

**MSP ZONING ORDINANCE
BOARD OF ADJUSTMENT MEETING**

Monday, May 3, 2021

CALL TO ORDER

A meeting of the MSP Zoning Ordinance Board of Adjustment, having been duly called, was held Monday, May 3, 2021, via Teleconference. Roll call was taken and a quorum was established. Evan Wilson, Senior Attorney, called the meeting to order at 11:47 a.m. The following were in attendance:

BOARD MEMBERS PRESENT:

Baylor, Ginsberg, Koliso, Lawrence, Schubring

BOARD MEMBERS ABSENT:

None

STAFF PRESENT:

B. Anderson, G. Ballweber, C. Boyd, J. Felger, R. Fuhrmann, J. Laurent, H. Leide, B. Rief, E. Wilson, S. Zaczkowski

OTHERS PRESENT:

Chair King, MAC; L. Clarens, Kimley-Horn and Associates; N. Weingart, Ancoats; M. Berg, Clow Berg

1. SELECTION OF CHAIR

IT WAS MOVED BY COMMISSIONER SCHUBRING, SECONDED BY COMMISSIONER KOLISO, TO NOMINATE COMMISSIONER GINSBERG TO CHAIR THE BOARD OF ADJUSTMENT. THE MOTION CARRIED BY UNANIMOUS VOTE.

2. VARIANCE REQUEST

Chair Ginsberg stated the case to be heard is an application for variance from the height limitations of the Minneapolis-St. Paul International Airport Zoning Ordinance by Kimley-Horn on behalf of SICK Product & Competence Center, Americas, LLC, to allow use of temporary construction cranes in Phase 1 construction of the SICK facility.

Bridget Rief, Vice President – Planning and Development, reviewed the background information provided in the Staff Report regarding the variance request. Ms. Rief noted only Phase 1 is being considered at this time; future phases may generate significant concerns with impacts to runway use at MSP. Ms. Rief reviewed the facts of the case, the analysis that was completed, and a list of conditions recommended for granting the variance that are outlined in the Findings, Conclusions and Approval of Variance with Conditions contained in the Staff Report.

Laura Clarens, Kimley-Horn and Associates, thanked the Board for considering their application.

Chair Ginsberg provided an opportunity for any interested parties to address the Board. There was no comment from interested parties.

Chair Ginsberg closed the hearing and invited any discussion by Board members.

IT WAS MOVED BY COMMISSIONER BAYLOR, SECONDED BY COMMISSIONER SCHUBRING, TO GRANT THE VARIANCE REQUESTED BY KIMLEY-HORN and ASSOCIATES ON BEHALF OF SICK PRODUCT & COMPETENCE CENTER AMERICAS, LLC, FOR THE SICK CAMPUS – PHASE 1 CONSTRUCTION IN BLOOMINGTON, MINNESOTA, AND ADOPT THE ATTACHED FINDINGS, CONCLUSIONS AND APPROVAL OF VARIANCE WITH CONDITIONS.

THE MOTION CARRIED ON THE FOLLOWING ROLL-CALL VOTE:

BAYLOR:	AYE
GINSBERG:	AYE
KOLISO:	AYE
LAWRENCE:	AYE
SCHUBRING:	AYE

The meeting was adjourned at 12:05 p.m.

State of Minnesota
County of Hennepin

Zoning Jurisdiction under the MSP
Zoning Ordinance

MSP Zoning Ordinance Board of Adjustment

In the Matter of the Application/Petition for
Variance of Height Restrictions for the SICK
Campus – Phase 1

Findings, Conclusions and Approval of Variance with Conditions

After considering the request and the evidence presented, the MSP Zoning Ordinance Board of Adjustment makes the following findings and conclusions:

Findings

1. On March 30th, 2021, Kimley-Horn and Associates, on behalf of SICK Product & Competence Center Americas, LLC, submitted a request for variance from the strict application of the Minneapolis-St. Paul International Airport (Wold Chamberlain Field) Zoning Ordinance for construction of the proposed SICK Campus – Phase 1 in Bloomington, Minnesota.
2. The proposed development is located north of Lindau Lane, south of American Boulevard East, east of 24th Avenue South, and west of 28th Avenue South in the City of Bloomington. The SICK Campus - Phase 1 building construction will occur on vacant property where pre-existing buildings have been demolished. The proposed development lies within, and is considered an approved use within, MSP Zoning Ordinance Zone B and the Runway 35 Precision Instrument Approach surface.
3. The MSP Zoning Ordinance establishes height restrictions. The maximum height allowed without an Airport Permit is 50, 60, or 70-feet depending on the site location. The proposed permanent structure/building is designed to be 36-feet in height, with rooftop appurtenances adding another 6-feet, for a maximum facility height of 42-feet tall. **(The applicant must ensure no rooftop appurtenances or antennae exceed that height.)** The structure as proposed does not exceed the maximum zoning height therefore does not require a zoning variance.
4. FAA Determinations with Findings of No Hazard were received by the applicant for the permanent structure, which are attached in the application (Aeronautical Study Nos. 2020-AGL-2008-OE and 2020-AGL-2005-OE).

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5. The applicant has indicated the temporary cranes are proposed to operate at a height of 110-feet. This height penetrates the Runway 17 (Runway 35 end) Departure Initial Climb Area surface and the Runway 35 straight-ILS Final Approach Segment (FAS) and RNAV (GPS) LPV FAS. While these penetrations can be mitigated, they will require special conditions outlined below.
6. FAA Determinations with Findings of No Hazard were received by the applicant for the temporary cranes, indicating the proposal "does not constitute a substantial adverse effect on aeronautical operations or procedures because it is temporary". The FAA determinations are attached in the application (Aeronautical Study No. 2020-AGL-2493-OE, 2020-AGL-2494-OE, 2020-AGL-2033-OE and 2020-AGL-2034-OE).
7. The FAA "Determinations of No Hazard" for the SICK Campus Phase 1 include conditions including that the four temporary cranes shall be marked and lighted as outlined in chapters 4, 5, and 12, of Advisory Circular AC 70/7460-1K Change 2.
8. The temporary cranes will be in use for approximately seven months from August 2021 to February 2022.
9. The determination is based, in part, on specific location coordinates, heights, and durations. Any changes in these parameters will void the determination. Any future construction or alteration, including increase to heights, requires separate notice to the FAA.
10. The FAA determinations for the permanent structure expires on March 3, 2022 unless construction has started, or the determination is extended, revised, or terminated by the issuing FAA office.
11. The FAA determinations for the temporary tower cranes expire on March 3, 2022 unless the determination is extended, revised, or terminated by the issuing FAA office.

Conclusions

1. The variance request, as clarified, is a complete application for a variance from strict application of the MSP Zoning Ordinance. Any deviation from the description provided would require an additional zoning variance request.
2. A literal application or enforcement of the Horizontal Surface height restriction in Section IV.A.3 of the MSP Zoning Ordinance would result in practical difficulty or unnecessary hardship to the applicant due to the inherent necessity for these cranes to construct the project.
3. Granting the requested variance will, if all conditions are followed, have minimal effect if any on aircraft activity to and from MSP.
4. Granting the requested variance would not be contrary to the public interest and would be in accordance with the spirit of the MSP Zoning Ordinance.

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Approval of Variance with Conditions

Based on the Findings and Conclusions, the Board hereby approves a variance for the use of four temporary construction cranes inherently necessary for the construction of the SICK Campus - Phase 1 project as described in the application, subject to the following conditions:

1. All conditions of approval contained in the FAA Determination of No Hazard to Air Navigation for Temporary Cranes are complied with.
2. The temporary cranes used for construction must have the capability to be lowered if airport operations require it (see Conditions 7, 8, and 9).
3. MAC encourages the applicant to complete and submit a 1A survey (within 20' Horizontal/3' Vertical versus the current 250' Horizontal/50' Vertical) to provide for more accurate evaluation of potential impacts and reduce the times when the cranes may have to be lowered.
4. All exterior building lights and parking lot lights shall be designed and installed to direct light downward so as not to create glare issues for pilots.
5. The applicant will install exclusionary devices on the roof of the permanent structure if it should become a bird attractant, which could be hazardous to airport operations. In lieu of these devices, the applicant could work with MAC to identify for solutions related to the bird hazard, and be responsible for any costs associated with them.
6. The cranes are operated as defined in the FAA study, and that the booms of Cranes C1 and C2 will not swing closer to American Blvd or the Runway 35 extended centerline than the center of the crane. This is necessary to avoid introducing a more critical point than what has been studied to date.
7. When the cranes are not in use, the cranes will be lowered/stowed at the lowest possible elevation and pointed parallel to the extended runway centerline (pointed south, not north) to help minimize potential for NAVAID signal interferences.
8. It is critical to have Runway 35 CAT II/III approaches available, so cranes must be lowered/stowed at the lowest possible elevation and pointed parallel to the extended runway centerline (pointed south, not north) whenever inclement weather is experienced. MAC Airside Operations will work with the Air Traffic Control Tower and the applicant's construction contractor when conditions are approaching CAT II/III and cranes must be lowered.
9. In the unlikely event of a MAC declared emergency, such as the loss of a navigational aid critical to airport operations, the applicant at MAC's request, may be required to temporarily lower cranes until re-establishment of the critical navigation aid.
10. The variance shall terminate at the completion of project construction, but no later than June 30, 2022 or in the event that the FAA revokes it's determination of no-hazard.

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Adopted this 3rd day of May, 2021 by:

Ginsberg: Aye

Schubring: Aye

Koliso: Aye

Baylor: Aye

Lawrence: Aye

Attested to by *Joseph Gelzer*, Secretary