

CITY OF APPLE VALLEY
RESOLUTION NO. 2016 - ____

A RESOLUTION APPROVING A VARIANCE AMENDMENT
FOR THE 7525 147TH STREET WEST RETAIL BUILDING
AND ATTACHING CONDITIONS THERETO

WHEREAS, pursuant to Minnesota Statutes 462.357 the City of Apple Valley has adopted, as Title XV of the City Code of Ordinances, zoning regulations to control land uses throughout the City; and

WHEREAS, pursuant to the City's said regulations, a "Variance" is an exception granted by the City Council from the literal provisions of the zoning regulations where unique conditions exist which do not apply to the area in general; and

WHEREAS, approval of a 16-foot building setback Variance from the property line along Cedar Avenue was requested by 7525 Cedar, LLC, for their proposed retail building located at 7525 147th Street West; and

WHEREAS, the Apple Valley City Council approved a 16-foot Variance from the required building setback of 50 feet from Cedar Avenue at a public meeting held December 10, 2015; and

WHEREAS, 7525 Cedar, LLC, has requested an amendment to the approved Variance; and

WHEREAS, the Apple Valley Planning Commission reviewed the Variance amendment request at a public meeting held on February 17, 2016, and recommended amending a building setback variance of 16 feet to 45 feet from the required building setback of 50 feet from Cedar Avenue for the south 5 feet of the east elevation of a 7,512-sq. ft. retail building due to the following determination:

1. The practical difficulties created by addition of drainage, utility and trail easements after the platting of the property precludes the normal utilization of the property in the same fashion as other similar properties.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Apple Valley, Dakota County, Minnesota, that an approved 16-foot building setback variance be amended to 45 feet from the required building setback of 50 feet from Cedar Avenue for the south 5 feet of the east elevation of a 7,512-sq. ft. retail building located at 7525 147th Street West is hereby approved, subject to all applicable City Codes and standards, and the following conditions:

1. If the Building Permit is not paid for and issued within one (1) year of the date of approval, the approval shall lapse.
2. The Building Permit shall be applicable to property identified as Lot 4, Block 3, VALLEY COMMERCIAL PARK 1ST ADDITION.

3. Construction shall occur in conformance with the site plan dated September 25, 2015, including parking lot paving and a non-surmountable concrete curb and gutter around the entire perimeter with a minimum driveway approach radius of 15 feet at each public street, and a valley gutter at the edge of the street pavement.
4. Any new curb, sidewalk, and streetscape amenities along 147th Street West shall be installed in conformance with the existing ring route design.
5. A bike rack shall be installed in accordance with City requirements.
6. A sidewalk shall be installed along the east side of Glenda Avenue in accordance with City standards.
7. Construction shall occur in conformance with the landscape plan dated September 25, 2015, (including sodded/seeded public boulevard area up to each street curbline); subject to submission of a detailed landscape planting price list for verification of the City's 2½% landscaping requirement at the time of building permit application.
8. Construction shall occur in conformance with the elevation plan dated August 21, 2015, subject to the addition of aluminum awnings on the north and south elevations.
9. Site grading shall occur in conformance with a final grading plan to be submitted for review and approval by the City Engineer.
10. Construction shall be in accordance with the City's storm water requirements.
11. All onsite rain gardens/infiltration basins shall be constructed in conformance with the City standards.
12. The property owner shall execute a maintenance agreement or other suitable agreement to be filed with the deed that ensures the perpetual maintenance of any onsite rain gardens/infiltration areas.
13. Any site lighting shall consist of downcast, shoebox lighting fixtures or wallpacks with deflector shields which confines the light to the property.
14. Approval of a signage plan is not included with this site plan and building permit authorization. A separate application and signage plan in conformance with the sign regulations must be submitted for review and approval to the City prior to the erection of any signs.
15. Construction shall be limited to the hours of 6:00 a.m. to 10:00 Monday through Friday. Weekend construction hours shall be limited to the hours of 8:00 a.m. to 5:30 p.m. Saturdays only.
16. Earthmoving activities shall be limited to the hours of 6:30 a.m. to 5:30 p.m. Monday through Friday.

17. Earthmoving activities shall not occur when wind velocity exceeds thirty (30) miles per hour. Watering to control dust shall occur as needed and whenever directed by the Apple Valley Building Official or Zoning Administrator.
18. Soil borings and testing shall be provided to ensure that the soil in the infiltration areas is not contaminated.
19. Removal of the existing structures, pavement, base and fuel storage tanks and piping shall be done in accordance with local, state and federal regulations; and all the required permits and inspections shall be performed.
20. Screening of the trash receptacles and mechanical protrusions shall be done in accordance with City code.
21. Issuance of a Building Permit and a final certificate of occupancy is contingent upon the project being constructed in conformance with all the preceding conditions as well as all applicable performance standards of the current zoning regulations. In the event that a certificate of occupancy is requested prior to completion of all required site improvements, a suitable financial guarantee in the amount of 125% of the estimated cost of the unfinished improvements shall be required along with an agreement authorizing the City or its agents to enter the premises and complete the required improvements if they are not completed by a reasonably stipulated deadline, with the cost of such City completion to be charged against the financial guarantee.
22. The ongoing use and occupancy of the premises is predicated on the ongoing maintenance of the structure and all required site improvements as listed in the preceding. No alteration, removal, or change to the preceding building plans or required site improvements shall occur without the express authorization of the City. Site improvements that have deteriorated due to age or wear shall be repaired or replaced in a timely fashion.
23. Notwithstanding Chapter 153 of the Apple Valley Code of Ordinances, a permit may be issued prior to the platting of the land provided that the land must be platted prior to occupancy.

BE IT FURTHER RESOLVED that such issuance is subject to a finding of compliance of the construction plans with the Minnesota State Building Code, as determined by the Apple Valley Building Official, and with the Minnesota State Uniform Fire Code, as determined by the Apple Valley Fire Marshal.

ADOPTED this 25th day of February, 2016.

Mary Hamann-Roland, Mayor

ATTEST:

Pamela J. Gackstetter, City Clerk