



# City of Blaine Anoka County, Minnesota

Blaine City Hall  
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Blaine MN 55449

## Legislation Details (With Text)

**File #:** RES 20-123    **Version:** 2    **Name:** Variance - A&C Automotive (20-0027)  
**Type:** Resolution    **Status:** Passed  
**File created:** 10/5/2020    **In control:** City Council  
**On agenda:** 10/5/2020    **Final action:** 10/5/2020  
**Title:** DENYING A VARIANCE TO THE STYLE AND HEIGHT OF AN EXISTING FREESTANDING SIGN LOCATED AT 611 109TH AVENUE NE. A & C AUTOMOTIVE (CASE FILE NO. 20-0027/EES)  
**Sponsors:** Lori Johnson  
**Indexes:**  
**Code sections:**  
**Attachments:** 1. Attachments

Date	Ver.	Action By	Action	Result
10/5/2020	2	City Council	Adopted	Pass
9/9/2020	2	City Council	Postponed	
8/12/2020	1	Planning Commission	Recommended for Denial	Pass

### **DEVELOPMENT BUSINESS** - *Lori Johnson, City Planner*

### **DENYING A VARIANCE TO THE STYLE AND HEIGHT OF AN EXISTING FREESTANDING SIGN LOCATED AT 611 109<sup>TH</sup> AVENUE NE. A & C AUTOMOTIVE (CASE FILE NO. 20-0027/EES)**

Planning Commission (Public Hearing)	08/12/20
City Council (Variance)	09/09/20
City Council (Variance Continued)	10/05/20
Action Deadline	11/08/20

The city council, at the meeting on September 9, 2020, directed staff to look at options for bringing the sign at 611 109<sup>th</sup> Avenue into conformance with the zoning ordinance.

At the meeting on the 9<sup>th</sup>, the applicant indicated it would cost \$10,000 to construct a new sign, and proposed to build a base on the existing sign to dress it up. After the meeting, staff asked the applicant to put together a drawing indicating what he would propose for sign revisions. The drawing submitted by the applicant is attached to this item and it includes the following:

- 5-foot tall base comprised of stone veneer and sill cap
- No height reduction proposed, size of sign is 98 square feet, 21 feet in height
- Pole is still visible
- All variances are still required

Staff still does not recommend approval of the variances based on this proposal due to the fact that it is not proposing to eliminate the size or type of variance required in any way. It does not match the effort required of adjacent property owners when confronted with this same requirement.

Staff has two other proposals to share with the city council at this time.

1. See attached drawing as Sign Proposal 1. This proposal does not require the need for any variances.
  - This proposal involves reusing the existing A & C sign and the existing readerboard.
  - It eliminates the pole and brings the overall height of the sign to 14 feet in height.
  - Total sign square footage is the same as it is now at 98 square feet.
  - A planter box could be used to create a monument base.
  - Sign could remain in the same location. 10-foot setbacks could be met.
  - Likely less expensive than a brand-new sign.
  
2. See attached drawing as Sign Proposal 2. This proposal eliminates the need for a height variance, however requires a variance because it doesn't meet the monument style design.
  - This proposal involves reusing the readerboard portion of the sign (32 square feet).
  - It would remove the top existing A & C sign.
  - The sign would be brought down to 14 feet in height.
  - It wraps the existing pole in brick to dress up the sign and resemble a monument style.
  - Sign could remain in the same location. 10-foot setbacks could be met.
  - Likely less expensive than a brand-new sign.

Staff prepared these proposals to show that there are multiple ways to be creative with the existing portions of the sign to meet ordinance requirements, and that meeting ordinance requirements does not have to be costly in this case. Staff remains open to any other options that the applicant has, but it appears that the applicant is mostly concerned that he be allowed to keep the height of the sign. It is difficult for staff to recommend approval of a variance with no appropriate rationale in this case, particularly when two adjacent property owners were faced with the same problem and have met ordinance requirements.

The city council has several options:

1. Approve the variances requested by the applicant in the original application.
2. Approve the alternative proposal provided by the applicant which requires variances.
3. Approve staff alternative 2 which requires a variance for the monument style sign.
4. Support staff alternative 1 which doesn't require variances. The city council should deny

the application under this scenario.

The rationale for denying the original variances is still listed in the attached resolution. Staff will have alternative resolutions at the meeting depending on what action the city council takes.

***Staff Report Prepared by Elizabeth Showalter***

The planning commission voted unanimously to deny the variance. The applicant was the only speaker at the public hearing. He reiterated the items in the applicant's narrative and further explained that he was unaware of the requirement to remove the sign when he signed the lease, that he partially chose this location due to the superior visibility offered by the sign, and that he had invested in the property that he is currently leasing with paint and safety improvements. The Planning Commission questioned the role of the property owner, who was not present at the meeting, and emphasized that the property owner was aware of the deadline to remove the sign and was ultimately responsible for bringing the sign into conformance with the zoning code. If the variance is not granted, citations would be issued to the property owner, not the tenant. The commissioners also felt alternative locations existed on the property for a conforming monument style sign. The commission encouraged the applicant to contact the property owner and notify him that he must bring the sign into conformance with the code.

***Prior to the staff report, Chris Nelson with Eckberg Lammers will be present to provide insight into the legal nuances that are associated with the variance process.***

The sign ordinance requires a permit for text and/or face changes. When those permits are issued, signs are required to be brought into full conformance with the sign code. This has resulted in older signs being modified or removed to comply with height limitations and design requirements that have changed over the years.

In 2018, Infinity Automotive applied for variances from the sign code to allow an existing non-conforming freestanding pylon sign to be refaced at 611 109<sup>th</sup> Avenue. At that time, two neighboring property owners submitted comments in opposition to the variance, and the Planning Commission recommended denial of the application. The city council and the applicant came to an agreement regarding the variance. The applicant withdrew the application and the city council indicated that if the sign was refaced (which would trigger the requirement to bring the sign into conformance with the zoning code), any enforcement action would be delayed until August 3, 2020.

Since that time, a new tenant, A&C Automotive, has occupied the space. When they applied for a certificate of occupancy in April of 2019, the applicant was notified that the existing sign was nonconforming and would need to be removed by August 3, 2020 if the sign faces were changed. The sign faces have been changed, and therefore the sign is currently existing in violation of the zoning code. The applicant has chosen to reapply for the same variances to allow the sign to remain.

The city's sign ordinance allows single tenant buildings in the B-2 (Community Commercial) zoning district one freestanding monument style sign. The ordinance allows the freestanding monument sign to be a maximum of 14 feet in height and it allows a maximum of 140 square feet in area.

The existing freestanding sign, located at 611 109<sup>th</sup> Avenue NE, is non-conforming for two reasons:

1. The sign does not meet the ordinance requirements for freestanding monument style signs. Monument style is defined in the ordinance as follows "a freestanding sign that contains a solid or enclosed base and where the sign support post(s) is/are not visible. The base shall be constructed of materials that are consistent with and complementary to the building. Width of base to be a minimum of two-thirds (2/3) the width of sign face."
2. The sign is 21 feet tall, which is five feet taller than the maximum height for a freestanding sign at this location.

The monument style requirement along with the maximum height requirement for freestanding signs have been incorporated as part of the sign ordinance since 1994.

The existing sign was originally issued a permit in 1985 and was compliant with current code requirements at the time a permit was issued. The business was previously Austin's Muffler Shop. Sign permits are required to change the copy of the sign for a new business name. In order for the city to issue sign permits for the existing freestanding sign it must be brought into compliance with current code requirements. Since the sign has been refaced for the current tenant, A&C Automotive, the sign is required to be brought into compliance or removed as agreed to by the previous applicant and the city council.

Throughout the city older non-conforming signs have been updated through the permitting process with their new signs complying with current code requirements. Looking at the intersection of 109<sup>th</sup> Avenue and Jefferson Street there are two adjacent examples of signs that have been brought into compliance with current code requirements. 109 Oriental Market (formerly a dry cleaner), located at 385 109<sup>th</sup> Ave NE, has a monument sign that meets the height and monument style requirements. This property also had a sign, for which a permit was issued in 1973. The sign became non-conforming after the ordinance changes in 1994. The dry cleaner built a monument sign back in 2011 and they were required to meet the current code requirements for monument style and height. KinderCare Learning Center, located at 10851 Jefferson Street, built a monument sign in 1999. Their sign was required to meet current code requirements for monument style and height. Additionally, when previously asked to grant variances to the monument style base and height requirements to allow the refacing of an existing sign at the Arby's located on County Road 10 and Jefferson Street, the city council denied the request.

The applicant has provided a narrative outlining why they believe a variance should be granted. As a reminder to the council, economic considerations are not grounds for a variance.

A monument style sign in the exact location of the existing pylon sign would block sightlines, and would not be allowed to be constructed since it is within the sight distance triangle. The applicant can utilize larger wall signs (up to 10% of the wall area on two facades), small directional signs at entrances, or a monument style sign in a different location on the lot.

Section 27.06 of the zoning ordinance outlines seven (7) criteria for granting a variance. An essential finding to grant a variance is that exceptional circumstances apply to the property. Staff does not see the request as meeting any of these seven criteria and would be in direct violation of four criteria.

1. Exceptional or extraordinary circumstances do not apply to the property or to other properties in the same zone or vicinity. In fact, two properties in the same vicinity are meeting the current code requirements for freestanding signs and also had to locate monument style signs on corner lots and meet sight distance requirements.
2. Economic considerations alone shall not be considered a hardship.
3. That the granting of the variance requested will confer on the applicant special privileges that are denied by this ordinance to other owners of lands, structures or buildings within the same vicinity.
4. A variance, if granted, would be materially detrimental to the purposes of this ordinance, or to other property in the same zone. The 1994 code amendment was intentionally written to require the upgrading of old signs as business names changed.

The lower portion of the sign that was previously a changeable copy board is currently advertising a remodeling company that is not located on the property. This is off site signage, which is prohibited everywhere in the city except for on billboards. If the variance is granted this portion of the sign would need to be refaced to be on site signage. The applicant has indicated he is willing to change this face to comply with the requirements.

Lastly, a wall sign is located on the building which was refaced without obtaining a permit. Regardless of whether a variance is granted or not, a permit must be obtained for that sign. The wall sign appears to be in compliance with the zoning code, but the applicant will be required to provide the necessary dimensions to confirm compliance as part of the sign permit application.

By motion, approve the resolution.

### **Attachments**

Zoning and Location Map

Site Plan

Sign Dimensions

Narrative

385 109<sup>th</sup> Avenue Freestanding Sign  
10851 Jefferson Street Freestanding Sign  
New Proposals (3)

**WHEREAS**, an application has been filed by Austin Rick S (A & C Automotive) as Case File No. 20-0027; and

**WHEREAS**, said case involves the land described as follows:

OUTLOT 3 DONNAY'S OAK PARK 11<sup>TH</sup>

**WHEREAS**, a public hearing has been held by the Blaine Planning Commission on August 12, 2020; and

**WHEREAS**, the Blaine Planning Commission recommends said Variance be denied; and

**WHEREAS**, the Blaine City Council has reviewed said case on September 9, 2020 and October 5, 2020.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Blaine that a 5-foot variance from the 14-foot maximum height requirement and a variance from the monument style base requirement to allow a 21-foot tall pole sign is hereby denied per Section 27.06 of the zoning ordinance based on the following rationale:

1. Exceptional or extraordinary circumstances do not apply to the property or to other properties in the same zone or vicinity. In fact, two properties in the same vicinity are meeting the current code requirements for freestanding signs and also had to locate monument style signs on corner lots and meet sight distance requirements.
2. Economic considerations alone shall not be considered a hardship.
3. Granting of the variance requested will confer on the applicant special privileges that are denied by this ordinance to other owners of lands, structures or buildings within the same vicinity.
4. A variance, if granted, would be materially detrimental to the purposes of this ordinance, or to other property in the same zone.

**PASSED** by the City Council of the City of Blaine this 5<sup>th</sup> day of October, 2020.