



## Legislation Details (With Text)

**File #:** RES 14-915    **Version:** 1

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**In control:** City Council

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**Title:** Memorializing City Council action denying an appeal of the Board of Zoning Appeals decision to grant a variance to operate a dynamic business sign at 1200 Rice Street, and setting forth the Council's modifications for the conditions originally imposed by the Board of Zoning Appeals.

**Sponsors:** Amy Brendmoen

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
5/29/2014	1	Mayor's Office	Signed	
5/28/2014	1	City Council	Adopted	Pass

Memorializing City Council action denying an appeal of the Board of Zoning Appeals decision to grant a variance to operate a dynamic business sign at 1200 Rice Street, and setting forth the Council's modifications for the conditions originally imposed by the Board of Zoning Appeals.

WHEREAS, on February 4, 2014, Bilal Alsadi, in BZA File No. 14-093588, duly applied to the Board of Zoning Appeals ("BZA"), for two variances from the strict application of Legislative Code § 64.405(e)(3) for the purpose of installing a free-standing, 21-square foot business sign with dynamic display at the southeast corner of Rice Street and Maryland Avenue on property commonly known as 1200 Rice Street [PIN: 302922220177] and legally described as Stinsons Rice Street addition Subj To Esmt Lots 10 Thru Lot 14 Blk 2; and

WHEREAS, the proposed dynamic display sign is within a B2 zoning district and within 100-feet of a residential use. Legislative Code § 64.504(5) require signs with dynamic display to: 1) display in a monochromatic format; and, 2) display remain the same for 20 minutes at a minimum. Alsadi proposed a full color display sign that changed its display every 60 seconds; and

WHEREAS, on February 19, 2014, the BZA duly conducted a public hearing on the requested variances where all persons interested were afforded an opportunity to be heard; and

WHEREAS, during the said hearing, BZA staff presented its report dated February 10, 2014 in which staff recommending denial of the requested variances. However, at the close of the public hearing and based upon all the reports, files, and evidence presented during the public hearing, as substantially reflected in its minutes, the BZA duly moved to approve the variance allowing a full-color display and to allow display changes no faster than 60 seconds based upon the BZA's findings of fact set forth in BZA's March 17, 2014 Resolution No. 14-093588 as follows:

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 changes. LED gas price changes 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 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 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. Additionally, there is a large multi-tenant free standing sign across Maryland which could hinder the visibility of the proposed sign if it were to be move further to the east along Maryland Avenue. These are practical difficulties in complying with the code. This finding is 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.

WHEREAS, on March 20, 2014 and pursuant to Leg. Code § 61.702(a), the District 6 Planning Council File ("Appellant"), under BZA File No.14-190098, duly filed with the City Clerk an appeal from the determination made by the BZA and requesting a hearing before the City Council for the purpose of considering the actions taken by the said Board; and

WHEREAS, on April 16, 2014 and pursuant to Leg. Code § 61.702(b), the City Council duly conducted a public hearing on the said appeal where all interested parties were given an opportunity to be heard; and

WHEREAS, The City Council, having heard the statements made, and having considered the variance application, the report of staff, the record, minutes and resolution of the BZA, does hereby

RESOLVE, the Council of the City of Saint Paul hereby affirms the February 19, 2014 decision of the BZA in this matter as Appellant has failed to demonstrate any error in the BZA's facts, findings, or procedures in this matter and, accordingly, the Council hereby adopts as its own the BZA's reasoning set forth in BZA Resolution No. 14-093588; and, be it

FURTHER RESOLVED, having been, during the said public hearing, apprised of an agreement between Mr. Alsadi and the Appellant which would modify the display interval of the subject sign, the Council, pursuant to its authority granted under Leg. Code § 61.704 to exercise the powers of the BZA, hereby modifies the conditions of the variances first approved by the BZA in this matter, based upon the same reasons set forth and adopted herein by the Council under BZA File No. No. 14-093588, that the display interval of the subject sign shall be set to change images no faster than two (2)-minute intervals and, beginning each day at 10:00 p.m., the display interval shall revert to a static image and remain static until the close of business at which time the sign may be turned off or left on in a static mode. At 6:00 a.m. the dynamic display may be resumed.

AND, BE IT FURTHER RESOLVED, based upon the Council's findings and the modified conditions noted above, Appellant's appeal is hereby denied; and, be it

FINALLY RESOLVED, the City Clerk shall immediately mail a copy of this resolution to Bilal Alsadi, the District 6 Planning Council, and the BZA, Zoning Administrator and Planning Commission.