

MINUTES OF MEETING
SOUTH ST. PAUL PLANNING COMMISISON
August 4, 2021

MEETING CALLED TO ORDER BY CHAIR ROSS AT 7:00 P.M.

Present:

Angela DesMarais
Geoff Fournier
Jason Frankot
Ruth Krueger
John Ross
Michael Healy, City Planner
Monika Mann, Community Development Support Specialist

Absent:

Tim Felton
Matthew Thompson

- 1) APPROVAL OF AGENDA – Motion to approve as presented – DesMarais/Fournier (5-0).
- 2) APPROVAL OF MINUTES – July 7, 2021 – Motion to approve the minutes as presented – Krueger/Fournier (5-0).
- 3) NEW BUSINESS

None.

- 4) PUBLIC HEARINGS

A) Public Hearing for a Fence Height Variance at 2009 Southview Boulevard

Ms. Mann shared the staff report. The applicant is Paul Krejci. He is requesting to have a 5' chain link fence and 6' vinyl privacy fence in the legal front yard of his property. The subject property is a corner lot at the intersection of Southview Boulevard and 21st Avenue South. City Code defines the legal front lot line for a corner lot property to be the shortest lot line that abuts a public street. In the case of the subject property, the shortest lot line abutting a public road is the side along 21st Avenue South, making the front yard of the property the frontage along 21st Avenue South despite that the property faces Southview Boulevard and gets access from Southview Boulevard. The legal front yard of the property fronted Southview Boulevard until 1965 when the land around the subject property was platted to create a new neighborhood. The plat, known as Western Addition, formally created 21st Avenue, changing 2009 Southview Boulevard into a corner lot. The site also has a sewer easement running through it which creates additional challenges for the applicant. Typically, fence projects are rerouted around utility easements, but the applicant would be severely limited in the amount of space that could be fenced if he were to fence around the easement. City staff has agreed that the applicant can place removable fence panels or locking gate panels over the easements as long as the lot is surveyed to determine the exact location of the easement and that no fence posts are placed in the easement. Staff recommends approval of the fence height variance.

Commissioner Frankot asked staff to confirm that the applicant was looking to replace his existing fence with a taller fence. Staff confirmed this was the case.

The applicant, Paul Krejci, was present to answer any questions.

Chair Ross asked the applicant if he was planning to use a removable fence panel over the City Easement. Mr. Krejci confirmed that he was.

Chair Ross asked Mr. Krejci if he was familiar with the conditions of approval. Mr. Krejci stated he was.

Chair Ross opened the public hearing.

Staff had not received any additional correspondence and no one was present to speak on the item.

Chair Ross closed the public hearing.

Motion to recommend approval of the fence height variance- Frankot /Fournier (5-0).

B) Public Hearing for Setback Variances at 537 8th Avenue South

Ms. Mann presented the staff report. The applicants are Christina Madhady and Dan Chojnacky. They are requesting a variance from the 5-foot side yard setback requirement to allow a structure to be setback 4 feet from the side property line and a variance from the requirement that a building be 10 feet away from a dwelling on a neighboring property. The applicant would like to build a mudroom addition on the south side of their home. The subject property is a single-family home located in the R-1 district. The property is 40 feet wide and 5,000 sq. ft in area. The property is 10'4" from the southernmost side property line. The proposed addition would encroach 6 feet into the required side yard, leaving only 4 feet between the proposed addition and the side property line. The proposed addition also would leave only 8' 8" between the subject property and the neighboring property to the south due in part to the neighboring property not meeting setback requirements. The applicant has requested a variance from these requirements to build this addition in their side yard instead of building a conforming addition in the rear yard because they do not want to disrupt their existing patio and garden.

Commissioner Krueger asked if there were fire safety concerns with reaching the second floor if the variance was granted. Ms. Mann explained that the application had been reviewed with the fire marshal who had no comments about the project.

Chair Ross reminded the Planning Commissioners that the merits of the case, rather than what the neighbors have to say about the project, should be the deciding factor for the application.

The applicant, Christina Mahady, was present to answer questions. Ms. Mahady shared her need for the variance and why she requested both variances.

Commissioner Frankot asked the applicant if the addition could be reduced in size to meet the required 5-foot setback. Ms. Mahady stated that the addition could be reduced in size to the minimum amount of space needed for an addition but that this would not be ideal.

Chair Ross asked the applicant if she would hold off on starting the project while waiting for the City Council to decide if they would amend the setback ordinance or if the applicant would go forward with the project with just one variance. Ms. Mahady stated that given the current construction climate, she was not opposed to waiting but that she understood variances have a one-year window from the date of its approval before they become voided, so she wanted to be conscious of that.

Mr. Healy noted that if the Planning Commission wanted to deny the side yard setback requirement but believed the ordinance might be amended in the near future, the language of the conditions of approval could be amended to state that the addition must meet the side yard setback requirements. This would allow greater flexibility in the conditions that would accommodate a situation where the City Council amends the code to allow a smaller setback for 40-foot lots.

Chair Ross asked staff what would happen if the variance was granted but construction did not begin within a year of approval. Mr. Healy stated that there was no formal process for this situation, but that likely the applicant would write a letter to the City Council requesting an extension and the City Council could approve the extension by resolution.

Commissioner Frankot stated that the City likes to see residents investing in their property.

Commissioner Krueger asked how much precedent this variance would set. Mr. Healy explained that variances do not set a legal precedent because the commissioners make a finding that there is a unique practical difficulty for an individual property that justifies the variance. Variances often do set “fairness” precedents. If one neighbor were to apply for a side yard setback variance one year and receive it, it would be difficult to deny the variance on a neighboring property the following year without making the decision look arbitrary and capricious.

Chair Ross opened the public hearing.

Staff had not received any additional correspondence and no one was present to speak on the item.

Chair Ross closed the public hearing.

Motion to approve a variance from the 10’ spacing requirement between a building and a dwelling unit on a neighboring property and deny a 4-foot side yard setback. – Ross/Frankot (5-0).

C) Public Hearing for “The Yards Phase II” Development Application

Mr. Healy presented the staff report. The applicant is requesting a Conditional Use Permit/ Planned Unit Development Amendment and Site Plan review for “The Yards Phase II.” Phase one of the Yards is currently under construction. The Yards was reviewed and received approvals in December of 2020. Phase Two has not yet been reviewed. Phase Two of the Yards is proposed to be called the Backyards and would offer an addition 111 units. In addition to having similar premium amenities as the Yards, the Backyards building would feature a large art wall and a cow statue on a platform overhanging the secondary front door. The project requires Planned Unit Development (PUD) approval due to the city’s zoning code being written prior to the strict architectural requirements of the CGMU district. The Yards received PUD approval in 2020, so the approval for the Backyards would be an amendment to their existing PUD. The project requires a number of points of flexibility including the number of required parking stalls, the exterior materials of the building, the building’s setback from the road, the lighting at the site, the amount of signage at the property, the project density, and the building

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height. The Yards received PUD flexibility in many of these areas. Staff recommends approval of the Conditional Use Permit for a Planned Unit Development Amendment and site plan for Phase II of “The Yards.”

Chair Ross asked Mr. Healy to explain the Metropolitan Council’s role in regulating density. Mr. Healy explained that the Met Council assigns each community a designation based on its development history and each community is expected to have density rules in its Comprehensive Plan to match the Met Council’s designation. South St. Paul is designated as an urban center community. The City’s Comprehensive Plan anticipated the Concord Exchange area having a density of 60 acres per unit. The Yards/Backyards would have a density of 64-68 units per acre, which is standard for this type of housing product. The Met Council is generally not opposed to additional density in an area as long as the sewer capacity will meet the demand, but the approval of any comprehensive plan amendment to allow additional density is subject to Met Council approval.

Chair Ross asked where the proposed cow statue would be located. Ben Beard of the Beard Group explained that the site would have cow statues in multiple locations. Phase One would have some interactive statues along Grand Avenue and Concord Exchange. Phase Two would have a cow statue on a platform above the secondary entrance.

Commissioner Frankot asked about the type of plant that would be used in the art wall. Mr. Beard explained that the wall would use Carolina Creeper.

Commissioner Frankot summarized that the differences between Phase I and Phase II is that Phase II includes an art wall, additional lighting, and trees that are a different distance from what was originally proposed.

Chair Ross asked staff to confirm that the applicant was receiving flexibility for the amount of signage. Mr. Healy confirmed this was the case.

Chair Ross asked about maintenance of the art wall. Mr. Beard shared that the art wall would have an anti-graffiti coating and the Carolina Creeper would be maintained by the maintenance company.

Chair Ross asked Mr. Beard about needing density flexibility from the comp plan. Mr. Beard explained that they typically develop buildings with four residential levels and two levels of parking below. This housing product comes out to 64-68 units per acre which is ideal to strike a balance with the amount of parking at the site and the amenities that are offered.

Chair Ross asked the applicant what the construction timeline looks like. Mr. Beard stated they hoped to break ground in January of 2022 and finish construction within 15 months. Ideally, the Backyards would be open 6 months after the Yards opens.

Chair Ross opened the public hearing.

No correspondence had been received and no one was present to speak on the item.

Chair Ross closed the public hearing.

Chair Ross asked if the language in the resolution was written to allow the higher density the applicants had proposed. Mr. Healy explained that the resolution was written in a way that would allow the building to be constructed as planned if the City’s comprehensive plan is successfully amended.

Motion to approve a Conditional Use Permit for a Planned Unit Development Amendment and site plan for Phase II of "The Yards - Frankot/ DesMarais (5-0).

D) Public Hearing for Black Sheep Coffee Outdoor Dining Conditional Use Permit

Mr. Healy shared the staff report. Black Sheep Coffee is seeking a Conditional Use Permit for outdoor dining, a site plan approval for an outdoor dining area, and an amendment to their existing Conditional Use Permit to reflect that they no longer use their approved drive thru lane. The business has been operating at the site since 2006. Their original approval allowed them to remove half of their parking stalls to operate a drive thru lane until 10:00 AM every morning. During the COVID-19 emergency order, the business operated a temporary outdoor service area. The emergency order and the related City Council resolution allowing temporary outdoor service areas expired earlier this year and all temporary patios must be removed. As a result of the pandemic and customer demand, many businesses are shifting to having permanent outdoor dining areas, Black Sheep Coffee included. The applicant has proposed a patio in the same locations as their temporary outdoor dining area. The patio would be protected from traffic by concrete planters. As part of the approval for the project, the applicant will need to prove they have a parking agreement in place with a neighboring business to meet the parking requirements. Staff recommends approval of the Conditional Use Permit.

Chair Ross asked staff to confirm that if the proposed application was approved, the applicant would no longer be able to operate a drive thru. Mr. Healy explained that the drive thru is no longer used as a drive thru and is used by customers as a walk-up window for ordering and pick-up.

Peter Middlecamp, owner of Black Sheep Coffee, was present to speak on the item. Mr. Middlecamp explained that the business did its best to cater to the needs and preferences of the Black Sheep's customers and that these needs had shifted very suddenly.

Chair Ross asked if the applicant was familiar with the conditions. Mr. Middlecamp stated that he was. Mr. Middlecamp explained that he was working on updating the shared parking agreement with Commissioner Frankot who owns a property near Black Sheep Coffee.

Chair Ross opened the public hearing.

Steve Mankowski, 725 Southview Boulevard, came forward to comment on the application. Mr. Mankowski is the owner of the service station next to Black Sheep Coffee. Mr. Mankowski spoke about his concerns with parking at the site. Mr. Healy explained that the property's original approval was for 5 on-site parking spaces and 10 off-site spaces. Today the site has 12 parking stalls and 5 off-site spaces. The City Council has been very clear that as long as a patio does not have more seats than are available in the restaurant, their stance is that the outdoor dining area does not create a need for additional customers because the same customers are using the indoor or outdoor dining area depending on the weather.

Keegan Jorgenson, 215 7th Avenue South, wrote in support of the Black Sheep's proposal and stated that the patio would be a great addition to the neighborhood.

Thomas Hartwig on behalf of Grace Lutheran Church, 155 8th Avenue South, stated the church was in support of granting the Conditional Use Permit and wished Black Sheep Coffee well in the services they offer to the community.

Commissioner Frankot explained the parking agreement that was in place between him and Mr. Middlecamp for parking at 820 Southview Boulevard.

Motion to recommend approval of a Conditional Use Permit for outdoor dining at 705 Southview Boulevard – Krueger/ Fournier (4-0) (Abstention by Frankot).

E) Public Hearing for Twin City Bagel Exterior Storage Conditional Use Permit

Mr. Healy presented the Staff report. Twin City Bagel is located at 130 Hardman Avenue. The applicant is requesting a Conditional Use Permit for exterior storage to allow 16 semi-trailers to be parked outside overnight. As part of the applicant's 2003 Conditional Use Permit, the applicant was approved to have 9 trailers at the site overnight. The applicant has stated that they cannot operate their business unless they are permitted to have at least 16 trailers stored overnight at the property. The city code requires exterior storage (including truck trailers) to be screened. The applicant's 2003 approval included a landscaping plan with trees to screen the business's loading docks. Much of this landscaping at the site has died which makes the applicant in violation of their existing approvals. Staff feels that at a minimum, the applicants need to replace the landscaping inside the lot and along the berm that has died. Due to the drought, this likely will not be feasible until 2022 so the City should collect an escrow or letter of credit to ensure that the screening is installed and kept alive. Staff recommends approval of the proposed Conditional Use Permit for the exterior storage of up to 16 trailers.

Commissioner Krueger emphasized that having a landscaping plan is a good start, but that the landscaping must be maintained. Commissioner Krueger stated that the property was a stark contrast to the neighboring property.

Commissioner Frankot asked if the applicant had considered adding additional parking in the northern part of the property. The applicant stated that they have thought about expanding their building into this area but have not been able to due to a lack of staffing.

Gerri Krenner and Michel Rouache were present to speak to the application. Ms. Krenner stated that the landscaping plan did not take into account the concerns about rodents on the site. She had been told that landscaped areas are a breeding ground for rodents and the rodents have destroyed some of the trees at the site.

Chair Ross asked Ms. Krenner if she had made staff aware of her concerns about the additional landscaping creating an environment for rodents. Ms. Krenner stated she had mentioned this to the previous City Planner.

Chair Ross asked Ms. Krenner her opinion of the conditions of approval. Ms. Krenner stated she was not familiar with the conditions. Chair Ross suggested that the item be tabled so that Staff can have additional dialogue with the applicant about the conditions of approval. The Applicant was amenable to the item being tabled.

Chair Ross opened the public hearing.

David Langer, 151 Bridgepoint Drive, shared that he has several concerns with allowing Twin City Bagel to keep trailers on their property. Mr. Langer stated that the property was already in a substandard condition compared to the surrounding businesses. Mr. Langer stated his concerns that granting this request would set a precedent for businesses in the surrounding area.

Staff also received an anonymous public comment stating they had no problem with the Conditional Use Permit, but they would like to see Twin City Bagel improve their landscaping.

Chair Ross closed the public hearing.

Motion to continue the item to the next meeting - DesMarais/Fournier (5-0).

F) Public Hearing for an Ordinance Amendment to Align the Zoning Code's rules for Housing With Services with State Statute.

Mr. Healy shared the staff report. In 2017, the City adopted an ordinance that added zoning regulations to govern "housing with services." This ordinance was allowed based on the way state statute was written. In 2021 the Minnesota Legislature repealed the statute that regulated group homes. There is no approved replacement statute, so the City must eliminate its zoning regulations for "housing with services" or group homes. The City Attorney has drafted an ordinance amendment which must be adopted to keep the City compliant with state statute.

Chair Ross asked if South St. Paul had any group homes. Staff confirmed that there were a number of group homes in town.

Chair Ross opened the public hearing.

No one was present to speak on the item and no correspondence had been received.

Chair Ross closed the public hearing.

Motion to recommend approval of the proposed ordinance amendment - Ross/ Frankot (5-0).

5) OTHER BUSINESS

Mr. Healy shared that there were no commercial applications for the September meeting so the meeting would feature a number of code projects, including a first review for the zoning district that will replace the North Concord Mixed Use district.

6) ADJOURNMENT

Motion to adjourn- DesMarais/Fournier (5-0).