

**PLANNING AND ZONING COMMISSION
MINUTES OF THE REGULAR MEETING
SEPTEMBER 5, 2012
7:00 PM**

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

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

Members Absent- Little

Also present were Council Liaison (Bobby Williams), Jeff Sargent (City Planner), and Shelley Hanson (Secretary).

Motion by Peterson, seconded by Kinney, to approve the minutes from the meeting of August 8, 2012. All ayes. MOTION PASSED.

PUBLIC HEARINGS

CASE NUMBER: 2012-0901
APPLICANT: Financial One / Powerfully Green
LOCATION: 843 – 40th Avenue NE
REQUEST: Site Plan Approval for a Solar Carport

Sargent explained that the applicant is requesting a Site Plan Approval for the construction of a solar carport for the Financial One business located at 843 – 40th Avenue NE. This property is located within the Design Guidelines 40th Avenue District and requires a Site Plan Review in order to ensure compliance with the Design Guidelines.

The property currently has uncovered, on-site parking. The applicant would like to be able to incorporate a solar-collecting carport onto the property that both covers parked cars and collects renewable energy. The solar energy collection carport has the option of providing car-charging stations as well, being the first of its kind in the metropolitan area.

ZONING ORDINANCE

The property located at 843 – 40th Avenue is zoned CBD, Central Business District, as are the properties to the south, east and west. The properties to the north are zoned R-3, Multiple Family Residential.

ACCESSORY STRUCTURES.

By definition, the proposed carport is an accessory structure. The Zoning Code does not specify a maximum size for accessory structures in the CBD, Central Business District. The Zoning Code also states that all non-residential accessory structures shall be subject to the same setback regulations as a principal structure in which it is located. The CBD allows for buildings to be located directly on the front and side property lines. The front lot line of this property is that lot line adjacent to Van Buren Street. The proposed location of the carport indicates consistency with the Zoning Code.

DESIGN GUIDELINES.

No changes to the principal structure will be occurring. The proposed carport incorporates solar panels mounted on a steel support structure, acting as a canopy for parked cars. The Design Guidelines do not specifically regulate this type of structure because it is not enclosed. For this reason, the proposal meets the minimum standards of the Code.

COMPREHENSIVE PLAN

The Comprehensive Plan guides this area as Commercial. The proposed Site Plan adds to the commercial aspect of the property and is consistent with the Comprehensive Plan.

FINDINGS OF FACT (Site Plan)

Section 9.104 (N) of the Zoning Ordinance outlines four findings of fact that must be met in order for the City to approve a site plan. They are as follows:

- a) The site plan conforms to all applicable requirements of this article.
The site plan meets all applicable Design Guidelines for the property.
- b) The site plan is consistent with the applicable provisions of the city's Comprehensive Plan.
The Comprehensive Plan guides this area as Commercial. The proposed Site Plan adds to the commercial aspect of the property and is consistent with the Comprehensive Plan.
- c) The site plan is consistent with any applicable area plan.
There is no area plan for this portion of the city.
- d) The site plan minimizes any adverse impacts on property in the immediate vicinity and the public right-of-way.
The proposed structure meets all setback requirements, and thus minimizes all adverse impacts on property in the immediate vicinity and public right-of-way.

Staff recommends approval of the proposed site plan, as it is consistent with the Comprehensive Plan with the following conditions:

1. All application materials, maps, drawings and descriptive information submitted with this application shall become part of the permit.
2. The applicant shall obtain a building permit prior to construction of the carport.

Questions from members:

A representative from Financial One was present to answer questions and so was a representative from Powerfully Green (the company installing the solar carport).

Szurek asked what the energy would be used for? She wondered if it would be used just to plug in cars or if it would supply the business with power. A representative from Financial One stated that it should supply about half of the power they need to operate their business. He explained that there will not be a storage facility on site, and if there is surplus of power, they may sell it to the power company for public use.

Kinney questioned whether the carport would be used strictly for their private use or if the parking area with power would be open to the public. The representative said they may sell some of the power to the public in the future if someone wishes to pay for a spot to plug in their car to recharge it, but for the present time it will be used by employees and customers. Sargent explained that since this property is in the CBD, no on-site parking is required to operate the business, and therefore, the City would not regulate how the spaces are used.

The height of the solar panels was discussed. It was noted that the carport will be about 15 feet, 11 inches in height. Members questioned whether it would have an impact on the neighboring property to the north. Sargent stated that it meets the maximum height allowance of 18 feet. He said it may cast a shadow but the panel itself would not go over the property line. Peterson wondered if there would be a glare off the panels. Sargent said he didn't think so due to the height of the panels and the fact they will be angled away from the property to the north.

Public Hearing Opened:

No one had anything further to say on this issue.

Public Hearing Closed.

Motion by Peterson, seconded by Fiorendino, to waive the reading of Resolution No. 2012-PZ07, there being ample copies available to the public. All ayes. MOTION PASSED.

Motion by Peterson, seconded by Fiorendino, to adopt Resolution No. 2012-PZ07, being a resolution approving a site plan for a new solar collecting carport for Financial One located at 843 – 40th Avenue NE. All ayes. MOTION PASSED.

RESOLUTION NO. 2012-PZ07

RESOLUTION OF THE PLANNING AND ZONING COMMISSION APPROVING A SITE PLAN FOR THE CONSTRUCTION OF A SOLAR CARPORT FOR THE BUIDLING LOCATED AT 843 – 40TH AVENUE WITHIN THE CITY OF COLUMBIA HEIGHTS, MINNESOTA

WHEREAS, a proposal (Case #2012-0901) has been submitted by Financial One, to the Planning and Zoning Commission requesting a site plan approval from the City of Columbia Heights at the following site:

ADDRESS: 843 – 40th Avenue NE

LEGAL DESCRIPTION: On file at City Hall.

THE APPLICANT SEEKS THE FOLLOWING PERMIT: Site Plan approval for the construction of a new solar carport located at 843 – 40th Avenue NE.

WHEREAS, the Planning Commission has held a public hearing as required by the city Zoning Code on September 5, 2012;

WHEREAS, the Planning and Zoning Commission has considered the advice and recommendations of the City staff regarding the effect of the proposed site plan upon the health, safety, and welfare of the community and its Comprehensive Plan, as well as any concerns related to compatibility of uses, traffic, property values, light, air, danger of fire, and risk to public safety in the surrounding areas; and

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

1. The site plan conforms to all applicable requirements of this article.
2. The site plan is consistent with the applicable provisions of the city's comprehensive plan.
3. The site plan is consistent with any applicable area plan.
4. The site plan minimizes any adverse impacts on property in the immediate vicinity and the public right-of-way.

FURTHER, BE IT RESOLVED, that the attached conditions, maps, and other information shall become part of this permit and approval; and in granting this permit the city and the applicant agree that this permit 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 shall become part of the permit.*
2. *The applicant shall obtain a building permit prior to construction of the carport.*

Passed this 5th day of September, 2012,

CASE NUMBER: 2012-0902
APPLICANT: Steven Maas
LOCATION: 3918 Ulysses Street NE
REQUEST: A Variance for a Third Accessory Structure

Sargent told members that the applicant is requesting a variance per Code Section 9.106 (C)(1)(a) in order to retain a third accessory structure on his property located at 3918 Ulysses Street NE. The applicant currently has a detached garage and a storage shed on his property. Just recently, he has constructed a 24' x 10' kennel to house his cats. City Staff learned about the construction because of a neighborhood complaint. Upon inspection of the property, staff informed the applicant that he would need a building permit for the structure as well as a variance to retain the third accessory structure.

The property is a duplex, with the applicant living on one side and the applicant's mother living on the other. Both have two rescue cats, which are accustomed to being outdoors. In the applicant's letter, he states that prior to the kennel being built, there were multiple times when his cats could be found on neighbor's roofs, on their decks, and even in their homes. The cats often killed songbirds, squirrels, rabbits and mice and needed to be cleaned up after. The enclosure allows the cats to remain outdoors while not causing problems with neighboring property owners.

ZONING ORDINANCE

The property located at 3918 Ulysses Street is zoned R-2B, One and Two Family Residential, as are the properties to the north. The properties to the south, east and west are zoned R-2A, One and Two Family Residential. The Zoning Code at Section 9.106 (C)(1)(a) states that each residentially zoned parcel shall be allowed two detached accessory structures. The addition of the cat kennel would create a third accessory structure. For this reason, a variance is required.

ACCESSORY STRUCTURES

The Zoning Code states that the combined square footage of all accessory structures on the property may not exceed 1,000 square feet in area. The applicant has a 20' x 20' detached garage (400 s.f.), a 10' x 12' shed (120 s.f.) and the 24' x 10' cat kennel (240 s.f.) measuring 760 square feet in total, meeting the City's minimum requirements.

The Zoning Code also requires all accessory structures to be no closer than 3 feet from the side and rear property lines. As a condition of approval, Staff will require that the setbacks be verified through the Building Permit process.

COMPREHENSIVE PLAN

The Comprehensive Plan guides this area as Residential. The use of accessory structures in residential areas is allowed, and for this reason, the proposal is 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.

Although the cat kennel is considered an accessory structure, it is not used in the same manner as a detached garage or storage shed. The very nature of this structure requires it to be detached from the house and located in the rear yard. Although the applicant has the option of removing the storage shed from the property, he stated that he needs the shed for the storage of materials that cannot be placed inside the principal structure. The cat kennel is also a reasonable use of the property.

- 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.

The conditions upon which the variance is based are the fact that the applicant has a detached garage and storage shed on the property and would like to retain a structure that he built to house his cats outdoors. This is a unique circumstance, as this is the first variance request of this nature that the City has received.

- 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 practical difficulties are caused by the provisions of the Code. Staff sought the City Attorney's opinion on how to classify the cat kennel. The cat kennel is a structure that is not intended for a principal use. For this reason, the City Attorney stated that it has to be classified as an accessory structure. Most commonly, accessory structures, like garages and sheds, are used for the storage of materials. This is a bit different since the structure will be used to house animals.

The Zoning Code does not specifically address kennels in relation to being accessory structures on a property. It is the City Attorney's opinion that staff should look into this particular matter and propose a Zoning Amendment if need be to clarify this issue.

- 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 Residential. The use of accessory structures in residential areas is allowed, and for this reason, the proposal is 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.

According to the applicant, the granting of the variance would actually aid in the enjoyment of the properties in the immediate vicinity, as his cats would not be causing problems in the neighborhood.

Staff recommends approval of the variance to allow a third accessory structure on the property. Staff feels that this type of structure is similar to a property owner building a fence around his yard to keep his dogs from leaving the property. In this case, the "fence" would have to be enclosed in order to keep agile cats from leaving the property. The variance request is a reasonable use of the property, and for this reason, staff recommends approval.

Questions from members:

Sargent told members that he did get a couple calls from neighbors in the area and reported that they were in favor of the structure being approved. Sargent then reviewed the conditions included as part of the motion.

Szurek asked if the structure was connected to the house as the pictures depict. Sargent told members there is a catwalk with a small door that allows the animals to go in and out as they wish. Szurek then asked if the structure met the minimum setbacks of 3 feet from all property lines. Sargent said that will be verified by the Building Inspector in the permit/inspection process.

Sargent used a site plan to review the exact location of the structure with the members. It is set back at the rear of the property next to the garage. He told them it is not visible from Ulysses at all. It is only visible to the property to the north of him. He also noted that it takes up a small area in the rear yard which is difficult to tell from the pictures. Peterson stated that he had driven by the property and didn't think it would be very appealing to the neighborhood until he saw it. He agreed it wasn't as large or obtrusive as the pictures depict.

Kinney asked what the height limit was for an accessory structure. Sargent told members that the maximum height is 18 feet or the height of the principle structure, whichever is less. This particular accessory structure is 10 feet high.

Fiorendino asked what the nature of the complaint was that got this thing started. Sargent said he thought it was just a caller wondering what was being built.

Fiorendino then asked what constitutes an accessory structure—would playhouses, dog houses, etc. be considered accessory structures, or only those structures in excess of 120 sf since they would require a building permit. Sargent told members that our code doesn't really define this and it is something that needs to be addressed. A situation such as this, bring these areas that need attention to light. Sargent said the City Attorney gave his opinion that we currently have two types of structures defined in our code. The first is the primary structure which is the occupied structure. Anything else on the property would be classified as an accessory structure, and our code allows for only two accessory structures. Fiorendino clarified with Sargent that if this cat structure met building code requirements and he didn't have the shed, this matter wouldn't even have to come before the commission. The only reason for this variance is to allow three accessory structures rather than the two allowed by code. Sargent told them that is correct and because this is a unique structure that is not really defined in our code, a variance would be needed until this matter can be rectified.

Peterson asked if this structure could be considered part of the primary structure since it is connected by the cat walk way and then it wouldn't be considered an accessory structure. Sargent responded that according to the City Attorney that wouldn't work since no one can reside in this open aired structure.

Fiorendino said not all the Findings of Fact could be met in order to grant this variance. Sargent said that some variances don't meet all the criteria.

Szurek also didn't think this unique structure should be defined as an accessory structure, but since we have no other category to put it in, she understands the variance request. Sargent stated that if this was indeed another shed he wanted to add to the property he would not recommend approval. There was some discussion on whether the structure could be altered into another storage building if this variance is approved. Sargent told members that they could add an additional condition stating that the structure could not be altered or used as a storage structure in the future if the Council approves this request. They all felt this would be a good idea.

Public Hearing Opened:

Steve Maas-3918 Ulysses St-told members why he built this cat kennel structure. He had pictures showing that the structure was 3 to 3.5 feet from all property lines. He also said if he ever moves or he no longer has the cats, the structure would be removed.

Three of Mr. Maas' neighbors were present and they were all in favor of this in order to keep the cats contained.

Szurek asked if the cats were fixed and if they were current on their shots. Mr. Maas indicated they were and this kennel area keeps his cats away from other cats.

Fiorendino stated he would vote for this variance but thinks we need to look at the code and better define what an "accessory" structure is. All the members agreed with this.

Public Hearing Closed.

Motion by Fiorendino, seconded by Peterson, that the Planning Commission recommends that the City Council approve the variance for a third accessory structure per Code Section 9.106 (C)(1)(a), 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. The applicant must obtain a building permit for the kennel.*
- 3. The kennel must meet the minimum setback requirements for an accessory structure, being setback no closer than 3 feet from the side or rear property lines.*
- 4. The kennel may house no more than 4 cats at any one time, with the understanding that no more than 2 cats may belong to the owners/tenants of each side of the duplex.*
- 5. That the kennel cannot be altered or used for storage.*

Roll Call: All ayes. MOTION PASSED.

The following Resolution will go to the City Council September 10, 2012 for consideration.

**RESOLUTION NO. 2012-XXX
RESOLUTION APPROVING A VARIANCE
FROM CERTAIN CONDITIONS
OF THE CITY OF COLUMBIA HEIGHTS ZONING CODE
FOR STEVEN MAAS**

WHEREAS, a proposal (Case # 2012-0902) has been submitted by Steven Maas to the City Council requesting a variance from the City of Columbia Heights Zoning Code at the following site:

ADDRESS: 3918 Ulysses Street NE

LEGAL DESCRIPTION: On file at City Hall.

THE APPLICANT SEEKS THE FOLLOWING RELIEF: A variance for a third accessory structure per Code Section 9.106 (C)(1)(a).

WHEREAS, the Planning Commission has held a public hearing as required by the City Zoning Code on September 5, 2012;

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. The applicant must obtain a building permit for the kennel.
3. The kennel must meet the minimum setback requirements for an accessory structure, being setback no closer than 3 feet from the side or rear property lines.
4. The kennel may house no more than 4 cats at any one time, with the understanding that no more than 2 cats may belong to the owners/tenants of each side of the duplex.
5. That the kennel cannot be altered or used for storage.

CASE NUMBER: 2012-0903
APPLICANT: City of Columbia Heights
LOCATION: City Wide
REQUEST: Zoning Amendment for Temporary Signs

Sargent told members that in early 2012, the City Council approved the establishment of the Community Development Steering Committee (“the Committee”). The task of the Committee was to conduct an extensive review of the Sign Code and Design Guidelines to determine whether these articles are still relevant in today’s society. The Committee was in charge of overseeing any changes that might be made, with suggestions and recommendations to the City Staff, who would then forward the recommendations to the Planning Commission and City Council. The Committee was comprised of one resident, three business owners, one City Council member and one Planning Commission member. They met for six sessions beginning in May, 2012, and have come up with some suggestions for Zoning Amendments.

At this time, City Staff is representing the Committee by proposing a Zoning Amendment as it relates to temporary signage. In order to promote new businesses that have moved into Columbia Heights, the Committee proposes the City to allow each new business to utilize one “Grand Opening” sign per business for a period of 60 days. This banner would not require a permit and would not count towards the total allotment of temporary banners (four) that a business may use in a calendar year. The purpose of this amendment is to allow new businesses the opportunity to advertise their new arrival in an attempt to establish themselves in the community.

COMPREHENSIVE PLAN

One of the goals of the Comprehensive Plan is to preserve and enhance the existing viable commercial areas within the community, and to promote reinvestment in properties by the commercial and industrial sectors. Allowing a “Grand Opening” sign would aide in the enhancement of the commercial areas throughout the city.

FINDINGS OF FACT

Section 9.104 (F) of the Columbia Heights zoning code requires that the City Council make each of the following four findings before approving a zoning amendment:

1. The amendment is consistent with the Comprehensive Plan.
One of the goals of the Comprehensive Plan is to preserve and enhance the existing viable commercial areas within the community, and to promote reinvestment in properties by the commercial and industrial sectors. Allowing a “Grand Opening” sign would aide in the enhancement of the commercial areas throughout the city.

2. The amendment is in the public interest and is not solely for the benefit of a single property owner.

The proposed amendment would apply to all commercial districts throughout the City.

3. Where the amendment is to change the zoning classification of a particular property, the existing use of the property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification.

The amendment would not change the zoning classification of a particular property.

4. Where the amendment is to change the zoning classification of a particular property, there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in the current zoning classification.

The amendment would not change the zoning classification of a particular property.

Sargent reviewed the details of what is allowed for the Grand Opening signs with members.

Questions by members:

Szurek asked how the signs would be monitored if a permit wasn't needed. Sargent said he drives around for other code compliance matters on a regular basis and would be able to monitor this. He said staff is usually aware of new businesses that open through a variety of channels.

Fiorendino thought this would be a great way for new businesses to establish themselves in our city.

Public Hearing Opened:

No one was present to speak on this.

Public Hearing Closed.

*Motion by Kinney, seconded by Peterson, that the Planning Commission recommends that the City Council approve the proposed zoning amendment. All ayes. MOTION PASSED.
This will go to the City Council for consideration.*

**DRAFT ORDINANCE NO. XXXX
BEING AN ORDINANCE AMENDING ORDINANCE NO. 1490, CITY CODE OF 2005
RELATING TO TEMPORARY SIGNS WITHIN THE CITY OF COLUMBIA HEIGHTS**

The City of Columbia Heights does ordain:

Chapter 9, Article I, Section 9.106 (P)(7) of the Columbia Heights City Code, is proposed to include the following additions and deletions:

§ 9.106 SPECIFIC DEVELOPMENT STANDARDS

(P) Sign regulations. The following uses are subject to specific development standards:

(7) Temporary signs. The following standards shall apply to temporary signs in all zoning districts:

(h) Grand opening signs.

- 1. Each new business is permitted one (1) grand opening sign, at the time when the new business is established in the city.*
- 2. Grand opening signs do not require a permit.*
- 3. Such signs do not count against the total number of temporary signs allowed per property per calendar year.*
- 4. Grand opening signs are allowed for no more than sixty (60) consecutive days.*
- 5. Grand opening signs must display a message consistent with the promotion of the grand opening of the new business.*
- 6. Grand opening signs shall be no greater than fifty (50) square feet in area.*
- 7. Such signs must meet all other applicable regulations for temporary signage in the city pertaining to placement on the property, maintenance, etc.*

[Sections § 9.106 (P)(7)(i-k) shall be renumbered accordingly]

Section 2:

This ordinance shall be in full force and effect from and after 30 days after its passage.

First Reading: September 10, 2012
Second Reading: September 24, 2012
Date of Passage:

OTHER BUSINESS

Szurek asked about sandwich board signs and how long they can be out. Sargent said that sandwich board signs have been allowed for about 5-6 years now. Businesses may have one sign that can be kept out indefinitely as long as they are professionally made, are no larger than the maximum allowed, and stay away from property lines. He acknowledged that some of them are placed on sidewalks because that is their only option. He said staff is flexible in regards to these

signs unless a complaint is received. She then asked how much window signage a business may have. Sargent responded that 25% of the window space may be covered with signage.

Sargent told members that Family Dollar may not be occupying the old Blockbuster building at 52nd and Central after all, and that O'Reilly's Auto broke ground this week at 37th and Central and anticipate a completion date by the end of November.

The meeting was adjourned at 8:05 pm.

Respectfully submitted,

Shelley Hanson
Secretary