

## ZONING COMMITTEE STAFF REPORT

**FILE NAME:** Charles Belcher / Pristine Motors

**FILE #** 19-010-159

**APPLICANT:** Charles Belcher

**HEARING DATE:** February 28, 2019

**TYPE OF APPLICATION:** Nonconforming Use - Expansion

**LOCATION:** 1265 Arcade St, NW corner at Orange Avenue

**PIN & LEGAL DESCRIPTION:** 20.29.22.44.0068; Oak Ville Park, Lots 17–18, Block 6

**PLANNING DISTRICT:** 5

**ZONING CODE REFERENCE:** § 62.109(d); § 61.202(b); § 61.601

**PRESENT ZONING:** T2

**STAFF REPORT DATE:** ~~February 20, 2019~~ February 28, 2019

**BY:** Bill Dermody

**DATE RECEIVED:** February 8, 2019

**60-DAY DEADLINE FOR ACTION:** April 9, 2019

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- A. **PURPOSE:** Nonconforming use permit to expand outdoor auto sales (14 "for sale" cars & 8 customer / employee parking spaces currently; 24 "for sale" cars & 5 customer / employee spaces proposed); and variances for maneuvering lane width (20' required; 18' proposed), curb cut location, and maximum % of compact parking spaces (50% allowed; 100% of customer/employee spaces proposed).
- B. **PARCEL SIZE:** 122' (Arcade) x 81' (Orange) = 9,924 sq. ft.
- C. **EXISTING LAND USE:** Outdoor auto sales; minor auto repair
- D. **SURROUNDING LAND USE:**  
North: Residential (T2)  
East: Church (R4)  
South: Commercial (T2)  
West: Residential (R4)
- E. **ZONING CODE CITATION:** § 62.109(d) lists the conditions under which the Planning Commission may grant a permit to expand or relocate a legal nonconforming use; § 61.202(b) allows the Planning Commission to grant variances related to another application they are hearing; § 61.601 provides required findings for variances.
- F. **PARKING:** The existing conditional use permit, approved in 1994, requires a minimum of 8 off-street parking spaces for customers/employees. Zoning Code § 63.207 would require a minimum of 5 parking spaces for the proposed use (1 space per 400 sq. ft. gross floor area plus 1 space per 5,000 sq. ft. of outdoor auto sales) according to analysis by the Department of Safety and Inspections, if a different amount is not specified by conditions attached to a permit.
- G. **HISTORY/DISCUSSION:** In 2014, the Planning Commission approved an expansion of nonconforming use to allow up to 23 "for sale" vehicles with a minimum of 5 customer/employee parking spaces, but that decision was overturned on appeal by the City Council, leaving only previous approvals in place. The site was rezoned from B3 to T2 in 2007 as part of a larger rezoning along Arcade Street, which caused the existing automobile sales use to become nonconforming. In 1994, the site received a conditional use permit to allow outdoor sales of used automobiles, including a modification of the Orange Street driveway's allowable distance from Arcade Street, subject to seven (7) conditions, including a maximum of 14 "for sale" vehicles and a minimum of 8 customer/employee parking spaces. The 1994 approval included approval for minor vehicle repair in a single-vehicle bay (ZF #94-247). In 1990, a different conditional use permit was approved for outdoor auto sales, but the use was never established. In the early 1950s the site received approval for a gasoline service station and a billboard, neither of which are still in existence.
- H. **DISTRICT COUNCIL RECOMMENDATION:** As of this writing, the District 5 Council has not provided a recommendation.

**I. FINDINGS:**

1. The site is located at the northwest corner of Orange and Arcade Streets. The lot is enclosed by an approximately 6'-high fence with two gates – one along each street frontage. It has been vacant since January 2019, before which it was occupied by an outdoor auto sales use. The site has been vacant for less than one year, so it still has legal nonconforming use status for the previous outdoor auto sales use based on a CUP issued in 1994.
2. The existing CUP, approved in 1994, allows no more than 14 “for sale” cars on the lot at any one time, and requires a minimum of 8 off-street parking spaces for customers/employees. The 1994 CUP also forbids parking “for sale” vehicles in the public street or alley.
3. 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. This is a non-residential property with no dwelling units proposed.
  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. No expansion of a structure is requested.
  3. *The appearance of the expansion or relocation will be compatible with the adjacent property and neighborhood.* This finding can be met. The business expansion can be compatible with the adjacent property and neighborhood if the site is maintained properly, including no outside storage of materials other than automobiles, and if no vehicles are parked on public streets or alleys nearby.
  4. *Off-street parking is provided for the expansion or relocation that meets the requirements of article 63.200 for new uses.* This finding can be met subject to limiting the number of “for sale” auto display parking spaces to provide for the required number of customer and employee parking spaces. Sec. 63.200 requires 1 parking space per 400 sq. ft. GFA plus 1 space per 5,000 sq. ft. of outdoor sales, which equals  $5 - (4 \text{ plus } 1) = 3$  customer and employee parking spaces for the subject site.
  5. *Rezoning the property would result in a “spot” zoning or a zoning inappropriate to surrounding land use.* This finding is met. The first zoning district that conditionally permits the use is B3. However, the site cannot meet the B3 condition that requires a minimum lot size of 15,000 sq. ft. The second zoning district that conditionally permits the use is IT. However, the site cannot meet the IT condition that it be located within ¼ mile of University Avenue. Therefore, the first zoning district that would permit the use is I1. Rezoning the site to I1 would result in spot zoning inappropriate to the area, which contains no industrial zoning.
  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 can be met. The business expansion will not be detrimental to the immediate neighborhood’s existing character nor endanger the public health, safety, or general welfare if the site is maintained properly, including no outside storage of materials other than automobiles, and if no vehicles are parked on public streets or alleys nearby. No increase in noise, vibration, glare, dust, or smoke is anticipated from the use expansion.
  7. *The use is consistent with the comprehensive plan.* This finding is met. The Comprehensive Plan, in Figure LU-B, designates the site as part of a Mixed Use Corridor, which allows for commercial uses such as proposed. The District 5 Plan contains no

provisions specific to the proposal. The Arcade Street Small Area Plan does not address business expansions such as proposed, though it does encourage community-oriented commercial to locate at the Maryland and Phalen intersections rather than other locations along Arcade Street.

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. The petition was found sufficient on February 11, 2019: 13 parcels eligible; 9 parcels required; 10 parcels signed.
4. The application requests variances for maneuvering lane width (20' required; 18' proposed), curb cut location, and maximum % of compact parking spaces (50% allowed; 100% of customer/employee spaces proposed). Variances must meet the following findings:
  - a. *The variance is in harmony with the general purposes and intent of the zoning code.*

It appears that this finding can be met for the maneuvering lane width variance, depending on the angle of the customer and employee parking spaces. The 20' maneuvering lane width requirement is to provide for two-way traffic and enough space to back and turn from a 90° parking space. There is relatively little traffic anticipated for this small business, and the proposed 18' maneuvering lane width would provide enough space for backing and turning from the proposed angled customer and employee parking spaces. All of the 90° parking space along the proposed 18'-wide portion of the drive aisle are for compact "for sale" vehicles, and the 18' width is sufficient for employees to maneuver compact cars in and out of the parking spaces.

This finding is not met for the curb cut location variance, which does not align with the maneuvering lane and is too close to the intersection to provide for safe traffic movement.

This finding is not met for the variance to allow all of the customer and employee parking spaces to be for compact cars. It is unlikely that all customer and employee cars will be compact cars. The site plan received February 26 shows an alternative arrangement with two compact customer parking spaces in front of the building and two full-size employee spaces off to the north side, which is an arrangement that would not require this variance.

- b. *The variance is consistent with the comprehensive plan.* This finding is met. Though the Comprehensive Plan supports commercial uses generally, it contains no provisions specific to the variances requested.
- c. *The applicant has established that there are practical difficulties in complying with the provision, that the property owner proposes to use the property in a reasonable manner not permitted by the provision. Economic considerations alone do not constitute practical difficulties.*

This finding is met for the maneuvering lane width variance because of the layout of existing development on this small site.

This finding is not met for the curb cut location variance. The curb cut could reasonably align with the maneuvering lane and thereby provide a little more space between the curb cut and the intersection to provide for safer traffic movement.

This finding is not met for the variance to allow all of the customer and employee parking spaces to be for compact cars. The number of "for sale" auto display parking spaces could reasonably be limited to provide space for customer and employee parking spaces to meet parking space dimensional standards. Also, the distribution of customer and employee spaces could be adjusted so that this variance is not required, such as shown in the site plan received February 26.

- d. *The plight of the landowner is due to circumstances unique to the property not created by the landowner.*

This finding is met with regard to maneuvering lane width. The site's small size and the existing building location leads to the need for a narrower drive aisle in order to generally fit two rows of vehicles (one row for customers/employees and one for display) in front of the building. The only place on this site to allow customer parking that is clearly separated from display vehicle parking is in front of the building. Four angled customer/employee spaces could fit in front of the building and meet parking space dimensional standards.

This finding is not met for the curb cut location variance. The curb cut could reasonably align with the maneuvering lane and thereby provide a little more space between the curb cut and the intersection to provide for safer traffic movement. Alternatively, the reduction of one display vehicle (labeled "Display 1" in the site plan) would limit encroachment into the drive aisle as traffic crosses the gate into the lot.

This finding is not met for the variance to allow all of the customer and employee parking spaces to be for compact cars. The number of "for sale" auto display parking spaces could reasonably be limited to provide space for customer and employee parking spaces to meet parking space dimensional standards. One of the employee parking spaces, for example, could be moved to the NE corner of the lot. Also, the distribution of customer and employee spaces could be adjusted so that this variance is not required, such as shown in the site plan received February 26.

- e. *The variance will not permit any use that is not allowed in the zoning district where the affected land is located.* This finding is met.
- f. *The variance will not alter the essential character of the surrounding area.* This finding is met. The variances will have no impact on the surrounding area's character.

J. **STAFF RECOMMENDATION:** Based on the findings above, staff recommends denial of the variances for curb cut location and maximum % of compact parking spaces, and approval of the nonconforming use permit to expand outdoor auto sales and variance for maneuvering lane width subject to the following conditions:

1. Final site plan approval by the Zoning Administrator shall be in substantial compliance with the site plan ~~submitted as part of this application.~~ received February 26, 2019.
2. A maximum of ~~23 "for sale" vehicles and minimum of 5 customer / employee parking spaces~~ 29 parking spaces, to be allotted between customer/employee spaces and "for sale" vehicles as directed by the Department of Safety and Inspections.
3. The curb cut is moved west to align with the maneuvering lane, or the space labeled "Display 1" in the site plan is unoccupied by vehicles. If the curb cut remains in its current location and the "Display 1" space remains unoccupied, then the "Display 1" space shall be striped and signed for "no parking" and the maximum number of ~~"for sale" vehicles shall be 22 total~~ vehicles shall be 28.
4. All customer / employee parking spaces shall be striped and labeled with paint as customer / employee parking only.
5. The ornamental fence and landscaping along the public sidewalk is maintained.
6. No outside storage of anything other than passenger automobiles shall be permitted on the site.
7. "For sale" vehicles shall be parked only on the lot, and shall not be parked on the street or alley at any time.

# SITE PLAN

LAKE AND LAND SURVEYING, INC.

1200 Centre Pointe Curve, Suite 275

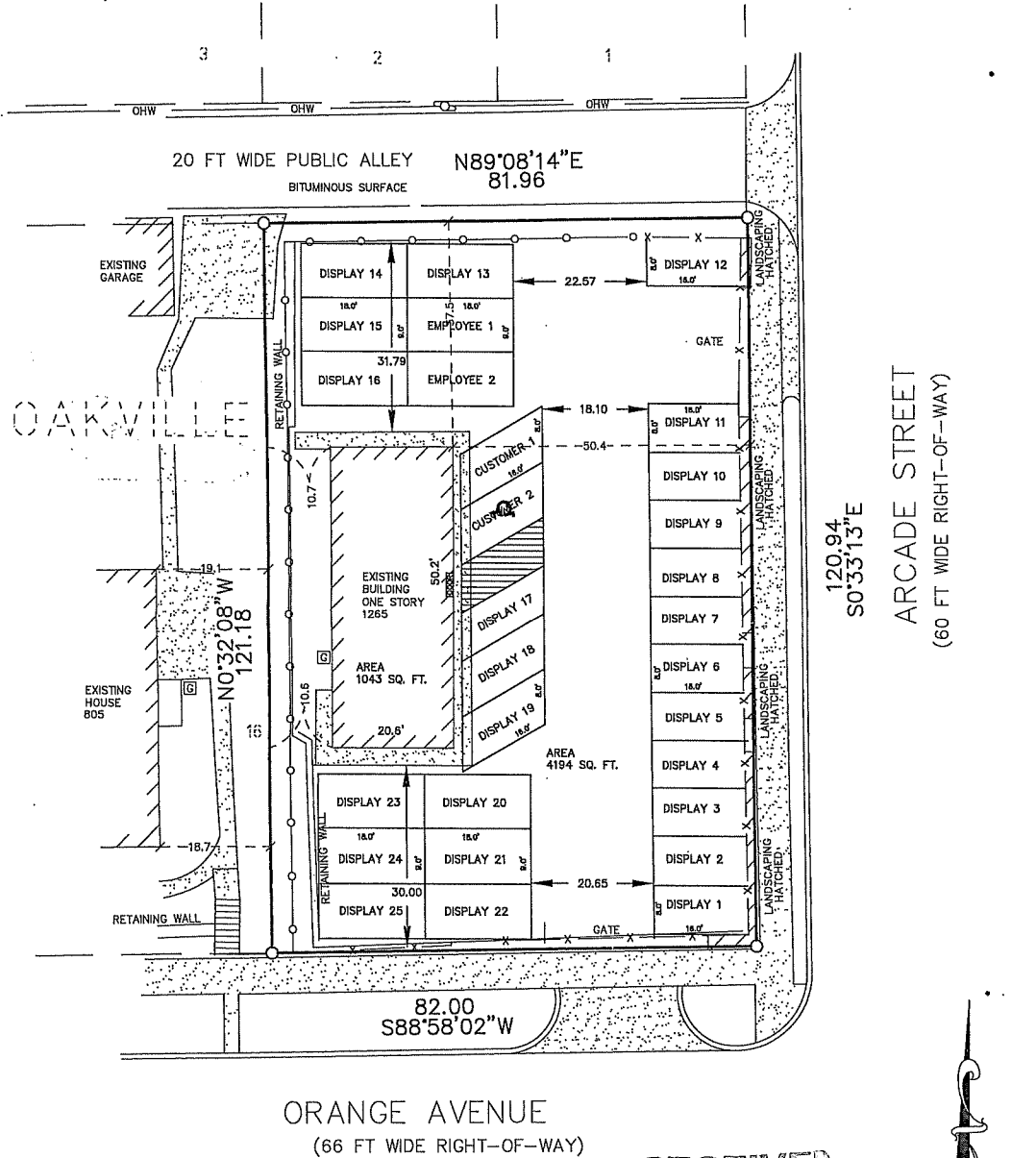
Mendota Heights, Minnesota 55120

Phone: 651-776-6211

Survey Made For:  
Mr. Charles Belcher  
1265 Arcade Street  
St. Paul, MN 55106

Legal Description: (Tax Description)

Lots 17 and 18, Block 6, OAKVILLE PARK,  
Ramsey County Minnesota.



Site Address: 1265 Arcade Street, St Paul, MN 55106

## NOTES:

- Denotes 12 Inch Common Spike set with washer stamped RLS 16464 or as noted.
- Denotes Iron Monument found size, type, & R.L.S. as noted.
- Ⓜ Denotes Gas Meter
- OHW— Denotes Overhead Wire
- Ⓜ Denotes Manhole Cover
- Ⓜ Denotes Power Pole
- x— Denotes Metal Fence
- Denotes Wood Fence
- ▨ Denotes Concrete Surface

AREA: 9,924 SQ. FT. OR 0.23 ACRES

BASIS OF BEARINGS: ASSUMED

LAKE & LAND SURVEYING. JOB NO. 2019.007-RP

**RECEIVED**  
FEB 26 2019  
BY: \_\_\_\_\_



SCALE

1 inch = 20 ft.

I certify that this survey, plan or report was prepared by me or under my direct supervision, and that I am a duly Registered Land Surveyor under the laws of the State of Minnesota.

*Jonathan L. Faraci*

January 15, 2019

Jonathan L. Faraci  
Registered Land Surveyor & Registered Engineer  
Minnesota Registration No. 16464

## Dermody, Bill (CI-StPaul)

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**From:** Eide, David (CI-StPaul)  
**Sent:** Tuesday, February 26, 2019 2:00 PM  
**To:** Dermody, Bill (CI-StPaul)  
**Cc:** uscentral1@hotmail.com  
**Subject:** 1265 Arcade Required Parking Calculations

Greetings Bill,

Charles came into our office today and we determined the amount of required parking for 1265 Arcade:

The building is 1034.12 square feet, so at 1 space per 400 square feet, 2.58 spaces are required.

The outdoor sales area was calculated by looking at the number of for-sale parking spaces.

12 (9 x 18) for-sale parking spaces= 1,944

12 (8 x 16) for-sale parking spaces= 1,536

3,480 square feet of outdoor sales area. (1 space per 5,000 square feet of outdoor sales area)= .69 parking spaces.

**2.58 + 0.69 = 3.27**

Per Section 63.206, we round down when less than ½ parking space is required.

**Thus, the total amount of required customer/ employee parking at this address is three (3) parking spaces.**

Best,



**David Eide**

***Zoning & Licensing Inspector***

Department of Safety and Inspections

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## **Dermody, Bill (CI-StPaul)**

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**From:** Kim Mathes <kimmathes@yahoo.com>  
**Sent:** Wednesday, February 27, 2019 8:14 AM  
**To:** Dermody, Bill (CI-StPaul)  
**Subject:** 1265 Arcade

Hi Bill - I live at 1364 Arcade and I am against this variance for additional parking they are asking for.

We have enough small auto lots in our immediate area and it looks extremely tacky.

This place in particular looks like a dump with faded and ripped flags hanging on the lot. The fence is falling apart and the weeds are atrocious.

We can talk further if needed.

I can be reached at 651-726-4138.

Thank you for the opportunity to respond.

Kim Mathes

Sent from Yahoo Mail on Android

