

**EXTRACT OF MINUTES OF MEETING OF THE
VARIANCE BOARD OF THE CITY OF ROSEVILLE**

Pursuant to due call and notice thereof, a regular meeting of the Variance Board of the City of Roseville, County of Ramsey, Minnesota, was held on the 2nd day of June 2021, at 5:30 p.m.

The following Members were present: Members Pribyl, Kruzel and Schaffhuasen; and none were absent.

Variance Board Member Schaffhausen introduced the following resolution and moved its adoption:

VARIANCE BOARD RESOLUTION NO. 155

**A RESOLUTION APPROVING VARIANCES TO ROSEVILLE CITY CODE §1005.07.E.2.A.I.B AND C,
§1005.07.E.2.A.II.B, AND §1009.02.D.12.F, (PF21-004)**

WHEREAS, the subject property is legally described as:

LOT 2 BLOCK 1, TWIN LAKES 2ND ADDITION

WHEREAS, the City Code requires the following:

- *§1005.07.E.2.a.i.B. At least 50% of the lineal Build To Area shall be occupied by the front facade of the building.*
- *§1005.07.E.2.a.i.C. Within 30 feet of a block corner, the ground story facade shall be built within 10 feet of the corner.*
- *§1005.07.E.2.a.ii.B. Undeveloped and open space created in front of a building shall be designed as a semi-public space, outdoor seating, or other semi-public uses.*
- *§1009.02.D.12.f. A 10-foot buffer area with screen planting and/or an opaque wall or fence between 6 and 8 feet in height shall be required between the drive-through lane and any property line adjoining a public street or residentially zoned property or property in residential use and approved by the Community Development Department.*

WHEREAS, the design standards contained in §1005-07 and 1005.02A the building require corner placement of the building, or at a minimum, a building much closer to the northwest corner and within the build-to area; and

WHEREAS, on October 26, 2020, the City Council approved a Zoning text amendment to include drive-throughs as a conditional accessory use in the Community Mixed-Use-4 district.; and

WHEREAS, the Community Development Department is given latitude to support drive-through lanes between buildings and the public street frontage; and

WHEREAS, the applicant has been working on the site and building plans for the project and a plethora of design standards required for this specific lot, which in the process, concluded sighting the building in the corner of the lot, as required under the Urban Frontage designation of the Twin Lakes Regulating Plan to be unreasonable given existing site conditions, specifically existing topography and landscaping.

WHEREAS, City Code §1009.04 (Variances) establishes the purpose of a variance is "to permit adjustment to the zoning regulations where there are practical difficulties applying to a parcel of land or building that prevent the property from being used to the extent intended by the zoning;" and

WHEREAS, the Variance Board has made the following findings:

- a. *The proposal is consistent with the Comprehensive Plan.* The Variance Board finds the proposal is generally consistent with the Comprehensive Plan because it represents the sort of continued investment promoted by the Comprehensive Plan's goals and policies and contributes the following strategies:
 1. Create design standards for both vertical and horizontal mixed-use developments, not only so that the uses are compatible, but so that the scale, mass, and feel of new development enhances the desired community character.
 2. Ensure that existing and future development of business and industry, shopping, transportation, housing, entertainment, leisure, and recreation opportunities are in harmony with the commitment Roseville has made to its environment and quality of life, without compromising the ability of future generations to meet their own needs.
- b. *The proposal is in harmony with the purposes and intent of the zoning ordinance.* The property is currently zoned Community Mixed-Use-4, with most of the building and site design requirements outlined within the Regulating Plan. In instances where the Regulating Plan is silent, the design standards of §1005.02.A apply to new developments. Although this development proposal is seeking variances to two important standards required in the Urban Frontage designation (§1005.07.E.2.a.i.B and C), the overall building placement and drive-through location has been deemed by the Variance Board to be in harmony with the purpose and intent of the applicable zoning standards.

The Variance Board finds that without dramatically altering the building design and site grading at the northwest corner, it would be nearly impossible to comply with the four standards from which the applicant seeks relief. While it is not always appropriate to provide relief from development standards when a site does not fit exactly within City Code standards, it must also be acknowledged that sometimes design elements just do not make sense or work well given the realities of a development site. The Variance Board finds this is an example of where there is likely more lost than gained by requiring the strict adherence to the Code. With the Code amended in support of a drive-through facilities, the "need" to have a building at the hard corner of the lot is less essential. Furthermore, when the topographic realities of the lot is such that it slopes nearly 10 feet from street grade to the elevation of the drive-through lane and buildings main level, having the building in or even near the build-to area seems unnecessary.

- c. *The proposal puts the subject property to use in a reasonable manner.* The Variance Board finds the current site and building plans use the lot in a reasonable manner. More specifically, the Variance Board concludes, absent these variances, development on this lot could be deemed impractical and strict enforcement of the Urban Frontage standards burdensome, extending the period of time the lot remains vacant. The City Code offers variances in instances where practical difficulties are present and this is one of those situations. Recent approval to support a drive-through as a CU would suggest that flexibility of the standards is necessary as drive-through facilities create greater design challenges for a property. Considering the lot's approximate 10-foot elevation change from street level to grade, a retaining wall on the two exterior lot parcel sides (north/west), and existing mature trees, it follows that a well-planned and thoughtful development can achieve compliance with numerous design standards and put the development site into a reasonable and mostly code compliant manner.

- d. *There are unique circumstances to the property which were not created by the landowner.* As has been discussed above, the elevation change from street level to the building pad elevation plays a large role in making this lot unique, as well as the retaining walls on the west and north sides of the lot. There are also numerous maturing trees that were planted when the Walmart site was landscaped that factor into the placement of the building and drive-through lane. Arguably, the applicant and future land owner did not create this situation as both of the outlots were prepared many years ago and made ready for development. The redesign of Cleveland Avenue and Twin Lakes Parkway at this intersection is also a contributing factor, as the initial retaining wall was replaced, lengthened, and heightened, in order to support the right-turn lane from Cleveland to Twin Lakes Parkway. Although it is possible to place a building at the corner and within the Build-To Area, such a building could not support a drive-through lane and would require extraordinary foundation design, which seems to the Variance Board as an unnecessary requirement of the Urban Frontage designation for this site given the intent of this requirement (pedestrian-integrated design) cannot be fully realized. Given this, the Variance Board finds the lot has unique circumstances not created by the applicant.
- e. *The variance, if granted, will not alter the essential character of the locality.* Although the City strives for fully Code-compliant development, especially those contained within the Regulating Plan for Twin Lakes, there are times when such strict enforcement of those standards is not in the best interest of the City or the applicant given an individual site's characteristics. By granting the requested variances, the proposed project fits more appropriately on the lot and supports the desired drive-through. The proposed fast food restaurant with drive-through, although not complying with all Regulating Plan standards, does comply with most general design standards and appears very consistent with other commercial developments with a drive-through. As such, the Variance Board finds granting of these four variances will not alter the essential character of this generalized area or the locality.

NOW THEREFORE BE IT RESOLVED, by the Roseville Variance Board, to approve the requested variances to §1005.07.E.2.a.i.B and C, §1005.07.E.2.a.ii.B, and §1009.02.D.12.f, based on the proposed plans, the testimony offered at the public hearing, the above findings.

The motion for the adoption of the foregoing resolution was duly seconded by Variance Board Member Kruzel and upon vote being taken thereon, the following voted in favor: Members Pribyl, Kruzel and Schaffhause; and none voted against;

WHEREUPON said resolution was declared duly passed and adopted.

