

RESOLUTION NO. PC2022-012

A RESOLUTION OF THE CITY OF SHAKOPEE, MINNESOTA, DENYING A VARIANCE REQUEST TO CITY CODE SECTION 151.108 (CONSTRUCTION MATERIALS) TO ALLOW THE PAINTING OF THREE COLOR INTEGRAL PRE-CAST CONCRETE PANEL BUILDINGS IN THE HEAVY INDUSTRY AND BUSINESS PARK ZONE

WHEREAS, Michael Henderson (applicant) and B9 Northwest MN Owner LLC and B9 2000 BLDG IV LLC (property owners) have made application for a variance to City Code Section 151.108, Subdivision 1A, to paint three existing buildings at 5500, 5700 12th Avenue East and 1150 Gateway Drive in the I-2, Heavy Industry and BP, Business Park Zones; and

WHEREAS, the property upon which the requests are being made are legally described as:

Lot 1, Block 2, Valley Park 13th Addition,
Lots 1 and 2, Block 1 Valley Park 14th Addition, all in Scott County, MN
; and

WHEREAS, all required public notices regarding the public hearing for the application were duly sent and posted and all persons appearing at the hearing have been given an opportunity to be heard thereon; and

WHEREAS, the Board of Adjustment and Appeals of the City of Shakopee did review the application on October 6, 2022 and adopted the following findings:

Findings for the Variance Request to City Code Section 151.108 (Construction Materials)

Criterion I

The strict enforcement of the ordinance provisions would cause undue hardship because of circumstances unique to the individual property under consideration. Undue hardship means the following:

1.A. The property owner proposes to use the property in a reasonable manner not permitted by an official control:

***Finding 1.A.** The properties can be put to a reasonable use. There is nothing preventing the applicant / property owner from using other techniques to maintain the existing buildings without*

using paint. The City Council specifically removed painted pre-cast panels from an allowed material due to durability / aesthetic concerns and to encourage creative designs. Two of the buildings proposed to be painted are in a very prominent location along US Highway 169. Painting the buildings will require that the buildings continue to be painted. The southern elevations of two the buildings face US Highway 169, where the impact of sunlight is the greatest and most visible.

1.B. The plight of the landowner is due to circumstances unique to the property;

Finding 1.B. The properties have three existing integral color pre-cast concrete buildings located on them. Color integral pre-cast concrete buildings can be maintained without being painted.

1.C. The circumstances were not created by the landowner;

Finding 1.C. The circumstances are created by the landowner's desire to paint their buildings when painting is prohibited.

1.D. The variance, if granted, will not alter the essential character of the locality; and

Finding 1.D. The variance would alter the essential character of the locality. The Construction Materials standards in City Code are in place to encourage unique and creative designs and finishes of the different buildings in the community. There are currently several existing gray painted pre-cast buildings in the area that were constructed prior to the City Code prohibiting painted pre-cast panels in the Business Park and Heavy Industry zone. Painting an additional three buildings gray will decrease the amount of architectural variation and require further painting of the buildings in the future.

1.E. The problems extend beyond economic considerations. Economic considerations do not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.

Finding 1.E. The problems do not extend beyond economic considerations. The applicant is requesting to use paint as a means of altering the appearance of a building that is constructed of an allowed material.

Criterion 2

It has been demonstrated that a variance as requested will be in harmony with the general purposes and intent of the chapter.

Finding 2 The proposed variance would not be in keeping with the spirit and intent of Chapter 151 (Zoning) as it would allow very visible buildings to be painted, where painting concrete is a prohibited material. Allowing three large buildings to be painted would set a precedent after painted pre-cast buildings in the Heavy Industry and Business Park Zone were specifically prohibited due to the condition of many existing buildings in Shakopee and other communities and the desire to have buildings constructed of different materials with unique designs.

Criterion 3

The request is not for a use variance.

Finding 3 The request is not a use variance.

Criterion 4

Conditions to be imposed by the Board of Adjustment and Appeals will insure compliance to protect the adjacent properties.

Finding: *The board is denying the proposed variance request, no additional conditions are necessary.*

Criterion 5

Variances in the flood plain overlay zone also shall meet additional criteria:

Finding 5 ***(Not applicable since the property is not within the flood plain overlay zone.)***

Adopted in the regular session of the Board of Adjustment and Appeals of the City of Shakopee, Minnesota, held the _____ day of October, 2022.

Chairperson,
Board of Adjustment and Appeals

ATTEST:

Michael Kerski,
Director of Planning and Development

PREPARED BY:
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