

**Department of Community Planning and Economic Development – Planning Division**  
Expansion of a Nonconforming Use  
BZZ-4893

**Date:** August 16, 2010

**Applicant:** Oak Street Properties LLC

**Address of Property:** 219 Oak Street SE

**Project Name:** Jimmy John's

**Contact Person and Phone:** Craig Simensen, (651) 644-4445

**Planning Staff and Phone:** Aly Pennucci (612) 673-5342

**Date Application Deemed Complete:** July 23, 2010

**End of 60-Day Decision Period:** September 20, 2010

**Ward: 2      Neighborhood Organization:** Prospect Park/E. River Rd. Improvement Association

**Existing Zoning:** C1 Neighborhood Commercial District, PO Pedestrian Oriented Overlay District and UA University Area Overlay District.

**Proposed Zoning:** Not applicable for this application

**Zoning Plate Number:** 22

**Legal Description:** Not applicable for this application

**Proposed Use:** A pole sign for a restaurant, delicatessen

**Concurrent Review:**

**Expansion of a nonconforming use** to replace an existing 72 sq. ft. sign with a 54 sq. ft. sign on an existing pole sign

**Applicable zoning code provisions:** Chapter 531, Nonconforming Uses and Structures, Chapter 551, Overlay Districts.

**Background:** Craig Simensen of Advanced Awnings Design, on behalf of Oak Street Properties LLC, has applied for an expansion of a non-conforming use to replace an existing 72 sq. ft. sign with a 54 sq. ft. sign on an existing pole sign at 219 Oak Street SE in the C1 Neighborhood Commercial District, PO Pedestrian Oriented Overlay District and UA University Area Overlay District. The applicant also plans to install an awning with 32.2 sq. ft. of signage.

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The pole sign is located in the northwest corner of the site, adjacent to the Oak Street right-of-way. The subject site was previously used as a restaurant, delicatessen (Milio's Sandwiches) and the proposed future use is also a restaurant, delicatessen (Jimmy John's Gourmet Sandwiches), which is a permitted use in the C1 Neighborhood Commercial District, PO Pedestrian Oriented Overlay District and UA University Area Overlay. The proposed alteration to the existing sign will replace a cabinet that is 72 square feet in area and replace it with a cabinet that is 54 square feet in area, decreasing the total sign area.

The Pedestrian Oriented Overlay District prohibits on-premise pole signs. The existing pole sign was established prior to the adoption of the PO Overlay District - Stadium Village area in 2007. As such, any alteration to the existing pole sign requires land use approvals for an expansion or alteration of a non-conforming use. The City also adopted changes to the sign regulations in Chapter 543 of the zoning code on July 17, 2009. As a result of this amendment, pole signs are not permitted in any zoning district in the City. The sign cabinet on the pole sign used by the former tenant, Milio's Sandwiches, was removed last September but the pole itself has not been removed. The proposed sign would be located on the existing pole. The proposed sign is within the size parameters allowed.

As of the writing of this report, staff has not received any correspondence from the neighborhood group. Staff will forward comments, if any are received, at the City Planning Commission meeting.

**EXPANSION OF A NONCONFORMING USE:**

**Findings as Required by the Minneapolis Zoning Code for the Expansion of a Legal Nonconforming Use:**

**(1) A rezoning of the property would be inappropriate.**

A restaurant, delicatessen, is a permitted use in the C1 Neighborhood Commercial District, PO Pedestrian Oriented Overlay District and UA University Area Overlay. The pole sign became non-conforming with the adoption of the Pedestrian Oriented Overlay District (Stadium Village area) in 2007. Only the sign is a nonconforming use. The overlay district was applied to the site and surrounding area in an effort to preserve and encourage the pedestrian character of the area and to promote street life and activity. A rezoning of the property to allow an alteration to a pole sign would not be appropriate because no other zoning districts exist that would allow a pole sign as-of-right.

**(2) The enlargement, expansion, relocation, structural alteration or intensification will be compatible with adjacent property and the neighborhood.**

The site is surrounded by commercial uses and there are other pole signs in the area, including on the adjacent property. The proposed sign will face Washington Avenue Southeast and Beacon St. The nonconforming sign pole is located approximately 200 feet from the closest residential property, located on the south side of Washington Avenue Southeast. The area for the proposed

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sign is smaller than the sign it is replacing and the proposed awning sign will not exceed what is allowed in the zoning district.

- (3) **The enlargement, expansion, relocation, structural alteration or intensification will not result in significant increases of adverse, off-site impacts such as traffic, noise, dust, odors, and parking congestion.**

The proposed change is related to signage only and will have no off-site impacts related to traffic, noise, dust, odor or congestion.

- (4) **The enlargement, expansion, relocation, structural alteration or intensification, because of improvements to the property, will improve the appearance or stability of the neighborhood.**

Sign regulations are established to allow effective signage appropriate to the planned character of each zoning district, to promote an attractive environment by minimizing visual clutter and confusion, to minimize adverse effects on nearby property, and to protect the public health, safety and welfare. Staff believes that the proposed signage should not significantly increase or lead to sign clutter. The proposed sign cabinet for the pole sign is 18 square feet smaller in area than the cabinet it is replacing and will be internally illuminated rather than back lit.

- (5) **In districts in which residential uses are allowed, the enlargement, expansion, relocation, structural alteration or intensification will not result in the creation or presence of more dwelling units on the subject property than is allowed by the regulations of the district in which the property is located.**

No dwelling units are proposed or exist on the subject site.

- (6) **The enlargement, expansion, relocation, structural alteration or intensification will not be located in the Floodway District.**

The property is not located in the Floodway District.

**RECOMMENDATIONS**

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the Expansion of Nonconforming Use:**

The Community Planning and Economic Development - Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the expansion of nonconforming use application to replace a 72 square foot sign with a 54 square foot sign on an existing pole sign at 219 Oak Street SE in the C1 Neighborhood Commercial District, PO Pedestrian Oriented Overlay District and UA University Area Overlay District.

**Attachments:**

1. Statement of Use
2. Applicant Findings
3. Zoning map
4. Plans
5. Photos