

**MINUTES OF MEETING**  
**SOUTH ST. PAUL PLANNING COMMISSION**  
**June 5, 2024**

MEETING CALLED TO ORDER BY CHAIR FELTON AT 7:00 P.M.

Present: Geoff Fournier  
Tim Felton  
Tyler Fehrman  
James Hart  
Andrew Hoffman  
Brienne Miller  
Ruth Krueger  
Michael Healy, Planning Manager  
Monika Miller, Associate Planner

Absent: None

- 1) APPROVAL OF AGENDA - Motion to approve as presented– Hart/Fournier (7-0).
  - 2) APPROVAL OF MINUTES –May 1, 2024 –Motion to approve as presented– Fehrman/Fournier (7-0).
  - 3) NEW BUSINESS
- None.
- 4) PUBLIC HEARINGS

A. Front Yard Setback Variance for Enclosed Porch Addition at 120 2<sup>nd</sup> Avenue South

Mr. Healy presented the staff report. The Applicants are Sarah and Nick Ridgeway. They are requesting a variance for an enclosed porch addition at 120 2<sup>nd</sup> Ave South. They would like to demolish their existing porch that is 21 feet away from the front property line and construct a new porch that is 15 feet 10 inches from the front property line. Building additions in the R-2 district may not bring the home closer to the front property line than the average front setback of houses that are on the same block which face the same street. The average front setback on the 100 block of 2<sup>nd</sup> Avenue South is between 18 feet and 20 feet. The proposed addition cannot be constructed without a front setback variance because the porch would not meet the front setback requirement. Staff did not provide a formal recommendation of approval or denial for the project as while the proposed addition is aesthetically pleasing, the Applicant's request does not clearly meet the practical difficult test. Mr. Healy explained that if the Planning Commission wished to recommend approval of the variance, they should provide findings that the application meets the criteria for when to grant a variance.

Chair Felton asked Mr. Healy to bring up the slide that showed an aerial view of the block where the subject property is located. Chair Felton commented that there were quite a few houses on the block that have a front yard setback that is around 10 feet. Chair Felton asked Mr. Healy how he determined the average front setback of the block. Mr. Healy explained that he used an aerial GIS tool to measure the approximate front setback of each house on the block. Once he had the approximate front setback for each house, he added all of the front

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setbacks up and then divided that number by 13 and came up with approximately 19 feet as the front average setback. Given that the GIS tool is not 100% accurate, Mr. Healy opted to add a buffer of +1/-1, which led to an average block front setback of 18 feet to 20 feet.

Chair Felton asked Mr. Healy why he divided by 13 to get the average front setback when there are 14 houses on the block. Mr. Healy explained that the code is written to have you average all the other houses on the block. Mr. Healy explained that there are 13 other houses on the block.

Chair Felton commented that the actual front setback could be a foot or two off from the estimated front average setback. Mr. Healy stated that was correct. Mr. Healy added that the homeowner could hire a surveyor to survey all 13 houses on the block to come up with an exact average front setback, but this would not change the fact that the homeowner would still need a variance to build the porch addition.

Commissioner Miller asked if any of the other houses on the block had received a similar variance. Mr. Healy shared that he did not know off hand.

Commissioner Hart questioned if there was any precedent set in the past several years to approve a variance to allow home or home additions closer to the front property line than the block average. Mr. Healy stated that this was more common before the City adopted updated rules for permitted encroachments. These rules allowed some structures such as decks or porches to extend further into the front setback than is typically allowed as “permitted encroachments” without requiring the homeowner to go through the variance process. Additionally, the City approved one setback variance in 2020 for a house on a block by Highway 52 where the entire block is angled and each of the houses has diagonal setbacks instead of setbacks that are parallel to the street. A homeowner in this area wanted to build an addition to their home but needed a variance due to the odd front setbacks of each of the houses with the diagonal block setup. The City Council approved the variance.

Commissioner Hart asked Mr. Healy to clarify if, prior to the City adopting the rules for permitted encroachments, most front yard setback variances were for open enclosures as opposed to totally enclosed additions. Mr. Healy stated he had not done a deep dive into the topic and that several newer houses had been constructed with a variance from the front setback requirement. These variances were often for infill construction in a neighborhood with a larger average front setback. Mr. Healy added that these variances were granted before his time.

Nick and Sarah Ridgeway came forward to speak to their application.

Chair Felton asked the Applicants if there was any further information they would like to add. Ms. Ridgeway explained that they had wanted to update the look of their home by changing the front of their house as opposed to moving. Ms. Ridgeway added that the existing front porch was dated and that they would like to create a bigger, nicer porch that their children can enjoy.

Chair Felton asked the Applicant about the size of their existing porch. Ms. Ridgeway answered that the porch was 6 feet 10 inches wide which made the space difficult to use. Chair Felton commented that the space was not big enough to be utilized. Ms. Ridgeway added that they had tried to use the porch as a social space but were not able to comfortably use it due to its size. Ms. Ridgeway added that they felt the timing for the project was right as they were updating the roofing and siding on the house.

Chair Felton asked the Applicants if they had any concerns about the conditions of approval for the project. The Applicants stated that they had spent a lot of time discussing the project with Staff and did not have any concerns.

Chair Felton opened the public hearing.

No correspondence had been received prior to the public hearing and no one was present to speak on the Application.

Chair Felton closed the public hearing.

Chair Felton commented that there appeared to be several houses on the block that had a front setback that is closer than the block average and that had a front façade that is less aesthetically pleasing than what the Applicants were proposing.

Commissioner Fehrman commented that the homeowners have demonstrated an investment in their property which is in turn an investment in the neighborhood. Commissioner Fehrman motioned to recommend approval of the variance.

Mr. Healy advised Chair Felton that the Planning Commission should adopt findings that the variance meets the practical difficulty test. While it is unlikely that the variance approval would be challenged, it is important that findings that the variance meets the practical difficulty be adopted as part of the motion. Mr. Healy explained that one option would be to adopt the generic findings that the variance meets all the practical difficulty criteria. The other option would be for the Planning Commission to adopt specific findings that the variance meets the practical difficulty test. Mr. Healy explained that the Planning Commission should adopt these findings as part of the recommendation of approval.

Chair Felton asked Commissioner Fehrman if he would like to amend his motion.

Motion to recommend approval of a front setback variance to allow an enclosed porch addition after finding that the variance criteria have been satisfied - Fehrman/Fournier (7-0).

#### B. Conditional Use Permit for On-Sale Liquor at Black Sheep Coffee

Mr. Healy presented the staff report. The Applicant is Black Sheep Coffee. The business is located at the intersection of Southview Boulevard and 7<sup>th</sup> Avenue South. Black Sheep Coffee was closed for much of 2023 and recently reopened under new ownership. The new owner, Jason Frankot, is seeking a Conditional Use Permit for On-Sale liquor to be able to sell alcohol which will create a new revenue stream for the business and provide new experiences for customers. Alcohol would be sold to Black Sheep Coffee customers during normal business hours and potentially after normal hours if the building was rented out for private events. A property must have a conditional use permit for on-sale liquor to qualify for a liquor license. Conditional Use Permits are tied to a property whereas a liquor license is tied to a business. Conditional Use Permits do not require a background check whereas a liquor license does. Staff does recommend approval of the proposed Conditional Use Permit subject to the conditions of approval listed in the staff report.

Chair Felton stated that he understood that alcohol could be served in Black Sheep's outdoor dining area with a Conditional Use Permit but asked for clarification on if alcohol could be served out in front of the building along Southview Boulevard if sidewalk dining was set up. Mr. Healy explained that the outdoor ordinance allows alcohol to be served outside until 10:00 PM. Any later hours would need to be approved by the Planning Commission/City Council.

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Commissioner Hart asked if the Applicant would be allowed to serve alcohol inside and outside until 11:00 PM if the Planning Commission did not adopt specific hours that alcohol can be sold as part of the Conditional Use Permit approval. Mr. Healy explained that the City's outdoor dining rules allow liquor to be served outside until 10:00 PM unless the conditional use permit outlines different hours. If the Planning Commission wants to see different hours for when liquor can be sold outside, they should state that as part of their motion. Alcohol can already be sold until 11:00 PM inside the building. Commissioner Hart asked how late the restaurant inside the building was allowed to operate according to the city code. Mr. Healy stated that the city code does not limit how late a business can operate, just how late alcohol can be served inside the building. Mr. Healy added that the Planning Commission could impose a limit on the business' hours of operation but he is not recommending that they do so.

Commissioner Hart asked if there was a need to discuss potential issues related to exterior lighting as part of the Conditional Use Permit. Mr. Healy stated that they could, but the Applicant has not provided plans for modifications to the patio area. Mr. Healy added that regardless of the conditions that are in the Conditional Use Permit, the Applicant still has to follow the City Code, including the lighting and glare ordinances.

Commissioner Felton commented that the Conditional Use Permit runs with the property so if the City were to loosen up restrictions on alcohol, those looser restrictions would apply to all future uses of the property, not just the current use. Mr. Healy stated that was correct. Mr. Healy added that technically liquor licenses can have conditions placed on them too, but the process is different and generally conditions can only be added for compelling reasons such as the background of the property owner or the nature of the business.

Jason Frankot came forward to speak to his application.

Mr. Frankot started by disclosing that he served on the Planning Commission from 2020 to 2022. Mr. Frankot shared that the goal was to get Black Sheep Coffee back up and running while being profitable. When a profit analysis was done for the business, there were essentially three main things that were holding the business back: the machinery, the pace at which service was provided, and the offerings the business presented, both in terms of the menu and the space. Mr. Frankot shared that for now, they only had window service open but once they have liquor and other items figured out, they planned to fully re-open. Many of the individuals that were involved with the initial business are around and 7 new jobs have been added. Mr. Frankot added that one thing he wanted to emphasize was that Black Sheep is only looking to add beer and wine. The business has no intention of being a full bar and they have no intention of serving hard liquor. The thought behind offering beer and wine is to have different beverage options available after 1:00 PM when some individuals might not want to be drinking coffee. Mr. Frankot added that they have added cameras to the premises in the beverage making area and in the alley. Mr. Frankot stated the business has drapes to prevent light from inside the building from creating a nuisance outside. Regarding outdoor dining, Mr. Frankot shared that there is a plan to offer an outdoor seating area.

Chair Felton opened the public hearing.

Steve Mankowski, 725 Southview Boulevard, stated he had several questions. Mr. Mankowski stated that he would like to know if 3.2% beer would be sold at the site and asked if certain brands of beer would be sold at the site. Mr. Mankowski also inquired about how a business can acquire a liquor license before they sell food when the City Charter requires 50% of the sales to come from food for a business to be eligible for an on-sale liquor license. Mr. Mankowski also asked if the County was now allowing sidewalk cafes on Southview Boulevard.

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Mr. Frankot shared that the business was focused more on wine than beer and that they had hired a sommelier to help them pair food and beverages. Mr. Frankot restated the intention is not to become a “down the hill” bar. Mr. Frankot added that he thought that 3.2% beer is normally only sold at sporting events whereas with a regular beer and wine license you can sell beer at a normal strength but differed to Mr. Healy on that. Mr. Healy stated that a beer and wine license allows beers and wines that are up to 19.99% ABV. Chair Felton summarized that the beer that is being sold would not be limited to 3.2% beer.

Chair Felton asked Mr. Healy to address the questions about the percentage of sales from food needed to get a liquor license and about whether dining is allowed on Southview Boulevard. Mr. Healy prefaced that liquor licensing is handled by the City Clerk’s office; however, he had a working knowledge of the subject. Mr. Healy stated that prior to the 2014 overhaul of the City’s liquor licensing regulations, there was a rule that if a business was not on Concord Street, the businesses needed to have 50% of its sales come from food. When the rules were overhauled, the rule became applicable Citywide. Any new business that sells alcohol is required to adhere to this. Chair Felton asked if coffee would count as food sales. Mr. Healy stated that likely the sale of anything that is not alcohol would count towards the amount of sales from food but reiterated that he was not involved with licensing of alcohol and the interpretation of the rules is ultimately up to the City Clerk and the City Council.

Chair Felton asked Mr. Healy about whether sidewalk dining would be allowed on the Southview Boulevard side of the building. Mr. Healy explained that it would ultimately come down to whether the street right-of-way extends all the way up to the front of the building. If the street right-of-way comes all the way up to the front of the building, there could not be tables and chairs out front as the County does not allow outdoor dining in their right-of-way.

Mr. Mankowski stated that he was not against the application but rather wanted to prevent the Applicant from accidentally violating any city regulations.

Dennis Hosford, 702-710 Southview Boulevard, stated that he was not against a beer and wine license being issued to Mr. Frankot but stated that he was concerned about the conditional use permit running with the land and what could happen if a different business moved into the space. Mr. Hosford shared anecdotes of the issues that occurred with a former business on Southview Boulevard, Big Johns Restaurant and Sports Club. Mr. Hosford shared the ways that the business found to skirt the 50% requirement and the issues the City had addressing the business. Mr. Hosford stated that the Applicant was attempting to run two different businesses in one space and encouraged the Commissioners to limit the hours of operation for the business due to its proximity to residential properties. Mr. Hosford suggested requiring the business to have their patio closed by 9:00 PM and the business closed by 10:00 PM. Mr. Hosford added that the rules regarding the sale of liquor after a certain time of night while still allowing the business to remain open results in the rules being unenforced. Mr. Hosford shared that he had concerns about the business violating the noise ordinance and stated that he understands the City has no way to enforce its noise ordinance. Mr. Hosford added that the county right-of-way goes right up to the front of the building and so sidewalk patios should not be allowed. Mr. Hosford again reiterated that he would like to see the Conditional Use Permit regulate the hours of operation for any business as the site.

Chair Felton asked Mr. Healy if any correspondence had been received prior to the meeting. Mr. Healy shared that he had received an email in favor of the request.

Chair Felton asked Mr. Healy to summarize the hours that the business is required to adhere to. Mr. Healy explained that the City Council recently updated the regulations for outdoor dining areas and how late it is appropriate to have them stay open. The decision was made to allow outdoor dining until 10:00 PM. This time aligns with when the City’s noise ordinance takes effect. Mr. Healy explained that the Police have the authority

to enforce the noise ordinance, which is fairly easy to enforce. It is more difficult to enforce if the City receives a more technical complaint outside of quiet hours claiming that a noise is above the decibel limit specified in the noise ordinance. Relating to liquor, alcohol cannot be sold later than 11:00 PM “up the hill.” Mr. Healy acknowledged that the City Code does allow an alcohol-serving business to stay open past when they can serve alcohol. Mr. Healy speculated that the City Council put this rule in place to be business friendly, especially when some other communities also allow businesses to be open after they stop selling alcohol. Mr. Healy explained that the enforcement of the violation of a Conditional Use Permit condition is usually at the back end. In the event that a Conditional Use Permit condition is violated and the violation is documented by a police report, the City has the ability to enforce the Conditional Use Permit by calling a public hearing for the revocation of the Conditional Use Permit. Mr. Healy acknowledged that neighbors would prefer immediate enforcement; however, the process for addressing conditional use permit violations from the zoning side is not immediate.

Chair Felton closed the public hearing.

Commissioner Hart asked Mr. Healy if Black Sheep is allowed to have outdoor dining on the sidewalk on Southview Boulevard and if the Conditional Use Permit would allow alcohol to be consumed in an outdoor dining area on the sidewalk. Mr. Healy stated that Black Sheep would not be allowed to have outdoor dining on the sidewalk today. In order for any outdoor dining area to be expanded, a scaled site plan with information about the location of the property line must be submitted. A special permit is required for sidewalk cafes. Mr. Healy emphasized that the request in front of the commission was not for a sidewalk café. Commissioner Hart clarified that he was just looking for clarification about whether dining on the sidewalk would be allowed.

Motion to recommend approval of Conditional Use Permit for On-Sale Liquor as presented- Fehrman/Miller (7-0).

### C. Sign Code Overhaul Ordinance

Ms. Miller presented the staff report. The City is proposing an ordinance amendment that would overhaul the sign code regulations. The ordinance is the last installment of a three-part project to update the City’s sign regulations to create a code that balances regulating signage with businesses’ need for expression. The ordinance looks to address three topics that were not touched by the previous updates: murals/painted wall signs, temporary signage, and the general organization of the sign ordinance. Staff presented a nearly identical version of the ordinance for discussion at the Planning Commission’s May 1<sup>st</sup> meeting. During the May 1<sup>st</sup> meeting, Commissioner Hoffman asked staff to consider allowing temporary feather flag signs. Feather flag signs are currently a prohibited type of sign. In staff’s experience, this type of signage is often used for guerilla marketing. Staff anticipate businesses being unwilling to pay for permits for this type of sign or adhere to a limit on how many days these signs can be up. Staff encouraged the Planning Commission to discuss whether to allow these types of signs. If so, the Planning Commission should include in their motion a recommendation that staff include language to allow temporary feather flag signs. Staff recommends the Planning Commission recommend approval of the sign ordinance.

Chair Felton reiterated that Staff is looking for discussion from the Planning Commission about whether to allow temporary feather flag signs. Chair Felton asked what type of performance standards there would be for feather flag signs. Ms. Miller explained that if the Planning Commission and City Council were to allow these types of signs, they would be subject to the requirements that are in place for temporary signs that require a permit. These standards include that a permit is required to install the sign, the sign may only be installed in conjunction with a promotional item, special event, or holiday, that the signs can be up for 30 days at a time, up

to 3 signs can be installed at one time, and the total amount of temporary signage cannot exceed 100 square feet. Chair Felton asked what the fee was for a temporary sign permit. Ms. Miller responded that the cost for a temporary sign permit was \$20. Chair Felton commented that he was concerned that businesses would come in for a new temporary sign permit every 30 days if there was no fee for the permit. Ms. Miller explained that there is a cost for temporary sign permits and a property may only have temporary signs installed for up to 120 days a year.

Commissioner Hoffman asked if the \$20 temporary sign permit is good for 120 days or would a business need to reapply for a temporary sign permit every 30 days. Ms. Miller explained that a temporary sign permit is good for 30 days and up to 3 signs can be installed with an approved permit. After 30 days, the business needs to take the signage down.

Commissioner Miller asked if campaign signs were considered small yard signs. Ms. Miller explained that State Statute has special rules for campaign signs and these rules are already in the sign code and would not be changing as part of this ordinance. Mr. Healy added that rules for special campaign signs are only in effect 45 days before the election. Mr. Healy asked Ms. Miller if a small yard sign could be used to display a statement regarding the approval or displeasure of a political figure, regardless of whether it was election season. Ms. Miller stated that they could.

Commissioner Hart asked if the code already defined what is mural is. Ms. Miller explained that the current code does not define what a mural is, but the proposed ordinance would. Commissioner Hart commented that some of the murals around town appear to border on being signage as opposed to just an artistic expression. Ms. Miller explained that the ordinance attempts to create a definition for a mural which clearly distinguishes the artistic form of expression from a painted sign which consists of the name of the business being painted onto a wall.

Mr. Healy shared his experience handling code enforcement issues related to signage. Mr. Healy shared that for enforcing the regulations for temporary signs, cities will often do a large sweep once every year or two. There are some temporary sign rules that are easier to enforce than others. From an enforcement standpoint, it is easier to tell a business they cannot have a certain type of signage than it is to try to get a business owner to come in for a sign that they have illegally installed. Mr. Healy stated that there are certain types of signage that are difficult to set up permit procedures for and that he wanted to avoid creating a false narrative that the City was creating a strict permitting policy that requires everyone to follow the 30-day rule. Mr. Healy warned that the number of feather flag signs installed illegally would likely proliferate if the City were to allow them with a permit.

Chair Felton clarified with Mr. Healy that his recommendation was for the commissioners to carefully consider the potential implications of legalizing temporary feather flag signs. Mr. Healy encouraged the Planning Commissioners to consider the topic from a Code Enforcement standpoint and how likely it was that this type of signage would be illegally installed as a result of legalizing them.

Chair Felton opened the public hearing.

No one was present to comment on the application and no correspondence was received prior to the meeting. Chair Felton closed the public hearing.

Motion to recommend approval of an ordinance amendment overhauling the regulations for signage-Krueger/Hoffman (7-0).

5) OTHER BUSINESS

None.

6) STAFF UPDATES

Ms. Miller shared the City would be partnering with Tree Trust to plant trees in the area of the city south of I-494 later in the week. Ms. Miller shared the dates and times for the planting events and encouraged anyone that was interested to join. Chair Felton asked for clarification on if the tree planting would just be taking place south of the freeway. Ms. Miller stated that was correct and explained that the city would be planting new trees south of I-494 first as this is where the City started its ash tree removal project the previous year.

Commissioner Hoffman asked if volunteers should bring their own equipment. Ms. Miller explained that Tree Trust provides all of the equipment and tries to make the planting process as easy for volunteers as possible by placing trees where they will be planted and pre-drilling holes for the trees to go into.

7) ADJOURNMENT

Motion to adjourn- Hoffman/Fehrman (7-0).