

 <p style="text-align: center;"><b>Council Communication</b> Office of the City Manager</p>	<b>Date</b>	July 13, 2009
	<b>Agenda Item No.</b> 75 <b>Roll Call No.</b> <del>09-</del> <b>Communication No.</b> <u>09-486</u> <b>Submitted by:</b> Larry Hulse, Community Development Director	

**AGENDA HEADING:**

Review of the June 24, 2009 Zoning Board of Adjustment decision to amend a Use Variance to allow expansion of an existing restaurant and catering business located at 2511 Cottage Grove Avenue. The subject property is owned by Woody’s Smoke Shack and Catering, Inc., Steve Wasson, Officer.

**SYNOPSIS:**

On June 24, 2009, the Zoning Board of Adjustment voted 4-0 to allow expansion of an existing restaurant and catering business permitted by a previously granted Use Variance, subject to conditions. The Board’s decision was filed on June 30, 2009. Pursuant to Section 134-65 of the City Code, the City Council shall review the Board’s decision within 30 days after the decision is filed. Staff recommends that the City Council concur with the Board’s decision and decline the option to remand the matter to the Board of Adjustment for additional review so that the Board’s decision may become final on July 13, 2009.

**FISCAL IMPACT: NONE**

Amount: N/A

Funding Source: N/A

**ADDITIONAL INFORMATION:**

Steve Wasson currently operates Woody’s Smoke Shack and Catering, Inc. at 2511 Cottage Grove Avenue under the provisions of an existing Use Variance for the property, which is zoned R1-60, One-Family Low Density Residential. On June 24, 2009, the Zoning Board of Adjustment voted 4-0 to amend the existing Use Variance to allow construction of a 17-foot by 13-foot (221 square feet) outdoor service area covered by a canopy structure, and construction of a 17-foot by 20-foot (340 square feet) outdoor service area that would be within 10 feet of the south (front) property line and 10 feet of the north (rear) property line.

The Board’s approval was subject to the following conditions:

1. Any covered patio or non-covered patio shall be constructed in substantial compliance with the submitted site sketch and elevations.
2. Any covered patio shall be constructed with building materials that are compatible with the existing structure.
3. The hours of operation shall be limited to between 7:00 AM and 10:00 PM.

4. Any covered or non-covered patio shall be constructed in compliance with a Site Plan, as approved by the Permit and Development Center.
5. Any covered patio or non-covered patio shall be constructed in compliance with all applicable building codes, with issuance of all necessary permits by the Permit and Development Center.

The Zoning Board of Adjustment's decision was filed on June 30, 2009. Pursuant to Section 134-65 of the City Code, the City Council shall review the Board's decision within 30 days after the decision is filed. The Council has the option concur with Board's decision, to remand the decision to the Board for further review or to take no action. Concurrence with the Board's decision would make the decision final on July 13, 2009. If the City Council takes no action within the 30 day period, the Board's decision will become final on July 30, 2009.

#### **PREVIOUS COUNCIL ACTION(S):**

Date: May 18, 2009.

Roll Call Number: 09-926

Action: Review of Board of Adjustment decision to amend a use variance at 2511 Cottage Grove Avenue to allow expansion of an existing restaurant and catering business. (Council Communication No. 09-319) Moved by Hensley to adopt. Motion Carried 7-0.

#### **BOARD/COMMISSION ACTION(S):**

Date: June 24, 2009.

Roll Call Number: Docket ZON2009-00044.

Action: The Board of Adjustment voted 4-0 to amend the Use Variance to allow construction of a 17-foot by 13-foot (221 square feet) outdoor service area covered by a canopy structure and construction of a 17-foot by 20-foot (340 square feet) outdoor service area expansion of the existing restaurant and catering business subject to conditions.

Date: April 22, 2009.

Roll Call Number: Docket ZON2009-00044

Action: The Board of Adjustment voted 5-0 to amend the Use Variance to allow construction of a 17-foot by 13-foot (221 square feet) outdoor service area covered by a canopy structure; construction of a 17-foot by 15-foot (225 square feet) outdoor service area that would be within 10 feet of the south (front) property line and 18 feet of the north (rear) property line; and construction of a 6-foot tall ornamental wrought iron fence within the required front yard area subject to conditions.

#### **ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**

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