



Legislation Text

File #: RES 13-1907, **Version:** 1

Memorializing City Council action taken on November 13, 2013, denying Saint Paul College's request for variances to install a dynamic sign on the northeast portion of the Saint Paul College campus abutting Kellogg Boulevard.

WHEREAS, Saint Paul College ("SPC"), a two-year comprehensive community and technical college component of the Minnesota State College and University System, duly applied to the Board of Zoning Appeals ("BZA") under DSI File Zoning No. 13-218991 for several variances from the strict application of the sign regulations for RM2 zoning districts set forth under Leg. Code §§ 64.502(a)(3) [setting maximum size regulations generally for "identification signs" in RM2 districts] and .502(a)(4) [refining maximum size regulations for "identification signs" for institutional uses within RM2 districts] in order to install new signs on property commonly known as 235 Marshall Avenue and legally described as set forth in its application in the DSI file noted above; and

WHEREAS, SPC sought several variances to install new campus identification signs: first, SPC desired to place 4 new signs on the north side of the campus' four-story parking ramp. SPC already had a 120 square-foot sign on the campus' north side. The variance for the 4 north side signs totaled 214 square-feet. Second, SPC desired to place a new 3.76 square-foot sign on the east side of campus. SPC already had a 44 square-foot sign on the campus' east side. The east side sign required a variance of 3.76 feet. Third, SPC desired to place 1 new 53 square-foot sign on the south side of campus. SPC already had a 36 square-foot sign on the campus' south side. The south side sign required a variance of 53 square-feet. Finally, along Kellogg Boulevard, which generally abuts the northeast side of the SPC campus, SPC desired to place a new 145 square-foot, full-color "dynamic" sign with changeable display at 30-second intervals. Dynamic signs in RM2 districts are limited to 30 square-feet in size, must be monochromatic in appearance, and cannot change displays faster than once every 20 minutes. SPC's dynamic sign required a size variance of 115 square-foot as well as variances to permit a color display and 30-second message frequency; and

WHEREAS, pursuant to Leg. Code § 61.601, SPC's requested variances were set on for public hearing before the BZA on September 4, 2013. Prior to the public hearing date, it was determined that some properties near SPC which are required under Leg. Code § 61.601 to receive written notice of BZA hearings for variance requests were inadvertently not provided with the required notice. Accordingly, the BZA further continued the public hearing to September 16, 2013; and

WHEREAS, the BZA on September 16, 2013, duly conducted a public hearing on the matter where all parties present were afforded an opportunity to be heard and, at the close of the hearing, based upon all the testimony presented at the hearing, including the recommendation of BZA staff, as substantially reflected in the minutes, duly moved under two separate motions to (1) grant the requested variances necessary to install identification signs along the north, east and south sides of the SPC campus, and (2) deny the variances necessary to install the dynamic sign along the north east side of the SPC campus based upon the following findings of fact set forth in BZA Resolution No. 13-218991 as follows:

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

Saint Paul College is located on a 30-acre parcel and has a yearly school enrollment of 12,100 students. A new 4 level, 610 space parking ramp was recently constructed on the west side of the existing buildings. The proposed signs are identified on the Plot Plan & Sign Locations attachment submitted by the applicant as follows:

Area 1 - a wall sign on the east side of the new parking lot.

Area 2 - identification signs for the east and north entrances to the building and the west parking ramp entrance.

Area 3 - a sign with dynamic display facing Kellogg Boulevard.

According to the applicant, the proposed wall signs would provide needed identification for building entrances in order to better orient students and visitors. The sign with digital display would provide timely information to students as well as the general public about various school events and services offered by this institution. The proposed signs are professionally designed to match existing signs on the school grounds and are in keeping with the scale of this large site. The request is in keeping with the purpose and intent of the sign ordinance to protect the right of information transmittal. This finding is met for the amount of signage requested.

A zoning study was conducted on signs with dynamic display in 2009 and research indicated that color and the frequency of message display are aspects of driver distraction. The code has since been amended to regulate signs with digital display based their respective zoning districts and their proximity to residential uses. In residential districts, dynamic display text with only one color with display messages changing every 20 minutes is allowed. Saint Paul College is located in a residential zoning district and allowing the proposed sign with dynamic display to be full color and to change the message every 30 seconds as requested by the applicant could create a safety hazard; it is not in keeping with the general purpose and intent of the code in promoting and protecting the public health and safety. This finding is not met for the full color and message duration for the dynamic display sign request.

This 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 proposed amount of wall signage and the larger sign with dynamic display is proportional to the scale of this large parcel of land. This condition is met for the amount of signage requested.

However, there are no unusual conditions to allow a full color sign with dynamic display that would change its display message every 30 seconds. This condition is not met for this request.

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

The proposed wall signs and the larger sign with dynamic display are designed for greater visibility. Their size would not create a hazard. This condition is met for the amount of signage requested.

However, the request to allow the proposed sign with digital display to be full color and change messages every 30 seconds could be a hazard to drivers. This condition is not met for this request.

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

The signs do not contain anything inappropriate and no objections to this request have been raised from adjacent property owners. This condition is met for all variance requests.

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

Although illuminated, the signs would not violate lighting requirement allowed under the code. This condition is met for all variance requests.

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

The college is in near proximity to downtown and the proposed signs would fit the general character of the area. This condition is met for the amount of signage requested.

There are no identification signs in the immediate area operating in a similar as requested for the proposed sign with digital display. The request to have a full color digital display sign changing messages every 30 seconds is not in keeping with the character of the area. This condition is not met for this request.

2. The variance is consistent with the comprehensive plan.

The proposed signage is consistent with the size of this large parcel of land. The signs are professionally designed to match existing signage on the property in order to maintain consistency throughout the site. It is in keeping with the Comprehensive Plan in preventing sign clutter. This finding is met for the amount of signage requested.

The request to allow the proposed sign with dynamic display to be full color and change its display message every 30 seconds as requested by the applicant could create a safety hazard; it is not consistent with the Comprehensive Plan to promote and protect the public health and safety. This finding is not met for this request.

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 changes with the addition of a new parking ramp and additional signage is needed. Because there is signage already existing on the subject lot frontages, it is not practical to have sufficient signage on this 30-acre property without a variance. According to the applicant, the proposed signs are scaled to allow reading from a distance without too much difficulty. This is a practical difficulty in complying with the current size requirement and number of signs allowed per street frontage without a variance. This finding is met for the amount of signage requested.

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 this request.

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

According to the applicant, the large size of this parcel and today's demand for mass communication create a unique situation that requires larger signs for clear visibility from the surrounding streets. The size of the parcel at 30 acres dictates the need for the requested amount of signage. This is circumstance unique to the property not created by the landowner. This finding is met for the amount of signage requested.

The request to allow a full color dynamic display sign changing messages every 30 seconds is not compelled by circumstances unique to this property. This finding is not met for this request.

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 all variance requests.

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

This college is in near proximity to downtown and the proposed amount of signage would fit the general character of the area. This finding is met for the amount of signage requested.

Although there are business signs with digital display nearby, there are no identification signs in the immediate area operating in a similar way as requested for the proposed sign with digital display. The request to have a full color digital display sign changing messages every 30 seconds is not in keeping with the character of the area. This finding is not met for this request.

WHEREAS, on September 26, 2013, in DSI Zoning File No. 13-236524 and pursuant to Leg. Code § 61.702 (a), SPC duly filed with the City Clerk 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 in this matter; and WHEREAS, on October 16, 2013, the City Council, pursuant to Leg. Code § 61.702(b) and upon notice to affected parties duly conducted a public hearing where all interested parties were given an opportunity to be heard and upon the close of the public hearing, the Council moved to lay the matter over for further discussion to November 6, 2013; and

WHEREAS, on November 6, 2013, the Council moved to lay the matter over to November 13, 2013; and WHEREAS, on November 13, 2013, the Council, with two members being excused, discussed the matter having received all the testimony from the October 16, 2013 public hearing and in consideration of the variance application, the report of staff, the BZA's record, minutes, and resolution did, upon the close of its discussion duly entertained a motion to grant SPC's appeal which failed on a 3-2 vote whereupon a motion to deny SPC's appeal was duly made, seconded and approved on a 3-2 vote; NOW, THEREFORE

BE IT RESOLVED, that the SPC's appeal from the decision of the BZA denying SPC's request for variances to install a dynamic sign on the northeast portion of the SPC campus abutting Kellogg Blvd, as set forth in BZA Resolution No. 13-218991, is hereby denied; and

BE IT FURTHER RESOLVED, that the Council, in denying SPC's appeal, upholds the BZA's decision in this matter and, further, hereby adopts the facts and findings of the BZA, as set forth in BZA Resolution No. 13-218991, as its own; and

BE IT FINALLY RESOLVED, that the City Clerk shall immediately mail copies of this resolution to Shaan Hamilton on behalf of appellant Saint Paul College, the BZA, the Zoning Administrator, and the Planning Commission.