

city of saint paul
planning commission resolution
file number
date

WHEREAS, 79 Western LLC, File # 21-320-126, has applied for a nonconforming use permit to expand a legal nonconforming restaurant into an adjacent building under the provisions of § 62.109(d) of the Saint Paul Legislative Code on property located at 79 N Western Avenue, Parcel Identification Number (PIN) 01-28-23-24-0289, legally described as Woodland Park addition, to Saint Paul, East 15.90 feet of south 16.61 feet of lot 18 & except east 2.35 ft; south 16.61 feet of lot 19 & part lying above elevation 226.32 feet of Saint Paul datum (subject to air rights above elevation 250.64 ft) except south 16.61 ft; east 15.90 ft of the south 59.70 feet of lot 18 & except south 16.61 feet and except east 2.35 feet; the following, south 59.70 feet of lot 19; and

WHEREAS, the Zoning Committee of the Planning Commission, on December 9, 2021, held a public hearing at which all persons present were given an opportunity to be heard pursuant to said application in accordance with the requirements of § 61.303 of the Saint Paul Legislative Code; and

WHEREAS, the Saint Paul Planning Commission, based on the evidence presented to its Zoning Committee at the public hearing as substantially reflected in the minutes, made the following findings of fact:

Section 62.109(d), *Expansion or relocation of nonconforming use*, states that the planning commission may permit the expansion or relocation of a legal nonconforming use if the commission makes the following findings:

1. In residential districts, the expansion or relocation will not result in an increase in the number of dwelling units. This finding is met. The expansion of the restaurant to create another dining room will not increase the number of dwelling units.
2. For expansion of a structure, the expansion will meet the yard, height and percentage of lot coverage requirements of the district. This finding is met. The proposed expansion of the nonconforming restaurant is internal to the subject structure and will not expand the footprint of the building.
3. The appearance of the expansion or relocation will be compatible with the adjacent property and neighborhood. This finding is met. No exterior alterations the building is proposed as a part of this application.
4. Off-street parking is provided for the expansion or relocation that meets the requirements of article 63.200 for new uses. This finding is met. There are no minimum parking requirements for the use and no new additional off-street parking proposed as a part of this application. The proposed parking for the use will not exceed the maximum parking amount

moved by _____

seconded by _____

in favor _____

against _____

of parking permitted for the use.

5. Rezoning the property would result in a "spot" zoning or a zoning inappropriate to surrounding land use. This finding is met. The subject parcel is zoned residential and is surrounded by residential zoning districts and land uses. Given the residential character of the surrounding land uses, rezoning the parcel to a district that would permit the expansion of the restaurant by right would establish a use classification inconsistent with the surrounding uses and create an island of nonconforming use within a larger zoned property.
6. After the expansion or relocation, the use will not result in an increase in noise, vibration, glare, dust, or smoke; be detrimental to the existing character of development in the immediate neighborhood; or endanger the public health, safety, or general welfare. This finding is met. The internal expansion of the restaurant into an adjacent building will not alter the exterior of the structure and will not be detrimental to the existing character of development in immediate area. No significant increases in noise, vibrations, glare, dust or smoke are anticipated as a result of the internal expansion of the restaurant to create an additional dining room. The expansion of the restaurant will not endanger the public health safety, or general welfare, provided a building permit is obtained to change the occupancy type of the portion of the building where the dining room is proposed.
7. The use is consistent with the comprehensive plan. This finding is met. The subject property is in a location designated by the 2040 comprehensive plan as an urban neighborhood and is proximate to the Selby and Western Neighborhood node. Policy LU-36 of the 2040 comprehensive plan calls for promoting neighborhood serving commercial businesses within Urban Neighborhoods that are compatible with the character and scale of the existing residential development. The internal expansion of this restaurant to create an additional dining room is consistent with this policy and will be compatible with the character and scale of the existing development in the immediate area.
8. A notarized petition of at least two-thirds of the owners of the described parcels of real estate within one hundred (100) feet of the subject property has been submitted stating their support for the expansion or relocation. This finding is met. A petition was not required at the time of the application due to Emergency Executive Order 2020-29, "Suspending Certain Requirements of the Zoning Code Pertaining to Consent Petitions", which was extended with Emergency Executive Order 21-36.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of 79 Western LLC for a nonconforming use permit to expand a legal nonconforming restaurant into an adjacent building at 79 N Western Avenue is hereby approved subject to the following conditions:

1. Final plans approved by the Zoning Administrator for this use shall be in substantial compliance with the plan submitted and approved as part of this application.
2. The applicant shall adhere to all applicable code requirements and obtain a certificate of occupancy for the restaurant dining room.