

Planning Commission Meeting Agenda,

Tuesday, July 5, 2022 - 6:00 PM
Cologne Community Center, 1211 Village Parkway

Vision Statement

The City of Cologne is a vibrant small town that respects its heritage, embraces its future and offers a high quality of life for all who live, work and visit our community.

Chairperson:	Bernie Shambour
Commissioner:	Vickie Selness
Commissioner:	Jenn Brewington
City Council Liaison:	Carol Szaroletta
Commissioner:	Kevin Fafinski

NOTE: AGENDA ITEMS ARE APPROXIMATE AND SUBJECT TO CHANGE ACCORDING TO LENGTH OF DISCUSSION. TO ENSURE THAT YOU ARE PRESENT FOR ITEMS OF INTEREST, PLEASE ARRIVE AT 6:00 PM.

- 1. CALL MEETING TO ORDER & ROLL CALL**
- 2. PLEDGE OF ALLEGIANCE**
- 3. ADOPT AGENDA**
- 4. PLANNING COMMISSION BUSINESS**
 - a. June 6, 2022 Planning Commission Meeting Minutes**
 - b. PUBLIC HEARING: Mid County Co-op Sign Variance**
 - c. Resolution 22-2 Approving Mid County Co-op Sign Variance**
 - d. PUBLIC HEARING: Swimming Pool Ordinance Amendment**
- 5. BOARD REPORTS**
- 6. ANNOUNCEMENTS**
- 7. ADJOURN**

Planning Commission Meeting Minutes

Monday, June 6, 2022 - 6:00 PM
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1. CALL MEETING TO ORDER & ROLL CALL

Chairperson Shambour called the meeting to order at 6:00PM with Commissioners Brewington, Fafinski, Selness and Szaroletta present. Also present were City Administrator - Jesse Dickson and City Clerk – Michelle Morrison.

2. PLEDGE OF ALLEGIANCE

3. ADOPT AGENDA

Motion by Commissioner Szaroletta to adopt the agenda as presented. Second by Commissioner Selness. Motion carried 5-0.

4. PLANNING COMMISSION BUSINESS

a. May 16, 2022 Planning Commission Meeting Minutes

Motion by Commissioner Szaroletta to approve the May 16, 2022 minutes, second by Commissioner Brewington. Motion carried 5-0.

b. Swimming Pool Ordinance Amendment – Public Hearing July 5, 2022 6:00PM

City Administrator Dickson informed the Commission that he has been receiving calls from residents and contractors regarding our swimming pool ordinance. The ordinance was adopted in 1990 and much has changed since that time in terms of safety options. He advised that it would be worthwhile to plan a public hearing to discuss potential changes and have public comment. Chair Shambour clarified that Mr. Dickson would

provide information on what neighboring cities have in their ordinances and provide a draft Ordinance that could be acted on at the meeting.

5. BOARD REPORTS

a. Freedom Storage Site Plan Review July 5, 2022

City Administrator Dickson informed the Commission that the City Council had sent the Freedom Storage property back to the Planning Commission asking for a site plan review. The City's legal council and city planner will be providing the commission guidance on the site plans.

6. ANNOUNCEMENTS

Administrator Dickson provided the commission an update on the current blight being pursued through Carver County attorney. The commissioners discussed other properties that need to be addressed.

7. ADJOURN

Motion by Commissioner Brewington to adjourn at 6:28 PM, second by Commissioner Selness. Motion carried 5-0.

Respectfully Submitted:

Attest:

Michelle M Morrison, City Clerk

Bernie Shambour, Chairperson



PO Box 120, 1211 Village Parkway
Cologne, MN 55322
(952) 466-2064
www.colognemn.com

Planning and Zoning Application Form

GENERAL REQUIREMENTS – Please read before completing the application.

The City will not begin processing an application that is incomplete. You will be notified within fifteen business days if your application is not complete. Applications deemed complete will be submitted to the City Planner for review. The City Planner will notify the applicant if additional information or modifications are necessary. The applicant is responsible for all information necessary to describe the land use/development request and may be required to submit additional information to fully explain the aspects unique to the request that may not appear on this application. Applicants are encouraged to review the applicable City Code (available at City Hall) related to their request.

Fees and escrow are due at the time an application is submitted (or the application will be considered incomplete). Fees and escrow are listed on the attached sheet. Please note that the applicant is responsible for all planning, legal, engineering, publication, notification, and other expenses related to the application.

Certain applications, such as variances and sign permits, require Planning Commission consideration. Please check with the City Clerk to determine if your application requires Planning Commission consideration. If so, your completed application must be submitted four weeks prior to a regularly scheduled planning commission meeting. Completed applications that are submitted within four weeks of a regularly scheduled planning commission meeting may be considered at the next regularly scheduled meeting if time constraints allow, otherwise they will be considered at the following regularly scheduled meeting.

APPLICANT INFORMATION

Applicant(s) Greater MN Sign + Graphics

Property Owner(s) – (if different from applicant) Mid-County Coop

Property Street Address 700 Lake St West
Cologne, MN 55322

Applicant Mailing Address (if different from property address)

PO Box 129, Winsted MN 55395

Applicant Telephone (320) 485-2535 (day) (320) 282-6520 (eve)

Applicant Fax No. (320) 485-2878 E-mail signs@greatermnsigns.co

Applicant is: ☐ Owner ☒ Contractor ☐ Other _____

Type of Request(s):

- ☐ Site Plan Approval (Bldg permit may also be needed)
(Include Site Plan Review Requirements document)
- ☒ Variance
(Include Variance Addendum document)
- ☐ Building Alterations/Additions
(Bldg permit needed)
- ☐ Other _____
- ☐ Preliminary Plat ☐ Final Plat ☐ Lot Division/Combination
- ☐ Zoning Ordinance Amendment
(Include Zoning Amendment Information document)
- ☐ Sign Permit
(Include Sign Permit Addendum document)
- ☐ Interim Use Permit
(Include Interim Use Permit Information document)

****Please attach a site plan showing existing and proposed features, including setbacks.****

Brief description of request Mid County would like to put
lighted channel letters on the new fertilizer plant

Has a similar request on the subject site or any part thereof been previously sought? No

If yes, when? _____

Access to property _____

Project description and background (attach additional sheet(s) if necessary) We would like
to attach a 27' x 61" Tall lighted channel letters to
the wall facing Hwy 212 on the new fertilizer plant

I agree that all fees incurred by the City resulting from the review of this request are my responsibility and I will pay them in a timely manner.

Signature of applicant(s) Troy Felt Date 6/16/22

If Property Fee Owner is not the applicant, the Applicant must provide written authorization by Property Fee Owner in order to make application.

Signature of owner Brian Reiman Date 6.29.22

*****FOR CITY USE ONLY*****

Appl. Fee & Escrow \$ _____ Amount Paid \$ _____ Date _____ Ck # _____

Completed Application Received on _____ by _____

Current Zoning ____ Existing Land Use ____ Proposed Land Use ____ PID 40- _____

Legal Description _____

Collaborative Planning, LLC

Memorandum

To: Planning Commission (serving as Board of Appeals and Adjustments)
From: Cindy Nash, AICP, EDFP
Date: June 1, 2022
Subject: Variance – Size of Sign – Mid County Coop

The City has received a variance application for review and consideration.

Overview of Request

An application was submitted for a variance to exceed the size of sign permitted for Mid County Coop to install a sign consisting of approximately 137.25 square feet on the side of a building. The ordinance requires the following for wall signs:

(b) Wall signs.

1. Wall signs are permitted on each wall with street frontage, provided such signs do not exceed 10% of said wall area or up to 64 square feet in area, whichever is smaller. Wall signs may include individual signs for multiple businesses located within the same structure, provided such signs are similar in size, complementary in nature, and collectively do not exceed the maximum sign area permitted on a wall. The plane of the wall sign must be affixed to and parallel with the wall.

2. The average height of individual lettering on wall signs shall not exceed 15% of the height of the wall area the sign is affixed to or a maximum of 24 inches in height, whichever is less. The Planning Commission may vary the maximum lettering height if it is determined such lettering is not out scale with the total wall area or building facade or in instances where such wall signs face major roadways rather than local streets. Exceptions to lettering height may also be considered for first and last letters of a sign, for logos, or for emblems.

The property is zoned I-1 Industrial Park and is adjacent to TH 212. Given the size of the building, the applicant is requesting a larger sign so that the sign size is compatible with the building wall dimensions for a pleasing appearance.

Legal Background on Variances

Minnesota statutes on variances were amended in 2011 to reflect a “practical difficulties” standard, rather than the previously used “undue hardship” standard. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.

This request is being evaluated based on the “practical difficulties” standard rather than the standard included in the Cologne Code of Ordinances.

Evaluation of Request

In evaluating variance requests, the following questions should be considered:

1. Is the request a reasonable use of the land not permitted by the Zoning Ordinance?

Staff Note: The Zoning Ordinance prescribes for a maximum size of sign and letter height based on both wall dimensions as well as an overall maximum.

This building is one of the largest in Cologne. If the overall maximum didn't exist and only the wall calculation was utilized, the sign would be scaled to size in a way that is compatible with the ordinance requirements (occupying not more than 10% of the building).

2. Is the plight of the landowner due to circumstances unique to the property not created by the landowner?

Staff Note: The property is unique in Cologne for its size of lot and buildings. The proposed sign is designed to be compatible with the wall size.

3. Will the variance, if granted, alter the essential character of the locality?

Staff Note: The variance will not alter the essential character of the locality.

The Zoning Ordinance also requires that certain findings are made by the Board of Appeals and Adjustments as follows:

1. Granting a variance will not adversely affect the public health, welfare and safety and will not be detrimental or injurious to property or improvements in the neighborhood.

Staff Note: The proposed sign will likely appear more compatible than a smaller sign that may appear too small for the size of the building.

2. Strict interpretation or enforcement would result in a practical difficulty or unnecessary hardship that is neither self-created nor inconsistent with the intent of this chapter and the comprehensive plan.

Staff Note: The property is unique in Cologne for its size of lot and buildings. The proposed sign is designed to be compatible with the wall size. The Zoning Ordinance prescribes for a maximum size of sign and letter height based on both wall dimensions

as well as an overall maximum. This building is one of the largest in Cologne. If the overall maximum didn't exist and only the wall calculation was utilized, the sign would be scaled to size in a way that is compatible with the ordinance requirements (occupying not more than 10% of the building).

3. There are exceptional or extraordinary circumstances or conditions applicable to the property, use or facilities that do not apply generally to other properties in the same district.

Staff note: The property is unique in Cologne for its size of lot and buildings. The proposed sign is designed to be compatible with the wall size.

4. Strict or literal interpretation would deprive the applicant of the use and enjoyment of his property in a manner similar to others in the same district.

Staff note: Without the variance, the sign that could be installed would be visually too small for the scale of the building.

5. Granting of the variance will not allow a use which is otherwise not a permitted use in the zoning district in question.

Staff Note: Signs are a permitted accessory use.

Recommendation

Staff recommends approval of the variance subject to the terms and conditions listed in the draft resolution.

VARIANCE ADDENDUM

VARIANCE REQUEST INFORMATION – Complete this section only if you are requesting a variance. Attach additional sheets or documentation if necessary.

Description of Variance Requested – Please describe your variance request:

The lighted channel letters sign that we are putting up is bigger than the allowed footage. The sign would be 27ft wide by 61" Tall

Variance History – Use this area to include any past variances on the property as well as any neighboring properties.

none

7.01 Variances

A. Board of Appeals and Adjustments

The Planning Commission shall act as the Board of Appeals and Adjustments and shall have the power to hear and decide requests for the following:

1. Interpretation: Hearing appeals where it is alleged that there is an error in a decision or judgment made by an administrative officer in the interpretation or enforcement of this Ordinance or in the interpretation of zoning district boundaries.
2. Variances: Grant variances from literal ordinance requirements in instances where strict enforcement would cause undue hardship because of circumstances unique to the individual property under construction.

B. Variance Procedures

1. Applications provided by the City must be completed in writing prior to any consideration of variance petitions. Fees for variances are established by resolution of the City Council.
2. The Board of Appeals and Adjustments may require the applicant to provide ten (10) copies of plans, maps, surveys, etc., as deemed necessary, to ensure proper review and consideration of variance petitions.
3. After filing an application, the City Clerk shall set a date for a public hearing. Notice of the hearing shall be posted and published at least ten (10) days prior to the date of the hearing, and notice shall be mailed to each property owner within three hundred fifty (350) feet of the property to which the variance relates. Defects in the notice or failure to notify individual property owners shall not validate the proceedings, provided a good faith effort was made to comply with these provisions.
4. Upon the hearing request, the Board of Appeals and Adjustments shall either approve or deny the variance and shall state the reasons for said action. Conditions for approval may be attached to any variance granted.

5. Findings: The Board of Appeals and Adjustments must find as follows in the granting of a variance from this Ordinance: (Please respond to each of the findings below, you may attach additional sheets if needed.)

a. Granting a variance will not adversely affect the public health, welfare and safety and will not be detrimental or injurious to property or improvements in the neighborhood.

Applicant's response There will be no adverse affects.

b. Strict interpretation or enforcement would result in a practical difficulty or unnecessary hardship that is not self created, that is inconsistent with the intent of this Ordinance and the Comprehensive Plan.

Applicant's response yes

c. There are exceptional or extraordinary circumstances or conditions applicable to the property, use or facilities that do not apply generally to other properties in the same district.

Applicant's response we do not expect any issues or problems will be created

d. Strict or literal interpretation would deprive the applicant of the use and enjoyment of his property in a manner similar to others in the same district.

Applicant's response yes, it would.

e. Granting of the variance will not allow a use which is otherwise not a permitted use in the zoning district in question.

Applicant's response correct

6. A variance granted but not used shall become void one (1) year after its effective date.

7. No application for the same or essentially the same variance shall be made within six (6) months of the date of denial.

C. Variance Appeal Procedures

Within thirty (30) days of the action of the Board of Appeals and Adjustments, the applicant or an affected property owner may file an appeal to the City Council to the decision of the Board of Appeals and Adjustments. The City Council shall set a date for a public hearing, within forty-five (45) days of receipt of the appeal, to consider granting or denying the variance request.

I understand the preceding standards for variances and hereby submit my application for variance.

Applicant's Signature [Signature] Date 6/15/22



**CITY OF COLOGNE
BOARD OF APPEALS AND ADJUSTMENT
RESOLUTION NO. 22-02**

**RESOLUTION APPROVING A VARIANCE TO INCREASE THE SIZE OF A SIGN
PERMITTED AT MID COUNTY COOP**

WHEREAS, Mid-County Co-op Oil Association (“Applicant”) is the applicant for a variance related to property located at 315 Paul Avenue North and PID #400140700; and

WHEREAS, the property is zoned I-1, Industrial Park; and

WHEREAS, the Applicant had applied for a variance to increase the size of a sign; and

WHEREAS, the zoning ordinance require that wall signs shall not exceed a maximum of 64 square feet; and

WHEREAS, Minnesota Statute Section 462.357, subd. 6 provides:

- a. Variances shall only be permitted (a) when they are in harmony with the general purposes and intent of the ordinance and (b) when the variances are consistent with the comprehensive plan.
- b. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. “Practical difficulties,” as used in connection with the granting of a variance, means that (a) the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; (b) the plight of the landowner is due to circumstances unique to the property not created by the landowner; and (c) the variance, if granted, will not alter the essential character of the locality.

WHEREAS, the public hearing was properly noticed and scheduled for July 5, 2022; and

WHEREAS, the application and staff report were reviewed by the Board of Appeals and Adjustment at its meeting on July 5, 2022; and

NOW, THEREFORE, BE IT RESOLVED, the Board of Appeals and Adjustments makes the following findings:

1. The proposed variance is a reasonable use of the land. The Zoning Ordinance prescribes for a maximum size of sign and letter height based on both wall dimensions as well as an overall maximum. This building is one of the largest in Cologne. If the overall maximum didn’t exist and only the wall calculation was utilized, the sign would be scaled to size in a way that is compatible with the ordinance requirements (occupying not more than 10% of the building).

2. The property is unique in Cologne for its size of lot and buildings. The proposed sign is designed to be compatible with the wall size.
3. The variance would not alter the essential character of the locality.

NOW, THEREFORE, BE IT FURTHER RESOLVED, the Board of Appeals and Adjustments makes the following findings:

1. Granting a variance will not adversely affect the public health, welfare and safety and will not be detrimental or injurious to property or improvements in the neighborhood. The proposed sign will likely appear more compatible than a smaller sign that may appear too small for the size of the building.
2. Strict interpretation or enforcement would result in a practical difficulty or unnecessary hardship that is neither self-created nor inconsistent with the intent of this chapter and the comprehensive plan. The property is unique in Cologne for its size of lot and buildings. The proposed sign is designed to be compatible with the wall size. The Zoning Ordinance prescribes for a maximum size of sign and letter height based on both wall dimensions as well as an overall maximum. This building is one of the largest in Cologne. If the overall maximum didn't exist and only the wall calculation was utilized, the sign would be scaled to size in a way that is compatible with the ordinance requirements (occupying not more than 10% of the building).
3. There are exceptional or extraordinary circumstances or conditions applicable to the property, use or facilities that do not apply generally to other properties in the same district. The property is unique in Cologne for its size of lot and buildings. The proposed sign is designed to be compatible with the wall size.
4. Strict or literal interpretation would deprive the applicant of the use and enjoyment of his property in a manner similar to others in the same district. Without the variance, the sign that could be installed would be visually too small for the scale of the building.
5. Granting of the variance will not allow a use which is otherwise not a permitted use in the zoning district in question. Signs are a permitted accessory use.

BE IT FURTHER RESOLVED, the City Council approves a variance to permit a wall sign not to exceed 138 square feet, subject to the following conditions:

1. A building permit shall be secured for the sign, which shall be constructed in substantial conformance with the plans submitted with the application for a variance.

2. All funds owed to the City for the processing of this application shall be paid in full prior to the issuance of a building permit.
3. The variance shall expire if these conditions are not met and a building permit application is not received for the property by July 5, 2023.

Date: July 5, 2022

Approved:

Bernie Shambour
Planning Commission Chairperson

Attested:

Michelle Morrison
City Clerk

ORDINANCE NO. 122-A
AN ORDINANCE AMENDING THE
CITY OF COLOGNE CODE OF ORDINANCES

The City Council of the City of Cologne ordains the following amendment to Section 151.05 (Safety Fence Required) of Title XV (Land Usage) of the City of Cologne Code of Ordinances:

SECTION 1 Section 151.05 “Safety Fence Required” subsection (A) “Fence Required” is amended in its entirety to read:

(A) A fence, so as to inhibit climbing, at least 4 feet but no more than six feet in height shall completely enclose the pool. All openings or points of entry into the pool area shall be equipped with self-closing, self-latching gates or doors. All gates and doors shall have a latch which shall be so constructed and so placed as to be inaccessible to small children. All gates and doors shall be latched when the pool is not in use. Any opening between the bottom of the fence and the ground shall not exceed three inches. All fencing shall not have a distance of more than three inches between slats or sections.

SECTION II Ordinance No. 122-A was adopted July 5, 2022 and shall become effective upon publication in the official newspaper.

Matt Lein, Mayor

ATTEST:

Michelle Morrison
City Clerk

Published in the NYA News and Times

Edina:

Fence. All pools shall be completely enclosed by a nonclimbing-type fence. All fence openings or points of entry into the pool area enclosure shall be equipped with gates. The fence and gates shall be at least four feet in height and shall be constructed of number 11-gauge woven wire mesh corrosion-resistant material, or of other materials approved by the building official. All gates shall be equipped with self-closing and self-latching devices placed at the top of the gate or otherwise inaccessible to small children. All fence posts shall be decay or corrosion-resistant and shall be set in concrete bases, or other suitable protection. The openings between the bottom of the fence and the ground or other surface and the openings between the vertical pickets shall not be more than four inches. Except a special purpose pool need not meet the fence requirement provided:

- a. The special purpose pool is equipped with a safety cover listed in accordance with American Society for Testing and Materials (ASTM) Standard F1346, Standard Performance Specification for Safety Covers and Labeling Requirements for All Covers for Pools, Spas and Hot Tubs.
- b. The safety cover is secured and locked in place at all times the special purpose pool is not occupied.

Special purpose pool: (1) The term "residential special purpose pool" means any basin for holding water which is designed for human use, 100 square feet or less in water surface area with a water depth greater than 24 inches at any point and which is accessory to a single-family residence and is available only to the occupants of a residence and their guests. The term "residential special purpose pool" includes, but is not limited to, treatment pools, therapeutic pools, whirlpools, spa pools and hot tubs.

(2) The term "residential special purpose pool" does not include temporary above ground pools.

Chaska:

Fences Enclosing Swimming Pools.

1. Required:

1. A safety fence shall be installed around all underground Swimming pools.
2. A safety fence shall be install around an above-ground Swimming pool. when the above ground swimming pool is accessory to a single-family dwelling, a safety fence is required if the pool is both grater than 24 inches i depth and more than 5,000 gallons
3. in capacity.

2. Height Restrictions:

1. A safety fence at least four (4) but no more than six (6) feet in height shall be constructed to completely enclose a swimming pool.

2. A safety fence of at least four (4) but not more than six (6) feet in height shall be constructed to completely enclose an above ground Swimming pool or the side of the pool above grade shall be a minimum of four (4) feet in height.
3. Construction and Design Requirements:
 1. Any opening between the fence bottom and the ground shall not exceed four (4) inches.
 2. Any opening within the fence shall not exceed four (4) inches.
 3. Pedestrian access gates for pool enclosures shall be self-closing and self-latching hardware. The release mechanism shall be placed no lower than 48" from grade. All other service gates and pool ladders shall have lockable hardware and be locked at all times when not in use.
 4. All such fences shall be constructed so as not to be easily climbable, and generally to prevent children from gaining uncontrolled access.
(Ord. No. 731, 12/16/2002)

Carver:

All swimming pools or spas that exceed both 5,000 gallon capacity and a 24 inch depth shall be constructed with a safety fence so as to inhibit climbing at least five feet in height that completely encloses the pool or spa. The safety fence may be less than five feet in height if a fence is constructed on top of the outside wall of an above ground pool or spa in such a manner that the wall of the pool or spa effectively serves as a part of the safety fence provided that the total combined wall and fence is not less than five feet in height and inhibits climbing. All openings or points of entry into the pool or spa area shall be equipped with gates or doors. All gates and doors shall have a latch which shall be so constructed and so placed as to be inaccessible to small children. All gates and doors shall be latched when the pool is not in use.

Waconia:

F. Fencing for Swimming Pools (All Districts).

1. A swimming pool shall be completely enclosed with fencing from four (4) to six (6) feet in height to prevent uncontrolled access from adjacent streets and properties. A building permit issued in compliance with Subdivision B above shall be obtained before any fence is constructed.
2. Notwithstanding anything to the contrary in Section 1 above, no fencing is required for an above ground pool that has both a capacity of less than 5,000 gallons of water and a water depth of less than twenty-four (24) inches.
3. If the wall of an above ground swimming pool is four (4) feet or higher, no additional four (4) foot fence is needed if the ladder is removable. If the wall of an above ground swimming pool is less than four (4) feet in height, a railing may be installed on top of the swimming pool wall to create a height of four (4) feet or greater and no additional fencing will be required if the ladder is removable. Provided all other applicable building permits are obtained, no separate building permit for fencing is required for pool walls or railing placed on top of pool walls.

4. No swimming pool shall be installed until all applicable building, mechanical and electrical permits are first obtained.