

**PLANNING AND ZONING COMMISSION
MINUTES OF THE REGULAR MEETING
JANUARY 2, 2013
7:00 PM**

The meeting was called to order at 7:00 pm by Chair Marlaine Szurek.

Commission Members present- Little, Fiorendino, Kinney, and Szurek

Also present were Sheila Cartney (Asst. Community Development Director), and Shelley Hanson (Secretary).

Motion by Fiorendino, seconded by Little, to approve the minutes from the meeting of December 4, 2012. All ayes. MOTION PASSED.

PUBLIC HEARINGS

CASE NUMBER: 2013-0101
APPLICANT: Saynab Yusuf
LOCATION: 4347 Central Ave NE
REQUEST: Variance for Parking Requirements for a Daycare Center

INTRODUCTION

Cartney explained that at this time, the applicant is requesting a variance to the parking requirement in association with operating a daycare business located at 4347 Central Avenue NE. The variance request is as follows:

1. A variance to minimum parking spaces required per Code Section 9.106 (L)(10). They have nine parking stalls onsite and 13 are required.

The applicant wishes to locate her business in the former *Anderson's Heating and AC* building located at 4347 Central Avenue. Currently, there is no striped parking on the premises. Because the change of use requires more parking than the type of business previously at that location, the new business would have to comply with all the minimum requirements of the City Code pertaining to off-street parking. In July 2012 a variance to the drive aisle width and the side yard setback for parking was approved for this property.

ZONING ORDINANCE

The property located at 4347 Central Avenue is zoned GB, General Business District, as are the properties to the north, south east and west. The City's Code requirements pertaining to parking and drive aisle widths are as follows:

1. Code Section 9.106 (L)(10) requires one parking stall per every employee, plus one drop off space for every 5 enrollees. There are 35 students planned and 6 employees requiring 13 parking stalls. With the passed variances granted the applicant can accommodate 9 parking stalls onsite requiring a 4 stall parking variance.

CONSIDERATIONS.

The preexisting placement of the building on the undersized parcel demonstrates an undue hardship on the property, justifying the parking setback and drive aisle width variances. The need for the 4-stall parking variance is strictly a function of the type of business that wishes to locate on the premises. The previous use of the building as an office/retail facility only needed to supply 1 parking stall for each 300 square feet of office/retail area. Given the dimensions of the building, the previous use would have needed 9 parking stalls. The accompanying site plan indicates that 9 parking stalls could be placed on the parcel with the parking and drive aisle width variances.

The applicant has indicated she is going to provide transportation services to most of the children attending this daycare, thus lessening the need for parking. She has also obtained 6 more parking spaces from the adjacent property (Sarah's Tobacco) for her employees to park. Code Section 9.106 (L)(9) allows shared parking if five conditions are met. (9) *Shared parking*, the City Council may approve the use of a required off-street parking area for more than one principal use on the same or an adjacent site if the following conditions are met: (a) *Location*. The use for which the application for shared parking is being made is located within 300 feet of the use providing the parking facilities. (b) *Nighttime uses*. Up to 50% of the off-street parking facilities required for a bowling alley, nightclub, school auditorium, theater or similar nighttime use may be supplied by off-street parking facilities provided primarily for daytime use. (c) *Sunday use*. Up to 75% of the off-street parking facilities required for a place of worship or similar Sunday use may be supplied by off-street parking facilities provided primarily for a daytime use. (d) *Daytime use*. For the purposes of this provision, the following uses are considered daytime uses: financial institutions, offices, retail stores, personal service facilities and similar uses. (e) *Contract*. A legally binding instrument for the shared use of the off-street parking facilities shall be approved by the City Attorney and filed with the Anoka County Recorder's Office within 60 days after approval of the shared parking use. The daycare and the adjacent Tobacco store meet the criteria for shared parking.

COMPREHENSIVE PLAN

The Comprehensive Plan guides this area as Commercial. The proposed variances would enable a business to locate in a vacant commercial space. For this reason, the proposals are consistent with the Comprehensive Plan.

FINDINGS OF FACT (Variance)

Section 9.104 (G) of the Zoning Ordinance outlines five findings of fact that must be met in order for the City Council to grant a variance. They are as follows:

- a) Because of the particular physical surroundings, or the shape, configuration, topography, or other conditions of the specific parcel of land involved, strict adherence to the provisions of this article would cause practical difficulties in conforming to the zoning ordinance. The applicant, however, is proposing to use the property in a reasonable manner not permitted by the zoning ordinance.

The 4-stall parking variance cannot be avoided with the type of business that is willing to operate from this location because there is not physically enough room on the property to place 4 more parking stalls. Side setback and aisle width variances have already been granted due to the physical shape and configuration of this lot.

- b) The conditions upon which the variance is based are unique to the specific parcel of land involved and are generally not applicable to other properties within the same zoning classification.

There are many undersized commercial properties along Central Avenue in The GB, General Business District. The uniqueness of this particular parcel is the placement of the building on the property in relation to the existing driveway openings and property lines. Physically, there is no way to accommodate the minimum requirements of the Zoning Code for parking without the need of a variance.

- c) The practical difficulties are caused by the provisions of this article and have not been created by any person currently having a legal interest in the property.

The provisions of the article require a certain number of parking stalls. The property at 4347 Central Avenue is too small to accommodate these requirements. The hardships have not been created by persons having a legal interest in the property.

- d) The granting of the variance is in harmony with the general purpose and intent of the comprehensive plan.

The Comprehensive Plan guides this area as Commercial. The proposed variances would enable a business to locate in a vacant commercial space. For this reason, the proposals are consistent with the Comprehensive Plan.

- e) The granting of the variance will not be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development or value of property or improvements in the vicinity.

The granting of the variances should not be materially detrimental to the public welfare or the use of the properties in the vicinity. The variance requests will have conditions imposed on them to help ensure this.

Staff recommends approval of the 4-stall parking variance. The applicant has done a sufficient job in attempting to limit the degree of the parking stall variance in that she has permission from the adjacent property for 6 parking stalls for her employees. Staff recognizes the site is compact and already has two variances for the drive aisle and parking setback acknowledging the challenges to bring the parking lot into compliance. Cartney reminded members that back in July of 2012 a parking variance was granted for a business that never went into this business site, therefore, that variance never went into effect.

Questions from members:

Szurek asked if sharing spaces at Sarah's Tobacco would impact that business. Cartney said that Sarah's had more than enough parking spaces for their business so there wouldn't be a problem. Szurek then asked if this property would stay on the tax rolls if operated as a daycare. Cartney said that it would.

Kinney asked what happens if the business at the 4347 Central Avenue site changes use in the future. Cartney said the variance would remain in effect. Once the striping is done and the conditions are met, the variance would become effective and remain with the site. Kinney then asked if the variance would be affected if the contract is rescinded in the future with the neighboring site due to the expiration of the contract or the sale of Sarah's Tobacco. Cartney said it wouldn't affect the variance for this site and depending on the new use for the neighboring property the amount of parking should still be adequate. If it remains a retail business they have more than enough.

Fiorendino had no further questions since his had already been answered.

Little asked how long the contract with Sarah's would be in effect. If it terminates how would it affect the variance. Cartney explained that the "shared parking contract" is really a separate matter that will be brought to the City Council for approval. A "shared parking" arrangement is an allowed use according to City Code if the City Council grants approval. The variance is not actually contingent on the agreement, but it is another tool that makes granting the variance easier to approve since other accommodations have been arranged to make the site work for this type of use. Little said he thinks this is a better use of the property than the last request that was considered.

Public Hearing Opened:

No one wished to speak on this matter.

Public Hearing closed.

Motion by Fiorendino, seconded by Kinney, that the Planning Commission recommends the City Council approve the variance to allow four (4) less parking stalls than the minimum requirement per Code Section 9.106 (L)(10) of the City Code and to approve shared parking with the adjacent property, subject to certain conditions of approval that have been found to be necessary to protect the public interest and ensure compliance with the provisions of the Zoning and Development Ordinance, including:

- 1. All application materials, maps, drawings, and descriptive information submitted with the application shall become part of the permit.*

2. *A contract for the shared parking shall be approved by the City Attorney and filed with the Anoka County Recorder's Office within 60 days after approval of the shared parking use.*
3. *At least 75 square feet of outside play area shall be provided for each child under care.*
4. *Short-term parking of vehicles engaged in loading and unloading of children shall be provided as close as practical to the principal entrance.*

All Ayes. MOTION PASSED.

This will go before the City Council at the January 14th meeting.

RESOLUTION NO. 2013-XX

**RESOLUTION APPROVING A VARIANCE
FROM CERTAIN CONDITIONS
OF THE CITY OF COLUMBIA HEIGHTS ZONING CODE
FOR SAYNAB YUSUF**

WHEREAS, a proposal (Case # 2013-0101) has been submitted by Saynab Yusuf to the City Council requesting a variance from the City of Columbia Heights Zoning Code at the following site:

ADDRESS: 4347 Central Avenue NE

LEGAL DESCRIPTION: On file at City Hall.

THE APPLICANT SEEKS THE FOLLOWING RELIEF: A variance to allow four (4) less parking stalls than the minimum requirement per Code Section 9.106 (L)(10).

WHEREAS, the Planning Commission has held a public hearing as required by the City Zoning Code on January 2, 2013;

WHEREAS, the City Council has considered the advice and recommendations of the Planning Commission regarding the effect of the proposed variance upon the health, safety, and welfare of the community and its Comprehensive Plan, as well as any concern related to traffic, property values, light, air, danger of fire, and risk to public safety, in the surrounding area;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Columbia Heights that the City Council accepts and adopts the following findings of the Planning Commission:

1. Because of the particular physical surroundings, or the shape, configuration, topography, or other conditions of the specific parcel of land involved, strict adherence to the provisions of this article would cause practical difficulties in conforming to the zoning ordinance. The applicant, however, is proposing to use the property in a reasonable manner not permitted by the zoning ordinance.
2. The conditions upon which the variance is based are unique to the specific parcel of land involved and are generally not applicable to other properties within the same zoning classification.
3. The practical difficulties are caused by the provisions of this article and have not been created by any person currently having a legal interest in the property.
4. The granting of the variance is in harmony with the general purpose and intent of the Comprehensive Plan.
5. The granting of the variance will not be materially detrimental to the public welfare or materially injurious to the enjoyment, use, development or value of property or improvements in the vicinity.

FURTHER, BE IT RESOLVED, that the attached plans, maps, and other information shall become part of this variance and approval; and in granting this variance the city and the applicant agree that this variance shall become null and void if the project has not been completed within one (1) calendar year after the approval date, subject to petition for renewal of the permit.

CONDITIONS ATTACHED:

1. All application materials, maps, drawings, and descriptive information submitted with the application shall become part of the permit.
2. A contract for the shared parking shall be approved by the City Attorney and filed with the Anoka County Recorder's Office within 60 days after approval of the shared parking use.
3. At least 75 square feet of outside play area shall be provided for each child under care.
4. Short-term parking of vehicles engaged in loading and unloading of children shall be provided as close as practical to the principal entrance.

Passed this 14th day of January, 2013

Offered by:
Seconded by:

Mayor Gary L. Peterson

Attest:

Tori Leonhardt
City Clerk

OTHER BUSINESS

There was no other business.

The meeting was adjourned at 7:14 pm.

Respectfully submitted,

Shelley Hanson
Secretary