



Request for City Council Committee Action from the Department of Community Planning & Economic Development – Planning Division

Date: September 14th, 2006

To: Council Member Gary Schiff, Chair, Zoning and Planning Committee
Members of the Committee

Referral to: Zoning and Planning Committee

Subject: Appeal of the Board of Adjustment action denying variances for property located at 718 Washington Avenue North (BZZ-3106) by Catherine Monnens.

Recommendation: The Board of Adjustment adopted the staff recommendation and denied the following variances: a variance to increase the maximum size of a projecting sign from 16 sq. ft. to 72 sq. ft. and a variance to increase the maximum height of an on-premise advertising sign from 24 ft. off the ground to 35 ft. off the ground at 718 Washington Avenue North in the I2 Medium Industrial District and IL Industrial Living Overlay District.

Previous Directives: N/A

Prepared or Submitted by: Molly McCartney, Senior Planner, 612-673-5811

Approved by: Jack Byers, Planning Supervisor, 612-673-2634

Presenters in Committee: Molly McCartney, Senior Planner

Financial Impact (Check those that apply)

- No financial impact (If checked, go directly to Background/Supporting Information).
- Action requires an appropriation increase to the _____ Capital Budget or _____ Operating Budget.
- Action provides increased revenue for appropriation increase.
- Action requires use of contingency or reserves.
- Business Plan: _____ Action is within the plan. _____ Action requires a change to plan.
- Other financial impact (Explain):
- Request provided to department's finance contact when provided to the Committee Coordinator.

Community Impact (use any categories that apply)

Ward: 7

Neighborhood Notification: The North Loop Neighborhood Association was notified of this

application by letter, mailed on June 26, 2006. There is correspondence from the North Loop Neighborhood Association included in the staff report.

City Goals: See staff report.

Comprehensive Plan: See staff report.

Zoning Code: See staff report.

Living Wage/Job Linkage: Not applicable.

End of 60/120-day Decision Period: On August 18, 2006, the applicant was sent a letter by Planning staff extending the decision period to no later than October 24, 2006.

Other: Not applicable.

Background/Supporting Information Attached: Catherine Monnens of Sign-a-rama has filed an appeal of the decision of the Zoning Board of Adjustment denying the sign variances at 718 Washington Avenue North. The Zoning Board of Adjustment voted 3-3 to approve and 3-3 to deny, resulting in a default denial of the variances on August 3, 2006. The applicant filed an appeal on August 10, 2006. The applicant's statement is included in the staff report.

Department of Community Planning and Economic Development – Planning Division Report

Variance Request
BZZ-3106

Date: August 3, 2006

Applicant: Cammy Monnens of Sign-a-rama

Address of Property: 718 Washington Avenue North

Contact Person and Phone: Cammy Monnens, 651-644-4352

Planning Staff and Phone: Molly McCartney, 612-673-5811

Date Application Deemed Complete: June 26, 2006

Public Hearing Date: August 3, 2006

Appeal Period Expiration: August 14, 2006

End of 60 Day Decision Period: August 25, 2006

Ward: 7 Neighborhood Organization: North Loop Neighborhood Association

Existing Zoning: I2 Medium Industrial District, IL Industrial Living Overlay District

Proposed Use: Installation of a new sign

Proposed Variance: A variance to increase the maximum height of an on-premise advertising sign from 24 ft. off the ground to 35 ft. off the ground and to increase the maximum size of a projecting sign from 16 sq. ft. to 72 sq. ft. at 718 Washington Avenue North in the I2 Medium Industrial District and IL Industrial Living Overlay District.

Zoning code section authorizing the requested variance: 525.520 (21)

Background: This item has been continued from the Board of Adjustment Public Hearing held on July 20, 2006.

The subject site is a renovated 6 story warehouse, called the Soho Condominiums, which contains commercial uses on the first four floors and residential work/live dwelling units on the fifth and sixth floors. The applicant is proposing to locate a new 4 ft. by 18 ft. (72 sq. ft.) sign to advertising the name of the building. The proposed sign will be doubled-sided letters, reading “SOHO” and will be lit internally with a red LED (light emitting diodes) and two of the letters will also be covered with perforated metal. The proposed sign will be located between the second and third floors of the building which will be 35 ft. off the ground. In the I2 District, the maximum height for a sign is 24 ft.

Findings Required by the Minneapolis Zoning Code:

- 1. The property cannot be put to a reasonable use under the conditions allowed by the official controls and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

Strict adherence to the zoning code requires that a sign be no more than 16 sq. ft. in size and 25 ft. from the ground in the I2 District. The applicant states that the variances are required because the large size of the building dwarfs signage on the building and that there are other signs in the area that exceed the maximum size and height. Staff believes that a proposed sign that meets the maximum size and height requirement is a reasonable use.

- 2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

The circumstances are not unique to the parcel of land and have been created by the applicant. While the size of the building and the width of the street have not been created by the application, the design and height of the sign has been. This building is similar to other buildings in the North Loop neighborhood and many multi-story buildings in commercial and industrial zoning districts are subject to similar height requirements.

- 3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

The granting of the variances will be keeping with the spirit and intent of the ordinance and will not alter the character of the surrounding area. The applicant has submitted pictures of a number of other commercial signs along Washington Avenue North that are located on reused warehouses between the second and third floor. The design of the sign is consistent with these signs. In addition, the residential units in this building are located on the fifth and sixth floors, and will be impacted by the lit sign at night.

- 4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

Granting the variances would likely have no impact on the congestion of area streets or fire safety, nor would the proposed structure be detrimental to the public welfare or endanger the public safety.

Findings Required by the Minneapolis Zoning Code for a sign adjustment:

- 1. The sign adjustment will not significantly increase or lead to sign clutter in the area or result in a sign that is inconsistent with the purpose of the zoning district in which the property is located.**

Staff believes that the proposed wall sign is in scale with the building and the area. The sign will be consistent with other requirements of the I2 zoning district such as maximum size per sign and type of lighting allowed. The sign height is similar to other signs along Washington Avenue North.

- 2. The sign adjustment will allow a sign of exceptional design or style that will enhance the area or that is more consistent with the architecture and design of the site.**

The sign will be of a comparable design of another signs along Washington Avenue North and is consistent with the design of the building. The proposed sign will be doubled-sided letters, reading “SOHO” and will be lit internally with a red LED (light emitting diodes) and two of the letters will also be covered with perforated metal.

Recommendation of the Department of Community Planning and Economic Development Planning Division:

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the findings above and **deny** the variance to increase the maximum size of a projecting sign from 16 sq. ft. to 72 sq. ft. and to **deny** the variance increase the maximum height of an on-premise advertising sign from 24 ft. off the ground to 35 ft. off the ground at 718 Washington Avenue North in the I2 Medium Industrial District and IL Industrial Living Overlay District.

Board of Adjustment Hearing Testimony and Actions

Thursday, August 3, 2006
2:00 p.m., Room 317 City Hall

Board Membership: Mr. Matt Ditzler, Mr. David Fields, Mr. John Finlayson, Mr. Paul Gates, Ms. Marissa Lasky, Mr. Matt Perry, Mr. Peter Rand

The Board of Adjustment of the City of Minneapolis will meet to consider requests for the following:

2. **Washington Avenue North (BZZ-3106, Ward 7)**

Continued from the Board of Adjustment Public Hearing held on July 20, 2006

A variance to increase the maximum height of an on-premise advertising sign from 24 ft. off the ground to 35 ft. off the ground and to increase the maximum size of a projecting sign from 16 sq. ft. to 72 sq. ft. at 718 Washington Avenue North in the I2 Medium Industrial District and IL Industrial Living Overlay District.

CPED Department Planning Division Recommendation by Ms. McCartney:

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the findings above and **deny** the variance to increase the maximum size of a projecting sign from 16 sq. ft. to 72 sq. ft. and to **deny** the variance increase the maximum height of an on-premise advertising sign from 24 ft. off the ground to 35 ft. off the ground at 718 Washington Avenue North in the I2 Medium Industrial District and IL Industrial Living Overlay District.

TESTIMONY

Finlayson: Any Questions?

Perry: I always have trouble with signs, when I went down there to look, there were a bunch of signs, even on that block, that seem to be at that 35' height. I don't remember doing any variances for those, so, how are they there? Are they there from pre 1995, or pre?

Molly McCartney (staff): There could be signs that have existed prior to the changes that reflect the current code. Also, because of the changing zoning districts along Washington, in the C3A district there is no height limit for signs and the size allowed for projecting signs is larger so, even on this block there is a parcel zoned C3A and to the north as well is zoned C3A and to the south closer to the core downtown so that may be a reason why the sign size is changed along Washington.

Perry: I have one more quick question. Can you just give me a quick explanation of why the 24' height limitation ... what's the intent?

Molly McCartney (staff): The height is limited in the industrial district to 24' ... the intent is to prevent tall signs. Sometimes in other districts in a lower density commercial district the sign height would be limited in order to keep the sign more in scale with the pedestrian nature of the area. To keep it more human scale. But in the industrial district maybe to prevent large roof type signs.

Perry: Thank you.

Finlayson: Any further questions? Thank you. Would the applicant care to make a statement? Name and address please.

Applicants: Kathrine Monnens with Sign-a-rama, Minneapolis, we are located at 1050 33rd Avenue SE in Minneapolis.

My name is Ben Jansen.

Kathrine Monnens: First of all I would like to ask if you guys have any questions about the proposal in front of you for the sign?

Finlayson: I have none.

Ben Jansen: We do have some additional photos we brought.

Kathrine Monnens: Some blow ups of the ones that we provided to you and we've taken some measurements of these signs. This Bunkers one is total height to the top of the sign is 33' 4" and it is a total square footage of 132 square feet which is also out of code for the area. The sign from the ground to the bottom is 15' 4". This is almost across the street from 718 Washington.

Ben Jansen: As it is shown here on the photograph we brought in, I sized the Soho sign to what it would be relative to the Bunkers sign so that you can see that it's a similar sign in size in general. The Bunkers sign is a little larger square foot wise, has a further projection.

Kathrine Monnens: Also the Edina Realty, which you mentioned earlier was only done in the last couple of years, is also 33' off the ground to the top of the sign and its also 109 square feet so it's another sign that is out of code for size and height. So it's a good example of the types of signs that are along Washington Avenue that don't necessarily fall into code but are there to identify primary businesses or the buildings that are in the area. The main reason we wanted this variance for the sign is because it is a commercial and residential building and the tenants of this building are on the more artsy side they are going to be...the primary tenant on the main floor is going to be Penco Arts Supplies and the whole feel of the building is there is going to be artists living there and working there and then also other tenants on the 2nd through 4th floors that are there more for the type of building it's going to be or that they feel that it is going to portray and the sign is part of that. Any questions?

Finlayson: I don't see any. Anyone else to speak in favor?

Supporter: Good afternoon and thank you for hearing our variance request. I'm Patricia Fitzgerald and I'm a project manager with Master Developments. We're developing this property. Our business is located at 125 West Broadway in Minneapolis. I just want to speak very briefly to our intent in asking for this variance and the rationale behind it. I can't speak strongly enough of the importance of this sign to the building. As you can tell from just the zoning district and the building as it stands now versus what we are turning the building into, the building has been used as primarily an industrial building. Penco has been in there for quite some time and they are obviously retail an arts related retail. We're building on that and renovating the rest of the building to be a variety of businesses and live/work units. The live/work units will be primarily artist studios, artist's lofts. The type of buyers, condo buyers in the building so far are web designers, painters, media group people, I'm not even sure what their businesses are, but they sound very exciting and interesting, all very creative. The appeal of this building and its location, obviously the warehouse district and the arts have been strong here

historically. We're trying to bring that back and establish Soho or (Small Office/Home Office) as a new hub for commercial activity in this area. So we are building on the C3 district which is just a block away where we would be permitted to have this sign. Business owners that are drawn to the location so far comment on the attractiveness of locating their business here because the business will have a prominent identity. It will become a neighborhood icon and that is what the North Loop Associations letter speaks to. So that sense of identity and the size and scale of the sign is a critical piece of that. We also feel that the request is reasonable given the size and scale of other signs just a block away or across the street. Are there any other questions that I didn't cover?

Finlayson: I think we're good.

Patricia Fitzgerald: Okay, well thank you very much.

Finlayson: Thank you. Anyone else to speak? Anyone to speak against? I see no one. Close the public portion of this item.

First of all I would say that my acquaintanceship with various master engineering projects have all been favorable. My impression of this one is the same. I think my feelings about the sign ordinances and the difficulty of crafting sign ordinances that make sense at least that apply to a city that has been built up as this one is difficult and I see that as far as I'm concerned the sign is appropriate to the area and necessary for the success of the project. Mr. Fields.

Fields: Yeah, I concur, in fact, I would go even farther, there is no question in my mind that sign should be there that size. In fact it's becoming an identifiable image in that area to have these kinds of projecting signs. I wouldn't imagine any other kind of sign would do. Plus the sign is no larger than other signs on buildings considerably smaller. The point made that this is not a residential building. It's a hybrid. The new type of thing we're seeing in Minneapolis which we should welcome, a commercial/live/work mix. With the tenancy in there this type of sign is totally appropriate. I'm glad we heard this, although I get impatient with sign issues. I didn't want to have to have the applicants argue so strenuously for it when for me it's a slam dunk, but I know we're going to have to address the sign ordinances. We've had several issues like that and refine them to meet the changing needs of downtown, particularly the downtown and commercial area tenancy. So I totally support the applicant's request.

Finlayson: Is that a motion?

Fields: I'll make a motion to accept the applicant's request.

Rand: I second it and I think the rationale is the scale of the building on which the sign is presented and the minimal shape of the sign is discrete but effective. So I second the motion.

Finlayson: Mr. Gates.

Gates: While I concur with most of the sentiment that I've heard voiced, I think it's physically attractive and not out of scale with the building, I guess I'm looking for a little bit clearer statement about hardship here. Only because it sounds like we're ready to approve this only because we kinda like it. But it doesn't seem to really have any hardship that I can see outside of possibly saying that the building is bigger than the norm and therefore it might deserve a sign which is bigger than the norm. I'm wondering why this wouldn't be opening a door to cart Blanche completely ignore the signage ordinance locking any clarity on hardship. I see Mr. Rand might want to respond to that so I'd be happy to hear what he has to say.

Rand: Yeah, I think that the sign ordinance is basically, generally a joke. The framework for it ought to be fairly open ended and that signs that have to come up there going to have to be judged by a group of people. Because you can't have an ordinance. Each situation is totally different, totally different place and the only way we're going to end up doing this is one at a time. So one at a time, I think this is a good sign. It's not indiscrete, it's not inappropriate and that's why I would vote for it.

Finlayson: Mr. Perry.

Perry: I'm in the same camp as Mr. Gates. I feel that there's a reason for the I2 district to have certain sign levels. On the other hand Mr. Fields brought up a very good point which is that we have a hybrid working here and I think that the sign...the zoning code addressing signs, which people probably can tell we all struggle with, is a little bit behind the curve here. So I would like to hear something stronger than the code is not right. I don't know that that would stand up.

Fields: Well I'm not going to sit and try to rationalize in terms I agree with Mr. Rand. The sign code is very difficult and I recognize this. It's not a criticism of the code. It's how we approach it and I agree with Mr. Rand with signs it's a matter of interpretation. Think back of all the sign issues we've had over the last two years. They've always been a challenge of environment and esthetic, not measurements. I can argue that I think, but it's just my opinion and probably Mr. Rand's, I can argue that a sign should be judged in terms of proportion and esthetics and purpose and how it conforms to its environment rather than just by measurement. I would also argue that I'll make a bet that within a year or two industrial overlay districts will vanish and if we ever do get our new zoning code for North Loop and East Downtown that we're going to have a more flexible zoning code that's going to reflect in this area it will grant this kind of sign because that's precisely what the intent of the new code is. This particular building is surrounded by properties that would allow this sign and it's an addition and it's an extension of this particular type of use in the North Loop that is much needed to constrict it with out dated zoning code meant for an industrial warehouse district that doesn't exist anymore and an industrial overlay that doesn't even accommodate live/work very well is ridiculous. And so I am going to be blunt about it. The hardship is an unreasonable code ordinance that is restricting new development that the North Loop and the neighborhood needs.

Finlayson: Fairly put.

Gates: I'll just respond I guess that I don't disagree that it's a nice sign, it's in scale, well presented, but I think that we're veering into the territory of trying to make policy here. And this is not a policy making board and there are other avenues, that being the City Council. This may well be appealed if it is not approved here and that would be the place where the council which enacted the code could choose to make an exception in this case, but I really don't see a clear hardship, as much as I would really truly like to vote for this, but right now, I don't see how I can.

Lasky: Usually I'll be liberal on these, but I don't really want to define code here. I want to be able to send the message that the code needs to be changed, but I'm not comfortable writing the code here. So my inclination is to be conservative with the hope that it's appealed for all the obvious reasons that we like the sign and it's appropriate.

Perry: Mr. Chair one final short comment please.

Finlayson: Please.

Perry: I am very supportive of Mr. Fields statements and I think everybody on this board if we had the code to work with would support this sign. It's a great sign and that the intent is well meant. I think it's

important. I think it's for City Council to make a change so that we have something to work with and I would hope that if it were appealed they would react to that.

Finlayson: I would hope we would pass it here today, because it's the easy thing to do in terms of getting it done. Why cause a delay. Why give the City Council something else to work with when they could be working on the code itself rather than parsing out a small piece of it. In other words why hand them the shovel when we have it, so I would encourage you to vote in favor of passing this.

Fields: I didn't want anticipating a tie I was going to say this anyway. I do not want to hand this up to the City Council. A one issue item like this that the council I think, Gary Schiff is aware of the need for zoning changes he is always recommending them I think by passing this that we hand to planning staff and to City Council and the planning department the actual initiative and the tools to re-examine once again another aspect of designing. Why should we keep handing these off upstairs. I don't think the council would appreciate it. Very frankly I'd like to flex our muscles a little bit. We are long term Board of Adjustment people here we have seen a lot of this and I think the council and the planning staff would welcome our recommendation.

Finlayson: Please call a roll.

Fields: Yes

Finlayson: Yes

Gates: No

Lasky: No

Perry: No

Rand: Yes

Tie

Finlayson: An alternative motion.

Lasky: I have to ask a staff question. The obvious is that we want to send a message to change the code. What is the best most appropriate way to do that? If we vote for this we are setting precedence for variances and are really stretching the code. If we vote against it, it goes to City Council, which may be interpret as annoyance or not, but is there a better way to change the code?

Molly McCartney (staff): I think Jack Byers is going to field this one.

Jack Byers (staff): Mr. Chair, Board Member Lasky, I appreciate the discussion, it is a very good question, while we appreciate that the board members would like to change the code, it is not the staff intention nor is it the council's intention to change the code on a piece meal basis, on a case by case basis. We have a work plan for changes and amendments to the code. We review that work plan twice a year, sometimes more often with the City Council. Anytime there is a new request for a change in the code we have to take something off of the list of priorities because there is frankly only so much work that staff can do to change the code on every issue that is out there. So we take those issues and we take them seriously, but we take them in turn, so of course the board can vote as it may, you do need to have findings that are legally defensible and it's really not appropriate for the board to use a vote as a way to send a message. If the board feels that there's something that should be put on the CPED Planning Department work plan, then we can certainly do that and we can look at that in relation to all of the other priorities and all the other issues that are going on around the city in relation to planning and the zoning regulations. Making a vote on particular case will not change the work plan at anytime in the near future. I hope that helps.

Molly McCartney (staff): I would just like to add or commend planning staff. We approve hundreds of sign applications every month. So I think the few or the ones that do show up here really do have unique circumstances. So I just want to let you know that we are processing many, many sign applications that do fit in with the code.

Finlayson: I would like this to move along, if there is going to be an alternative proposal, I would like to hear it, otherwise, we are just sitting here wasting everyone's time.

Gates: Well, the alternative, which we should go through the motion of doing, is to adopt staff findings and deny this request.

Finlayson: is that a motion?

Gates: That is a motion.

Finlayson: Is there a second?

Lasky: Second.

Finlayson: Please call the Roll.

Fields: No

Finlayson: No

Gates: Yes

Lasky: Yes

Perry: Yes

Rand: Absolutely not

Tie

Finlayson: That becomes the same as upholding staff.