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LUHO-24-001

Staff Report

Meeting Date: 3/5/2024

Applicant: James LaSalle

Re: Variance from sign code

Property Address: 775 E 3300 S

Zone: Commercial 2 (C-2)

Prepared By: Sean Murray

REQUEST AND SYNOPSIS

The applicant, James LaSalle representing the property and business owner Brittany Golden, is seeking a variance to the Millcreek sign code to put a roof sign on their business located at 775 E 3300 S, Millcreek, UT 84106. Millcreek code section 19.82.030 (c) provides that “[s]ign types not specifically allowed as set forth within this chapter shall be prohibited.” Since the current sign code does not have any regulations regarding roof signs (except as described below) roof signs are prohibited. The applicant has filed a variance application to be heard by the Millcreek Land Use Hearing Officer to allow for a roof sign on the subject property.

Millcreek code section 19.82.020 defines a roof sign as, “[r]oof sign’ means an on premises sign which is erected and attached partly or wholly on the roof of the building.” While roof signs are defined in the Millcreek sign code, there is no other mention of roof signs within the chapter meaning they are prohibited.

The subject property was constructed in 1985 and is located on 3300 S which is a state road and classified as a UDOT Principal Arterial. The area is zoned Commercial 2 (C-2) and is surrounded by commercial uses to the east and west. Behind the property is a single-family neighborhood that is largely zoned R-1-6.

The building on the subject property features a gabled roof that runs from east to west. This gabled roof is steep and makes up roughly two thirds of the façade of the building facing 3300 S. (See supporting documents). Since the actual façade of the building is small and consists mainly of windows and doors, a wall sign would not work for this property.

Variances are regulated by Millcreek code section 19.92.050. For a variance to be granted, the applicant must meet the five criteria laid out in this section of code. Code language outlining how variances are regulated can be found below.

19.92.050 Variances

- A. The authority shall have the following powers to authorize on appeal in specific cases a variance from the terms of this title. The authority may grant a variance only if:
1. Literal enforcement of this title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this title;
 2. There are special circumstances attached to the property that do not generally apply to other properties in the same district;
 3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;
 4. The variance will not substantially affect the general plan and will not be contrary to the public interest; and
 5. The spirit of this title is observed and substantial justice is done.
- B. In determining whether enforcement of this title will cause unreasonable hardship, the authority may not find an unreasonable hardship unless the alleged hardship is located on or associated with the property for which the variance is sought and comes from circumstances particular to the property, not from conditions which are general to the neighborhood. In determining whether or not enforcement of this title would cause an unreasonable hardship, the authority may not find an unreasonable hardship if the hardship is self-imposed or economic. In determining whether or not there are special circumstances attached to the property, the authority may find that special circumstances exist only if special circumstances relate to the hardship complained of and deprive the property of the privileges granted to other properties in the same district. The applicant shall bear the burden of proving that all the conditions justifying a variance have been met.
- C. In granting a variance, the authority may impose additional requirements on the applicant that will mitigate any harmful effects of the variance or serve the purpose of the standard or requirement that is waived or modified.

Below are staff responses to the listed variance requirements found above. These responses are based on information found within the code and from the applicant. For variances, the applicant shall bear the burden of proof in justifying why a variance should be granted.

1. Literal enforcement of this title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this title.

Millcreeks sign code offers residents and business owners the ability to choose between several different sign types depending on site limitations and zoning. In this case, the applicant would be able to install a wall sign on the building since it is in the C-2 zone. However, due to the design of the building, a wall sign is not feasible for the property. The C-2 zone also allows for pole signs and monument signs to advertise a business. In the C-2 zone, no pole sign can be constructed within 100 feet of any other existing pole sign, whether or not it is on the applicant's property. The neighboring property, located at 791 E 3300 S, has an existing pole sign on the property line that will not allow for

a pole sign to be installed on the applicant's property. The applicant does have the ability to install a 42 square foot monument sign on the eastern edge of the property so long as it is at least 5 feet from both property lines and no taller than 6 feet.

2. There are special circumstances attached to the property that do not generally apply to other properties in the same district.

The applicant's property has a large gabled roof that runs east to west and makes up roughly two thirds of the façade of the structure. Most buildings in C-2 zones that are used commercially have a flat roof and a larger front façade that allows for a wall sign to be installed. Many commercial buildings in the C-2 zone have wall signs that comply with the Millcreek sign code.

3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district.

Neighboring properties to the west, east, and across the street to the south, all have wall signs attached to the façade of the building that comply to the Millcreek sign code. The applicant's property does not allow for the installation of a wall sign due to a different building design than the neighboring properties. For a wall sign to be installed, the applicant would have to considerably alter the building, something many other properties in the C-2 zone do not have to do to install a wall sign.

4. The variance will not substantially affect the general plan and will not be contrary to the public interest.

Permitting a roof sign at the subject property does not have an affect on the adopted General Plan of Millcreek. A roof sign for this location is not contrary to the public interest.

5. The spirit of this title is observed, and substantial justice is done.

Variances are designed to give residents and business owners exceptions from certain areas of code if they face a hardship that similar properties do not face. The burden of proof lays with the applicant and the decision is made by an independent Land Use Hearing Officer.

Millcreeks variance code allows for the authority, in this case the Millcreek Land Use Hearing Officer, to impose conditions when granting a variance that may help mitigate negative externalities the variance may create. Variances run with the land in perpetuity meaning that in the future, this piece of land would benefit from any granted variance unless conditions are imposed that limit the scope of the granted variance. If a variance is granted in this case, staff recommends conditions on the size, location, and the ability for subsequent buildings on the property to install a roof sign.

FINDINGS & CONCLUSIONS

Findings:

- The applicant's property sits on a busy commercial corridor and is surrounded by commercial uses.
- The property is within the Commercial 2 (C-2) zone.
- The design of the building at 775 E 3300 S features a large gabled roof that runs east to west and makes up a majority of the building façade.
- Roof signs are defined in Millcreek code but are not listed as a permitted or conditional use meaning they are prohibited.
- Variances run with the land in perpetuity.
- The Land Use Hearing Officer may impose conditions on a variance to mitigate harmful effects that the variance may create.
- The applicant cannot install a pole sign on the property due to pole sign location requirements found in the Millcreek sign code.
- The applicant may install a monument sign on the property.

Conclusions:

- The design of the building does not allow for a wall sign to be installed.
- Neighboring properties feature wall signs that adhere to Millcreeks sign code.
- Properties in the C-2 zone are allowed to install wall signs as a permitted use.
- If a variance is granted, conditions limiting the size, location, and future use of a roof sign on this property should be considered.

SUPPORTING DOCUMENTS

- **A. Street view image of the subject property.**
- **B. Letter of intent from the applicant.**
- **C. Site plan from the applicant.**
- **D. Proposed roof sign design.**
- **E. Zoning map of subject property / neighborhood.**

Exhibit A
Street view image of subject property.



Exhibit B
Letter of intent from the applicant.

Letter of Intent-
Millcreek City Sign Variance for B Golden Jewelry School located at 775 East 3300 South

Good day to you,

As per the direction of Sean Murry (Planner 1) at Millcreek City, I have prepared the following information for you to analyze in hopes of securing a sign variance where in my client has met all the variance criteria set by the State of Utah and or Salt Lake County. I do not wish to waste your time or my client's money, therefore for each condition below, I have provided a valid explanation for each term of title. ***Millcreek City does not allow for roof signage as the present code dictates.***

The authority shall have the following powers to authorize on appeal in specific cases a variance from the terms of this title. The authority may grant a variance only if:

1. Literal enforcement of this title would cause an unreasonable hardship for the applicant that is not necessary to carry out the general purpose of this title;

The client, B Golden Jewelry, does not have any way of identifying her business or directing the public to her place of business, given there is not an area for a sign to be seen or mounted to other than the roof.

2. There are special circumstances attached to the property that do not generally apply to other properties in the same district;

The client's building is set back so far on the property and as stated, the building does not host a spot for the client to put a sign any other position than on the roof of the building. Other options are not allowed.

3. Granting the variance is essential to the enjoyment of a substantial property right possessed by other property in the same district;

My client specifically invested in and placed her business in Millcreek City on one of most traveled roads (3300 South) knowing the amount of traffic would certainly be a sure way for potential customers to see her. Without the ability to put up a sign, as every other place of business in the area has, she will certainly lose everything she has invested in.

4. The variance will not substantially affect the general plan and will not be contrary to the public interest;

By allowing a roof sign, it will not obstruct or take away from any of the businesses in the area. Furthermore, there is not another jewelry school within miles of the establishment where this would be considered favoritism. A sign is not a luxury, but a necessity that all small businesses require.

5. The spirit of this title is observed and substantial justice is done.

We are not asking for anything more than what every other business in the City of Millcreek or anywhere else has. A sign, to identify the business and bring customers to her door.

Thank you very much for your time. I hope you see the severity and the stakes that are present.

James LaSalle

Signarama Salt Lake City

Exhibit C
Site plan from the applicant.

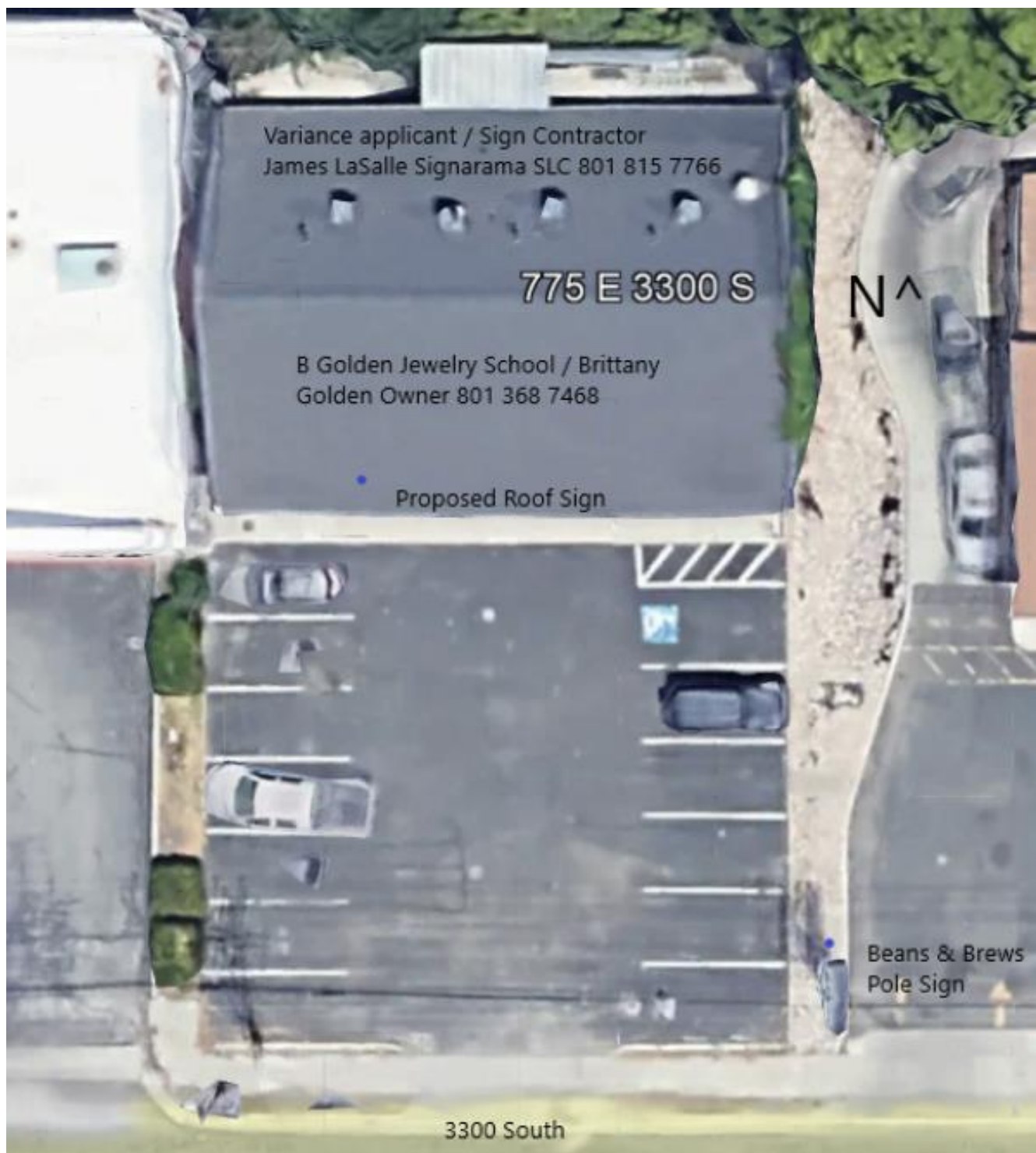


Exhibit E
Zoning map of subject property / neighborhood.

