall of the building to the west and would not be visible soon enough for traffic traveling east on I-94 to take the exit. While the Plan supports pole signs they can also be a source of clutter. The Plan states the signs shall have minimal structure and the framework should be painted black or another dark color. The applicant is proposing a dark blue frame with LED lighting along the framework where the sign is located. The sign shall have a programmable dimmer capability which would limit the brightness.

This request conforms to the provisions of Leg. Code § 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 Holiday gas station/convenience store/car wash is a new business with a new building, it is important to provide signage that is clear and readable from roadways while blending with the existing signage in the neighborhood in terms of size and clarity. This finding is met for both variance requests.

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

The proposed signs would not create a hazard. This finding is met for both variance requests.

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

Objections to this request have been raised from the Super America station to the north and from the district council. This finding is not met for both variance requests.

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

The nearest residentially zoned property is located over 175 feet to the east and the applicant has been informed that the maximum illumination level for Sign a) with dynamic display may not exceed 0.3 foot candles

above ambient light level as measured from fifty feet from the sign's face. Sign b), located along I-94 and not near residential uses should not adversely affect residential property through excessive glare and lighting. Both signs will have programmable dimming capability to lower the brightness if it becomes an issue. This finding is met for both variance requests.

Sign a) In proposing a dynamic display sign at this location, the applicant's goal is to provide clear identification for the new business comparable to other signs at the intersection. However, the property has been rezoned to T3 and the intent of traditional neighborhood zoning is to put further restrictions on dynamic display signs and there have been objections raised to the proposed sign. This request is not in keeping with the intent of the code.

Sign b) A taller sign at this location would not be in keeping with the intent of the code as noted in the White Bear Avenue Special Sign District Plan and there have been objections raised to the proposed sign. This request is not in keeping with the intent of the code.

This finding is not met for both variance requests.

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

The proposed sign will provide greater visibility for the new gas station/convenience store/car wash. This request is in keeping with the goals of the comprehensive plan to coordinate business signs to achieve greater consistency among businesses. This finding is met.

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.*

Sign a) A freestanding sign for the previous gas station/car wash was in the same location but was not a sign with dynamic display. New dynamic display signs must meet current regulations. A monochromatic sign changing copy every 20 minutes, meeting the current regulations, is not a practical difficulty. This finding is not met for Sign a).

Sign b) The applicant says the wall of the adjoining building would limit the view of the freestanding sign at 20 feet in height from I-94 with sufficient time to exit the freeway. This finding is met for Sign b).

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

Sign a) The landowner, at the time of the Gold Line Bus Rapid Transit Station Development Study would have received notification about the rezoning and should have been aware of the restriction on signage for the property under the new T3 zoning. This finding is not met for Sign a).

Sign b) The applicant says the commercial building to the west and a line of trees would block out visibility for customers. This finding is met for Sign b).

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

Signs are permitted in all zoning districts and the requested variances would not change the zoning classification of the property. This finding is met for both signs.

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

Sign a) The proposed sign is located in a traditional neighborhood zoning district; the dynamic display sign as proposed is in keeping with the essential character of the neighborhood. This finding is met for Sign a).

Sign b) The pylon sign at the height proposed is in keeping with the general character of the surrounding area but does not meet the regulations noted in the White Bear Avenue Special Sign District Plan. This finding is not met for Sign b).

WHEREAS, on April 12, 2017, Holiday Stationstores ("Appellant"), 4567 American Blvd. West, Bloomington MN 55437, pursuant to Leg. Code § 61.702(a), duly filed under BZA File No. 17-0300700, an appeal from the determination made by the BZA and requested a hearing before the City Council for the purpose of considering the actions taken by the BZA; and

WHEREAS, on May 3, 2017 and pursuant to Leg. Code § 61.702(b), the City Council, upon notice to the Appellant, duly conducted a public hearing on the said appeal where all interested parties were given an opportunity to be heard; and

WHEREAS, no one appeared on behalf of Appellant and one person appeared in support of the BZA's determination and, with no other appearance being noted, the Council closed the public hearing and deliberated upon the appeal; and

WHEREAS, the Council, based upon the report of staff and all the records and minutes submitted to it including BZA Resolution No. 17-000219, along with the testimony received during the public hearing before it, does hereby

RESOLVE, that the Council of the City of Saint Paul hereby upholds the BZA's decision in this matter and finds that there was no error in the facts, findings or procedures of the BZA. Accordingly, the Council hereby adopts and incorporates by reference as its own, the findings set forth in BZA Resolution No. 17-000219 in support of this decision; and, BE IT

FURTHER RESOLVED, based upon the findings adopted above, that Appellant Holiday Stationstores appeal in this matter is hereby denied; and, BE IT

FINALLY RESOLVED, that the City Clerk shall immediately mail a copy of this resolution to Appellant Holiday Stationstores, to the Applicant Indigo Sign Works, to the Zoning Administrator, to the Planning Administrator and to the BZA.