



Legislation Text

File #: RES 22-219, **Version:** 1

Memorializing the denial of an appeal by Tumble Fresh from a BZA decision denying a zoning variance application to install a full-color dynamic display on a freestanding sign at 1855 Suburban Avenue.

WHEREAS, on October 14, 2021, Steve Linn, d/b/a “Tumble Fresh” (“Applicant”), applied to the Board of Zoning Appeals (“BZA”) in BZA File No: 21-313398, for a variance from the strict application of the requirements of Leg. Code § 64.503 for the purpose of installing a full-color dynamic display on a freestanding sign at Applicant’s place of business at property commonly known as 1855 Suburban Avenue [PIN: 352922330016] and legally described as REGISTERED LAND SURVEY 276 SUBJ TO RDS; THAT PT OF TRACT C LYING WLY OF A L DESC AS COMM AT SW COR SD TRACT C TH N ALONG W L OF SD TRACT C 40 FT TH ELY PARA TO S L OF SD TRACT C 223.13 FT TO POB TH N 0 DEG 32 MIN 40 SEC W 395.42 FT TO THE N L OF SD TRACT, which is located in a T2 zoning district; and

WHEREAS, on November 15, 2021, pursuant to Leg. Code § 61.303, the BZA duly conducted a public hearing on the said application the hearing being further conducted, due to the Covid-19 pandemic, in compliance with the Executive and Emergency Orders in effect at the time, remotely via electronic means as it had been previously deemed neither practical nor prudent to conduct “in-person” hearings: accordingly, as provided by law, attending members of the BZA and BZA staff did so remotely while the Applicant and members of the public were afforded the opportunity to submit, no later than noon of the said hearing date, written testimony for the BZA’s consideration and inclusion in the hearing record, in addition, the opportunity to audibly monitor the hearing proceedings and address the BZA and present verbal testimony via electronic means was also provided and all such testimony was duly recorded and retained for the hearing record; and

WHEREAS, at the close of the November 15, 2021 hearing, and based upon all the reports, evidence and testimony presented, the BZA, on a 4-0 vote, moved to deny the Applicant’s variance request based upon the following reasons recommended in the BZA staff report dated November 10, 2021, which were adopted as stated in BZA Resolution No. 21-313398 as follows:

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

The T2 traditional neighborhood district is designed for use in existing or potential pedestrian and transit nodes. Its intent is to foster and support compact, pedestrian-oriented commercial and residential development that, in turn, can support and increase transit usage.

The applicant is proposing to install a full-color dynamic display panel on a freestanding sign on this property. The T2 zoning district has specific standards for dynamic display signs: they must be monochromatic and shall not change their displays faster than every 20 minutes. The applicant is proposing to install a full-color dynamic display. This request aligns with Section 64.101 of the sign code to protect the right of information transmittal.

This request conforms 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.* This Tumble Fresh laundromat location is a new development, and it is important to provide signage that is clear and readable from the roadways while blending with the existing signage in the neighborhood in relation to size and clarity. This finding is met.
- b. The sign would not create a hazard.* The sign would be professionally designed and installed. In addition, the applicant is proposing to comply with the 20-minute display frequency and would not change the message or image faster than this time period. It would not create a hazard. This finding is met.
- c. The sign would not be objectionable to adjacent property owners.* No objections to this request have been raised from adjacent property owners. This finding is met.
- d. The sign would not adversely affect residential property through excessive glare and lighting.* This property is not adjacent to residential properties. The applicant indicated that the sign will be on a dimmer switch, so the brightness can be adjusted. This finding is met.
- e. The sign is in keeping with the general character of the surrounding area.* There are several buildings with identification signs nearby and the proposed freestanding sign and display would match the scale of the building. This finding is met.

2. The variance is consistent with the comprehensive plan.

The proposed full-color dynamic display sign would provide greater visibility for a new laundromat. This request is in keeping with the goals of the comprehensive plan policy LU-6 to facilitate business creation, attraction, retention, and expansion. 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.

The applicant runs a chain of laundromat locations and has graphics that are utilized for many stores. They state that it would be a large cost to re- create this content for a monochromatic display. The applicant also states that full-color images will be easier especially during the winter months at night. This finding is met.

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

This is a new development, and a monochromatic dynamic display could be installed by the applicant. The plight of the landowner is due to a circumstance they created, as there is nothing particularly unique about this parcel that warrants permitting a full-color dynamic display. This finding is not met.

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

Dynamic display signs are permitted in the T2 zoning district. Granting this variance would not permit a use that is not allowed. This finding is met.

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

There are multiple business signs fronting Suburban Avenue. Granting this variance would not alter the essential character of the surrounding area. This finding is met.

WHEREAS, on November 24, 2021 and pursuant to Leg. Code § 61.702(a), the Applicant duly filed an appeal from the BZA's November 15, 2021 decision and requested a hearing before the Saint Paul City Council to consider the said decision of the BZA; and

WHEREAS, on December 15, 2021, the Council of the City of Saint Paul duly conducted a public hearing on the said appeal in accordance with the requirements of Leg. Code § 61.702(b)61.303 as well as the Executive and Emergency Orders in effect at the time due to the Covid-19 pandemic such that the Council hearing was duly conducted remotely as it had been previously deemed neither practical nor prudent to conduct "in-person" hearings: accordingly, as provided by law, attending members of the Council and City staff did so remotely while the Applicant and members of the public were afforded the opportunity to submit, no later than noon of the day prior to the hearing date, written testimony for the Council's consideration and inclusion in the hearing record, and, in addition, were also afforded the opportunity to audibly monitor the hearing proceedings; and

WHEREAS, at the conclusion of the public hearing, the Council closed the hearing and deliberated on the matter where, based upon all the records, the BZA's staff report, the BZA's resolution and the testimony submitted to Council pursuant to this appeal, the Council; DOES HEREBY,

RESOLVE, to deny the Applicant's appeal as the Applicant has failed to meet its burden of demonstrating an error in any fact, procedure or finding made by the BZA when it denied Applicant's variance application for the reasons stated by the BZA in BZA Resolution No. 21-313398; and

BE IT FURTHER RESOLVED that the Council, in support of its decision, hereby adopts as its own the reasons for denial as set forth in Resolution No. 21-313398; and

BE IT FINALLY RESOLVED that a copy of this Memorialization Resolution, upon final adoption and approval, shall be provided to the Applicant, the Zoning and Planning Administrators and to the BZA by BZA staff.