

**Department of Community Planning and Economic Development – Planning Division Report**

Variance Request  
BZZ-4088

**Date:** June 26, 2008

**Applicant:** Michelle Piontek, on behalf of Richard D’Amico

**Address of Property:** 1070 Nicollet Mall

**Contact Person and Phone:** Michelle Piontek, 612-596-4877

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

**Date Application Deemed Complete:** June 2, 2008

**Publication Date:** June 20, 2008

**Hearing Date:** June 26, 2008

**Appeal Period Expiration:** July 7, 2008

**End of 60 Day Decision Period:** August 1, 2008

**Ward: 7      Neighborhood Organization:** Downtown Minneapolis Neighborhood Association

**Existing Zoning:** B4-2 Downtown Business District, DP Downtown Parking Overlay District, and NM Nicollet Mall Overlay District

**Proposed Use:** Five backlit glass awnings

**Proposed Variance:** A variance to allow for a backlit glass awning at 1070 Nicollet Mall in the B4-2 Downtown Business District, DP Downtown Parking Overlay District, and NM Nicollet Mall Overlay District.

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

**Background:** The subject site is a restaurant space within the Target Corporate Office building located at 1070 Nicollet Mall. The current tenant, Masa, has been in this space since 2005. At the time of occupancy, no permits for signs were obtained, and Zoning Inspection staff has cited the business for noncompliance with the zoning code regulations prohibiting backlit awnings. At the time of the occupancy, the awnings were reviewed for building code consistency as well as an encroachment permit to allow for the projecting awning over the right of way, however, a sign permit was not applied for. The applicants are applying for variance to allow for the existing awning signs to remain.

The restaurant current has five awning signs, three on the Nicollet Mall façade and two on the south side of the restaurant that faces a plaza and 10<sup>th</sup> Street South. The awnings are frosted tempered glass with the Masa logo and name and are mounted on an aluminum frame attached to the building by the storefront window frames. The awnings are solid plane of glass that sits below the transom windows of the storefronts. The sign on the awnings and the projecting sign on site are compliant with the zoning regulations for signs, except for the backlit nature of the awnings. The awnings are lit from behind with a fluorescent tube fixture which is attached to the back of the awning frame.

The zoning code prohibits awnings from being lit from behind, or backlit. Backlit awnings are prohibited in the B4S District in Table 543-3 Specific Standards for Signs in the Downtown Districts in the On-Premise Advertising Chapter. In addition, the Nicollet Mall Overlay District prohibits back-lighted signs and requires that signs have external illumination.

### **Nicollet Mall Overlay District – sign requirements**

**551.950. On-premise signs.** On-premise signs shall be subject to the regulations of Chapter 543, On-Premise Signs, and the following:

- (1) Sign area. The amount of sign area allowed for signs attached to buildings shall be three and one half (3.5) square feet of sign area per one (1) foot of primary building wall.
- (2) Sign height. The maximum height of signs attached to buildings, except projecting signs, shall be twenty-four (24) feet. The provisions of Chapter 543, On-Premise Signs, for increasing the height of wall signs by conditional use permit shall not apply.
- (3) Projecting signs. The maximum height of projecting signs shall be sixteen (16) feet. The maximum area of projecting signs shall be twelve (12) square feet. Projecting sign materials shall be limited to ornamental metal, carved wood or cloth.
- (4) Lighting of signs. Back-lighted signs shall be prohibited. Projecting signs shall be lighted by external illumination only.

### **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.**

Advertisement with on-premise signs is possible at the subject site under adherence to the regulations of the zoning code. However, the code prohibits the backlighting of the glass awning signs. There exists reasonable use of the property and reasonable on-premise advertising without the requested variance and the zoning code does not create hardship on the property.

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 that the variance is being requested has been created by the applicant, mostly due to the fact that a sign permit was not obtained at the time of occupancy. The zoning code prohibits the backlighting of awning signs throughout the City. The conditions upon which the variance has been requested have been created by the applicant.

- 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 intent of much of the on-premise sign regulations is to ensure quality signage and to limit sign clutter on buildings as well as freestanding signs. Backlit awnings are prohibited from the internal illumination that is most associated with substandard signage. The subject glass awnings could be lit externally.

The intent of the Nicollet Mall Overlay District is to preserve and encourage the pedestrian character of the Nicollet Mall area and to promote street level activity by creating a pleasant and unique pedestrian environment. The quality and design of the subject awning exceeds the typical vinyl backlit awning.

The awnings and signs themselves add visual interest to the building and the streetscape. The color of the frosted glass is consistent with the other glass and lighting, including wall sconces, on the building.

- 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 not likely increase congestion in the area or increase the danger of fire safety, nor would the variance be detrimental to welfare or public safety. The height of the awnings will not obstruct views or pedestrians in the public sidewalk.

**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.**

The intent of the on-premise sign regulations is to ensure quality signage and to limit sign clutter on buildings as well as freestanding signs. The Nicollet Mall Overlay District allows for more signage per lineal foot than in other areas of the City, including the downtown districts. The subject site is in compliance with the amount of signage allowed.

- 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.**

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The awnings are frosted tempered glass with the Masa logo and name and are mounted on an aluminum frame attached to the building by the storefront window frames. The awnings are solid plane of glass that sits below the transom windows of the storefronts. The sign on the awnings and the projecting sign on site are compliant with the zoning regulations for signs, except for the backlit nature of the awnings. The awnings are lit from behind with a fluorescent tube fixture which is attached to the back of the awning frame.

The signs themselves add visual interest to the building and the streetscape. The color of the frosted glass is consistent with the other glass and lighting, including wall sconces, on the building.

**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 allow for a backlit glass awning at 1070 Nicollet Mall in the B4-2 Downtown Business District, DP Downtown Parking Overlay District, and NM Nicollet Mall Overlay District.