



Legislation Details (With Text)

**File #:** 19-988B      **Version:** 1

**Type:** Ordinance      **Status:** Passed

**File created:** 10/21/2019      **In control:** City Council

**On agenda:** 11/5/2019      **Final action:** 11/5/2019

**Title:** (1) Concur with PZC and the petitioner and pass an ordinance approving a variance to Section 6-16-5:2.2.3 to allow for the installation of an 80-square foot electronic message board at the subject property located at 955 W. 75th Street - PZC 19-1-054; or  
 (2) Concur with staff and deny the request for a variance to Section 6-16-5:2.2.3 for the installation of an 80-square foot electronic message board at the subject property located at 955 W. 75th Street - PZC 19-1-054

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Ordinance, 2. Exhibit A - Legal Description, 3. Exhibit B - Plat of Survey, 4. Exhibit C - Standards, 5. Exhibit D - Sign Rendering, 6. Application, 7. Disclosure of Beneficiaries, 8. Location Map, 9. 10.16.19 PZC Minutes DRAFT, 10. Lighting Study, 11. Public Comment

Date	Ver.	Action By	Action	Result
11/5/2019	1	City Council	passed	Pass

**CITY COUNCIL AGENDA ITEM**

**ACTION REQUESTED:**

- (1) Concur with PZC and the petitioner and pass an ordinance approving a variance to Section 6-16-5:2.2.3 to allow for the installation of an 80-square foot electronic message board at the subject property located at 955 W. 75<sup>th</sup> Street - PZC 19-1-054; or
- (2) Concur with staff and deny the request for a variance to Section 6-16-5:2.2.3 for the installation of an 80-square foot electronic message board at the subject property located at 955 W. 75<sup>th</sup> Street - PZC 19-1-054

**DEPARTMENT:** Transportation, Engineering and Development

**SUBMITTED BY:** Gabrielle Mattingly

**BOARD/COMMISSION REVIEW:**

The Planning and Zoning Commission considered this matter on October 16, 2019 and voted to recommend approval of the variance Section 6-16-5:2.2.3 in order to install an 80-square foot electronic message board (approved 6,0). Staff does not support the variance request to allow for an 80-square foot electronic message board at the subject property located at 955 W. 75<sup>th</sup> Street.

**BACKGROUND:**

The subject property is zoned R1A PUD (Low Density Single-Family Residence District - Planned Unit Development) and is approximately 385,070 square feet. Located on the east side of Rickert Drive, north of 75<sup>th</sup> Street, the subject property has a common address of 955 W. 75<sup>th</sup> Street. The

property is currently improved with single-story commercial building and surface parking lot.

The petitioner, Nir Mor, with Garden Fresh Market, seeks to install an 80-square foot electronic message board (EMB) sign, requiring a variance the Municipal Code sign area regulations. The petitioner will be installing the EMB sign onto an existing monument sign which is located on the south side of the lot, near the 75<sup>th</sup> Street entrance.

## **DISCUSSION:**

### **Existing Sign**

The petitioner intends to remove the existing Garden Fresh Market sign and replace the sign with the proposed 80 square foot EMB and a 26 square foot panel sign. The existing monument sign located on the subject property was reviewed by the Zoning Board of Appeals (ZBA) in 2005 and is considered to be an existing nonconforming sign. Under the nonconforming sign section of the Municipal Code (6-16-10:1), "Ordinary repairs and maintenance, including removing and replacing of the outer tenant panels shall be permitted." Per this regulation, the installation of the 26-square foot panel sign is permitted to be installed without the requirement of a variance.

### **Variance Request**

The permitted ground sign area is based upon the posted speed limit of the roadway. On a road with a posted speed limited of 45-50 mph, such as 75<sup>th</sup> Street, a 90-square foot ground sign is permitted. Per Section 6-16-5:2.2.3, proposed EMB signage is not permitted to exceed 50% of the maximum permitted square footage of the ground sign. Therefore, the maximum permitted size of the EMB is 45 square feet.

The petitioner requests a variance from Section 6-16-5:2.2.3 (Sign Area) to allow the proposed EMB monument sign to exceed the maximum allowable sign area of 45 square feet. The petitioner is requesting a sign area of 80 square feet, approximately 35 square feet larger than permitted by Code.

The petitioner's responses to the Standards for Granting a Variance are attached; staff does not concur with the responses to the standards submitted by the petitioner. Staff's comments with respect to the proposed findings for the requested variance, based upon a review of the subject property, applicable Code provisions, and standards for variance requests are as follows:

Variance Standard #1: The variance is in harmony with the general purpose and intent of the Zoning Regulations and the adopted comprehensive master plan.

Staff Comments: Section 6-16-1:7 of the Municipal Code states that the purpose of the sign code is to "To establish the City's substantial and compelling interest in regulating signs in a manner as to reduce the effects and impacts signs have on the public health, safety, and welfare." Staff finds the proposal to replace the existing monument sign on the subject property with EMB signage to be inharmonious with the intention of the Sign Code. The proposed EMB will be located on the upper portion of the existing sign. Given the sign's existing height at approximately 23' and the proposed square footage of the EMB, staff finds the EMB signage may become a distraction to drivers along 75th street.

Variance Standard #2: Strict enforcement of the Zoning Regulations would result in practical difficulties or impose exceptional hardships due to special or unusual conditions which are not generally found on other properties in the same zoning district.

Staff Comments: Currently, a monument sign exists on the subject property that exceeds the City's Sign Code Regulations and is considered to be existing nonconforming. Under the nonconforming sign code regulations of the Municipal Code, the tenant panel for the Garden-Fresh Market sign could be replaced in-kind without the need for a variance. Therefore, staff finds that strict enforcement of the sign regulations does not result in a hardship.

Variance Standard #3: The variance, if granted, will not alter the essential character of the neighborhood and will not be a substantial detriment to adjacent property.

Staff Comments: Section 6-16-1:8 of the Naperville Municipal Sign Code states that the purpose of the Sign Code is to enhance the physical appearance of site identification and to be in harmony with the visual character of the associated street corridor. The subject property is located off of 75<sup>th</sup> Street. Along this portion of 75<sup>th</sup> street, the majority of signs are not EMB's. In addition, the proposed EMB sign is approximately 35 square feet larger than what is permitted by Code. Given the size of the proposal and the lack of EMB signage along this portion of 75<sup>th</sup> Street, staff does not find the proposal to be cohesive with the associated street corridor.

### ***Planning and Zoning Commission Action***

The Planning and Zoning Commission considered this matter at their meeting on October 16, 2019. Two members of the public spoke in opposition to the proposal raising concern for the proposed illumination of the sign and requested the sign only be operated during normal business hours. Commissioner Athanikar inquired whether the petitioner would be willing to restrict the EMB to run only during normal business hours. The owner representative, Jeff Barmueller, provided a lighting study which has been included in the attachments and stated the owner would be willing to consider the idea of restricting the hours of the EMB. PZC supported the variance request with no conditions and moved to adopt the findings of fact as presented by the petitioner and approve PZC 19-1-54 (approved 6,0).

Staff does not recommend approval of the variance to install an 80-square foot electronic message board at the subject property for the reasons stated above.

### ***Key Takeaways***

- The petitioner, Garden Fresh Market, requests a variance from the Municipal Code sign area regulations in order to install an 80-square foot electronic message board (EMB) sign onto an existing monument sign on the subject property at 955 W 75<sup>th</sup> Street.
- A variance is required from Section 6-16-5:2.2.3 in order to install the proposed EMB sign.
- Staff does not support the variance for area due to the incompatibility of the size of the sign with the surrounding street corridor and the underlying code requirements.
- The Planning and Zoning Commission voted to approve the variance request at their meeting held on October 16, 2019 (approved 6,0).

### **FISCAL IMPACT:**

N/A