



**Request for City Council Committee Action
From the Department of Community Planning & Economic Development**

Date: September 15, 2004

To: Council Member Gary Schiff, Zoning and Planning Committee

Prepared by: Carrie Flack, Senior City Planner
Presenter in Committee: Carrie Flack, Senior City Planner

Approved by Neil Anderson, Supervisor, CPED Planning-Development Services

Subject: Appeal of the decision of the Zoning Board of Adjustment by Philip Nelson.

BZZ 1869 – 2700 Central Avenue NE – Philip Nelson has applied for a variance to increase the maximum permitted floor area ratio from 4,000 sq. ft. to 6,000 sq. ft. and a variance to reduce the required front yard setback along Central Avenue NE from 20 ft. to 0 ft. both to allow for the demolition of an existing 1,275 sq. ft. building and the construction of a new 6,000 sq. ft. building for use as a pet clinic.

RECOMMENDATION: The Board of Adjustment adopted the staff recommendation and denied both variances.

Previous Directives: N/A

Financial Impact (Check those that apply)

No financial impact - or - Action is within current department budget.

Community Impact

Other: See attached.

Background/Supporting Information

Philip Nelson has filed an appeal of the decision of the Zoning Board of Adjustment. The appeal is associated with the decision of the Zoning Board of Adjustment denying his requested variance to increase the maximum permitted floor area ratio from 4,000 sq. ft. to 6,000 sq. ft. and denying the variance to reduce the required front yard setback along Central Avenue NE from 20 ft. to 0 ft. both to allow for the demolition of an existing 1,275 sq. ft. building and the construction of a new 6,000 sq. ft. building for use as a pet clinic.

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The appellant has appealed the decision of the Board stating that the votes cast were irregular and should be reviewed further. The appellant further states that strict adherence to the code does not meet the spirit and intent of the ordinance and does not produce the most desirable layout for the site. The appellant's complete statement for the appeal is attached.

At the August 19, 2004 Zoning Board of Adjustment meeting, six (6) Board members were present. Three (3) members voted to adopt staff recommendation and deny the variances. One (1) member voted against the motion. One (1) member was re-cused from this item. One (1) member abstained from voting. The August 19, 2004 Zoning Board of Adjustment minutes and the Planning Division staff report are attached.

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Department of Community Planning and Economic Development – Planning Division Report

Variance Request
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Date: August 19, 2004

Applicant: Philip Nelson

Address of Property: 2700 Central Avenue

Date Application Deemed Complete: July 20, 2004

End of 60 Day Decision Period: September 18, 04

End of 120 Day Decision Period: November 17, 04

Appeal Period Expiration: August 30, 2004

Contact Person and Phone: Jim Moy, 763-561-5757

Planning Staff and Phone: Carrie Flack, 612-673-3239

Ward: 3 **Neighborhood Organization:** Columbia

Existing Zoning: C1, Neighborhood Commercial District

Proposed Use: Demolition of an existing building and construction of a new building for a animal hospital

Proposed Variance: A variance to increase the maximum permitted floor area ratio from 4,000 sq. ft. to 6,000 sq. ft. and a variance to reduce the required front yard setback along Central Avenue NE from 20 ft. to 0 ft. both to allow for the demolition of an existing 1,275 sq. ft. building and the construction of a new 6,000 sq. ft. building for use as a pet clinic.

Zoning code section authorizing the requested variance: (3) (1)

Background: The subject site is 19,150 sq. ft. and is located at the northwest corner of Central Avenue NE and 27th Avenue NE. The property consists of an existing building that totals 1,275 sq. ft. and approximately 20 parking spaces. The applicant is proposing to demolish the existing building where their pet hospital is currently located and construct a new 105 ft. x 56 ft. (6,000 sq. ft.) building on the property with 15 new parking spaces.

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The C1 District allows for a maximum gross floor area of 4,000 sq. ft. per use. A bonus to increase the maximum gross floor area to 6,000 sq. ft. may be obtained if parking is not located between the principal structure and the street. An additional bonus to increase the maximum gross floor area to 8,000 sq. ft. may be obtained if in addition to the aforementioned bonus, the building is 2 stories in height. The applicant is seeking a variance from the maximum gross floor area requirement of 4,000 sq. ft. to 6,000 sq. ft. Parking required for the pet clinic use is 7 spaces and the applicant will be providing 15 spaces on site. In addition, because residential zoning abuts the north property line of the subject site, a front yard setback that is 20 ft. deep x 40 ft. long is required adjacent to the north property line along Central Avenue NE. The building is proposed to be located on the property line along Central Avenue NE within the front yard setback and thus requires a front yard variance from 20 ft. to 0 ft.

The city has been in the process of improving Central Avenue NE as part of a 4 year corridor project. The city closed two existing curb cuts on the applicant's property on Central Avenue NE and provided a new curb cut for the applicant on 27th Avenue NE in a location specified by the applicant. The city advised the applicant to obtain any necessary approvals for any plans prior to the curb cut installation. Because the curb cut was installed prior to the approval of a new site plan, any cost to relocate the curb cut in compliance with the approved plans will need to be incurred by the applicant.

Findings Required by the Minneapolis Zoning Code:

- 1. The property cannot be put to a reasonable use under the conditions allowed by the official controls and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

Maximum gross floor area: The applicant is seeking a variance to increase the maximum permitted floor area from 4,000 sq. ft. to 6,000 sq. ft. to allow for the demolition of an existing 1,275 sq. ft. building and the construction of a new 6,000 sq. ft. building for use as a pet clinic. The applicant states that the variance is necessary because they are unable to locate the parking behind the building and utilize the bonus that would allow a gross floor area of 6,000 sq. ft. without a variance. Strict adherence to the regulations would allow for the building to be located along 27th Avenue NE with parking behind the building which would allow for the utilization of the gross floor area bonus. Staff has prepared a site plan sketch that locates the building and parking in compliance with the ordinance requirements. Staff believes that the property could be developed in accordance with the ordinance and a variance would not be necessary.

Front yard setback: The applicant is seeking variance to reduce the required front yard setback along Central Avenue NE from 20 ft. to 0 ft. The applicant is proposing to locate the building within the required front yard setback area. Strict adherence to the regulations would allow for the building to be located along 27th Avenue NE with parking behind the building which would allow for compliance with the front yard setback requirement. Staff has prepared a site plan sketch that locates the building and parking in compliance with the ordinance requirements. Staff believes that the property could be developed in accordance with the ordinance and a variance would not be necessary.

- 2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

Maximum gross floor area: The circumstances upon which the maximum gross floor area variance is requested are not unique to the parcel of property and have been created by the applicant. The applicant is proposing to demolish an existing building and develop a new building on the property. The property is 19,150 sq. ft. and there are no circumstances on the parcel of land that would prevent designing a site plan in compliance with the ordinance. The C1 Districts limits the maximum gross floor area per use to 4,000 sq. ft. but does allow for bonuses to increase the maximum gross floor area per use. The applicant could propose a site plan that locates the building and parking in such a manner that would qualify for one of the maximum gross floor area bonuses.

Although a new curb cut has recently been installed by the city on the property, the city did advise the applicant to receive approval of any site plans prior to determining the location of the curb cut. The city has been working with the applicant for the last couple years regarding the Central Avenue NE project. Staff was informed by Public Works that the location of the new curb cut was proposed in several locations along 27th Avenue NE before finally being constructed in the current location. Because the applicant did not receive approval from the city for a site plan prior to the installation of the curb cut, staff does not believe that this is a unique circumstance for this parcel of land. In addition, curb cuts are closed and re-constructed regularly within the city.

Front yard setback: The circumstances upon which the front yard setback variance is requested are not unique to the parcel of property and have been created by the applicant. As previously mentioned, the applicant is proposing to demolish an existing building and construct a new building on the property. The property is 19,150 sq. ft. and there are no circumstances on the parcel of land that would prevent designing a site plan in compliance with the ordinance. Staff prepared a site plan sketch that locates the building along 27th Avenue NE with parking behind the building, neither of which is in the front yard setback. Staff's sketch indicates only a drive aisle within the front yard setback which is permitted.

- 3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

Maximum gross floor area: Granting the variance will not be in keeping with the spirit and intent of the ordinance and will alter the essential character of the area or be injurious to the use or enjoyment of other property in the vicinity. The intent of the C1 District is to provide a convenient shopping environment of small scale retail sales and commercial services that are compatible with adjacent residential uses. In addition to commercial uses, residential uses, institutional uses and public uses, parking facilities, limited production and processing and

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public services and utilities are allowed. The C1 District allows for a maximum gross floor area of 4,000 sq. ft. per use. A bonus to increase the maximum gross floor area to 6,000 sq. ft. may be obtained if parking is not located between the principal structure and the street. An additional bonus to increase the maximum gross floor area to 8,000 sq. ft. may be obtained if in addition to the aforementioned bonus, the building is 2 stories in height.

The subject site is 19,150 sq. ft. and consists of a 1,275 sq. ft. building that will be demolished. The applicant is proposing to construct a new 6,000 sq. ft. building. The spirit and intent of the C1 District allows for a greater maximum floor area per use subject to meeting the requirements for a gross floor area bonus. These requirements deal with the location of on-site parking and the height of the building to maintain urban characteristics and strengthen corridors and neighborhoods within the city. Granting a variance that allows for the construction of a building that could otherwise be permitted with bonuses based on a project that is designed to meet the bonus criteria circumvents the spirit and intent of the ordinance. Staff prepared a site plan sketch that locates the building at the corner in order to provide a more substantial anchor at the intersection versus a parking lot. Staff believes that the subject property is not unique in its shape, size, or location and could be developed in compliance with the ordinance requirements to meet the spirit and intent of the ordinance. In addition, staff believes that the project could be injurious to the surrounding area as the city has spent significant resources improving the Central Avenue NE corridor. Staff believes that new development proposals should reflect compliance with the zoning ordinance to protect infrastructure and corridor investments made by the city.

Front yard setback: Granting the variance will not be in keeping with the spirit and intent of the ordinance and will alter the essential character of the area or be injurious to the use or enjoyment of other property in the vicinity. The front yard setback requirement provides a buffer between residential properties and commercial properties. Although the property north of the subject site is a cemetery zoned R2B, staff believes that the property can be developed in compliance with the ordinance.

4. **The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

Maximum gross floor area: Granting the variance would likely have no impact on the congestion of area streets, increase fire safety or be detrimental to the public welfare or endanger the public safety.

Front yard setback: Granting the variance would likely have no impact on the congestion of area streets, increase fire safety or be detrimental to the public welfare or endanger the public safety.

Recommendation of the Department of Community Planning and Economic Development Planning Division:

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The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the findings above and **deny** the variance to increase the maximum permitted floor area ratio from 4,000 sq. ft. to 6,000 sq. ft. and **deny** the variance to reduce the required front yard setback along Central Avenue NE from 20 ft. to 0 ft. both to allow for the demolition of an existing 1,275 sq. ft. building and the construction of a new 6,000 sq. ft. building for use as a pet clinic.

This recommendation is based on the fact that the subject site can be developed in compliance with ordinance requirements without the requested variances by incorporating the following:

1. That the Planning Division review and approve final site, landscaping, floor, and elevation plans.
2. That the plans be revised to provide the building located at the corner of 27th Avenue NE and Central Avenue NE with 5 ft. landscaped setbacks from the property line.
3. That the driveway be relocated to the west side of the new building location with a 5 ft. landscaped setback from the west property line.
4. That parking be provided behind the building, outside the front yard setback, which would allow the project to qualify for the gross floor area bonus for up to a maximum of 6,000 sq. ft. on the property.
5. That the plans be revised to reflect an entrance facing Central Avenue NE.
6. That no outdoor kennel runs be installed, operated, or utilized on the subject site at any time and that animals walked outside remain on a leash.
7. That the snow storage area be located north of the alley access and be landscaped green spaces versus a gravel surfaced area.
8. That the revised plans reflect the new Central Avenue NE configuration.
9. That the revised plans include drainage elevations and an erosion control plan.

**Board of Adjustment
Hearing Testimony and Actions**

Thursday, August 19, 2004
2:00 p.m., Room 317 City Hall

Board Membership: Ms. Debra Bloom, Mr. David Fields, Mr. John Finlayson, Mr. Daniel Flo, Mr. Paul Gates, Ms. Marissa Lasky, Mr. Barry Morgan, Mr. Peter Rand

Board Members Absent: Ms. Debra Bloom, Mr. Barry Morgan

The Board of Adjustment of the City of Minneapolis met at **2:00 p.m.**, on **Thursday, August 19, 2004**, in **Room 317 City Hall**, Minneapolis, Minnesota, and considered the request for the following item:

7. 2700 Central Avenue Northeast (BZZ-1869, Ward 3)

Philip Nelson has applied for a variance to increase the maximum permitted floor area ratio from 4,000 sq. ft. to 6,000 sq. ft. and a variance to reduce the required front yard setback along Central Avenue NE from 20 ft. to 0 ft. both to allow for the demolition of an existing 1,275 sq. ft. building and the construction of a new 6,000 sq. ft. building for use as a pet clinic on property located at 2700 Central Avenue Northeast in District C1, Neighborhood Commercial District.

CPED Department Planning Division Recommendation by Ms. Flack:

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the findings above and **deny** the variance to increase the maximum permitted floor area ratio from 4,000 sq. ft. to 6,000 sq. ft. and **deny** the variance to reduce the required front yard setback along Central Avenue NE from 20 ft. to 0 ft. both to allow for the demolition of an existing 1,275 sq. ft. building and the construction of a new 6,000 sq. ft. building for use as a pet clinic.

TESTIMONY

Staff presented their report and recommendation to the Board of Adjustment.

Finlayson: Questions? I see none. Thank you. Is the applicant present?

I am **Dr. Philip Nelson**, veterinarian, 2700 Central Avenue Northeast. I have been on Central Avenue since 1976. I have been a veterinarian for 32 years. I used to live two blocks away for many years on Quincy Avenue. I have owned that property there, which was formerly a Texaco Gas Station. I bought the property in 1981 and in 1982 I converted it into an animal hospital. I was located previous to that down the street in a store front on 2516 Central. Let me just address one thing about the lot. A comment was made about the curb cut there. I had four curb cuts there when it was a service station. I blocked off two of the curb cuts on Central Avenue, because when they put a no turn on red in the intersection going south on Central, I got all kinds of traffic coming through my lot. People were driving through there at 20 miles per hour. I almost got the front end of my truck taken off one day and

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had several clients who were walking across the parking lot that got chased away by cars coming through there, especially during rush hour. So, I blocked those off. I wasn't necessarily in disfavor of eliminating those as long as I had a place to get in and out of there conveniently. That left the two curb cuts on 27th. I talked to the people running the project about taking one, they proposed taking the one closest to Central and leaving the other one. I talked to them about maybe moving the remaining curb cut, trying to eliminate a power pole that is there that really doesn't serve much of a purpose anymore. Their solution was to move the power pole to a spot where I did not want it and after looking at it I told them to leave that last curb cut alone, so they never did replace a curb cut. What they did was take away three curb cuts away from me, the curb cut that I am now using, the curb cut that has been there since 1955 when they built that gas station. So, in essence I saved the city a bunch of money by not having to have that thing replaced.

My architect Jim Moy is here and I am going to let him address the other issues and maybe something else that I can add to his comments there. Our plan is, I have been in business on the avenue since 1976, I don't have any place to go. The intent is that we are going to build a new building that will partially surround the building that I am in, and work in that building until the new one is completed enough that I can move into it, we will then demolish the other building. So there is no intent to take that building down and then build another building. I intend on being able to remain on the site and continue in business and just move. It will be a little hectic, but we can work through that. Where that building sits on the property makes it a little bit difficult to build something and still stay in business while I do it, and that is how that was designed. I'll let Jim talk to you, and if you have another question, I'll address those.

Finlayson: Thank you.

I am **Jim Moy** with Blumentals Architecture. Our office is at 6235 Earle Brown Drive, Brooklyn Center, Minnesota. This is just the Zoning Map of the area to get you a little familiar with the area that we are taking about. The site is C1 and on the corner of Central and 27th. Across the street here is a funeral home and a Walgreens on this corner. The corner to the south is a car lot. Up and down Central there are various zonings from C1, C2, C4, C1, C2, it is back and forth a little bit there. Just a little bit closer showing the same information just up close, the new pet hospital will be at this corner here, the funeral home is here, parking in the rear, set back from the corner is Walgreens, same thing building is in the back, parking in the front. Then there is a car lot at the corner, which is basically a shack with cars around it. Then our site itself with a new building on the north side, parking right at the intersection and green space around it. The information we are addressing is four issues basically. We hope to show you that we are responding environmentally, being environmentally responsible, respectful to the adjacent sites and efficient site use.

The first item was that the property cannot be put to reasonable use under a condition allowed by the official controls and strict ordinance to the regulations of this zoning ordinance, would cause undo hardship. Under maximum gross floor area, the lot is at a corner of two streets and it is impossible to place the parking behind the building. The scheme that the staff came up with is basically just flipping the pet hospital with the parking. So, the parking is still adjacent to the building, it is not behind the building. It is behind the building from 27th, but that is the minor street and Central Avenue is definitely

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the major street in that area, and their proposal is still not putting the parking behind the building. The staffs plan also puts the main drive into the parking against the west lot line, adjacent to the apartment building, which would bring all the traffic to the pet hospital past this building and to parking behind the building, which would be creating more noise and traffic for that apartment. For the front yard setback, the setback that is required is 20 feet for the first 40 feet of the property for the R2B zone is intended to soften the edge between a residential zoning district and commercial district. The site directly to the north is a cemetery, where there is not a line of houses that we are respecting with that 20 foot setback. That is in this area here.

The second item was the circumstances are unique to the parcel of land for which the variance was sought and have not been created by any person presently having an interest in the property, and economic consideration alone should not constitute an undue hardship. Maximum gross floor area, we really don't have an issue with that, because their proposed plan is showing that we can go the 6,000 if we can get the parking behind the building, which their plan is not showing that. We don't see that that is really an issue at this point. We are proposing to place the building along the north property for many reasons. It will create a buffer between the busier commercial zone and the quiet cemetery. We are putting a wall up against the cemetery not the parking area that would have a lot of traffic in it, if there is a funeral or services within the cemetery. We are providing a blank wall that will be quiet compared to a parking lot with in and out traffic. The driveway access is not adjacent to a residence, we are using the curb cut, like Dr. Nelson stated was existing, we have no problem with moving it, but it works where it is, so we planned on using it. The entrance will face the south which takes obviously advantage of the winter sun, to keep the sidewalk and things like that free from ice. The building requires many rooms with no windows, such as the kennel space, treatment rooms, surgical suite, those are the items that we are putting on the north wall. The south wall has the retail space, the reception area and the exam rooms that customers are coming in and out of. We are putting the windows on the south side where they will be used and beneficial to both the public and the building itself. The lot in question is a corner lot and it is impossible not to have parking between the street and the building. There is going to be parking between one of the streets, and we are being respectful to the main corridor, which is Central Avenue by bringing the building up to the front and creating that urban environment which we believe the city is also trying to improve along that area.

The third item in granting the variance is keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or in being injurious to other properties in the vicinity. I mentioned on this one, the other buildings in that intersection are setback from the intersection itself. We are blending into that local community itself. We are being respectful to the neighbors to the north as I mentioned keeping the noise and parking away from the lot line and keeping the parking over on the Central Avenue area. The front set back requirement, this will be the only corner in the intersection that will be following the intent and spirit of the ordinance by placing the building up to the sidewalk. The other building that is up to the sidewalk is a shack used by the car lot. The other two buildings are setback from the sidewalk. The other three corners are C2 and have building sizes of 30,000 square feet with no restrictions on location of the parking. We are C1 with some restrictions and are trying to work we feel is best in the intent with the ordinance.

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Item four was the staff said that there was no comments on that, no work. We are fine with that. We are adding that we are being environmentally responsible by adding green space where there is none existing, we are adding more than what is required. Adding buffers between this lot and the adjacent, it is required between us and the apartments next to us and we have no problem with that, but we are also creating a buffer we feel for the cemetery. Replacing the entrance on the south side takes advantage of the sun during the winter season. Respectful to adjacent sites, the building is buffering the cemetery of course. Keeping the major traffic flow away from adjacent apartments, keeping the entrance off of Central of the building itself provides a safe entrance for the pets into and out of the building reducing the chance that a dog or cat getting into traffic. When he was in the store front that was a problem. It is just a situation that we don't want to make worse, so keeping it on the south side there is a benefit for safety of the animals themselves. Efficient site use, we have placed the parking and building on the site providing more space that is required. We also feel that the maximum gross floor area is not in question because it is allowed in the zoning ordinance if provisions are met. Our placement of the parking lot is the same as the staff suggestion but along Central Avenue which is the main street along the intersection, not 27th. We also feel that the front yard setback variance should be granted because by placing the building up to the street we are creating a better buffer to the cemetery than if we would use the staff suggested plan and place the active parking lot adjacent to the cemetery. Thank you for your consideration.

Finlayson: Anyone else to speak?

Dr. Philip Nelson: I forgot to mention two things. Did Council Member Samuels send you a letter that got included in your update stuff? Okay. He looked at it and he was very much in favor with doing this. I also spoke to Kevin Reich (sp?) the head of the Holland Neighborhood Group, and he was very supportive of doing it, actually liked the green space out on the corner of 27th. Apparently there is a bike path that will be incorporated in/along the west side of Central Avenue which they have ideas about connecting to a park farther down Central Avenue, which would bring them around in front of there, so he actually liked the idea of having greenery out on the corner.

Finlayson: Thank you. Anyone further to speak? I see no one. Close the public portion of this item. Board comment please.

Rand: I would like to recuse myself and I am not going to walk around the table. Blumentals, the Dr.'s architect is a client of mine. But I want to speak on behalf of the resolution from the floor. This is a simple issue of is the building too big? Is the building setback correctly? There is all kinds of reasons the building isn't too big in terms of the fact that the variance possibilities for bonus's and having it even be bigger than what is proposed exists already. So the site itself is not an encumbrance to that and the zoning of the site is not an encumbrance to that. The setback is almost, well I'll use the word, a folly, folly because it is not really obvious on these drawings or emphasized enough that the northeast corner of this site, the edge of the cemetery and the edge of Central is where there is a notch to be taken out of, 40 feet by 20 feet. Twenty feet back from Central and forty feet south of the cemetery. The purposes for that are because it is required because the cemetery is the one that is residential. I don't think the neighbors will be complaining for quite a while, they already haven't for 150 years. The cemetery has been there that long. So, you have two unique reasons that there is a reason to oppose it

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and I appreciate the staff's willingness to enforce the zoning code of ordinances. But I think that both of these are easily overcome by the site and the possibilities of a larger building. The final issue I think is should the building mass be where it is as proposed by the architect or should it be on the south edge of the property? I am biased because I am an architect and so the architect has studied this thoroughly in terms of where should this rectangle of space be. Both for the neighbors, for the site, the street, intersection, the parking, everything embodied in it or should it be up against the cemetery? Their belief and is that I share is to be up against the cemetery, rather than down right at the corner. Thank you!

Finlayson: Further comment? Mr. Gates?

Gates: I am going to take the contrary point of view. It seems to me that staff has taken a fairly sensitive look at it and is trying to locate the building in a way that is consistent with more or less a contemporary thinking about how we build cities. That we bring buildings to the sidewalk and set parking behind them to try to mitigate the presence of the automobile within the city. Listening to the comments from the applicant, we need to find a hardship if we are going to vote in anyway contrary to what staff is recommending. Everything that I see about the site, and the project, seems to me to make it a fairly conventional project. And most of your comments talked about how it was advantageous in many ways from your perspective to locate the building this way, but I didn't hear much that had to do with actual hardship as to why you cannot do it the way that staff is recommending or perhaps even locate the building even more fully on Central Avenue, I am not quite sure why staff didn't go to that extent. But it seems to me that there are alternatives which might be more appealing from an urban point of view. I did hear the one comment about trying to keep the business on the site operating during construction. That is certainly a worthy goal, isn't a hardship which is unique to the site. It is more about the property and the business and the use of the property during construction. So to me that is not a significant hardship, so from boring other testimony, I am in favor of the staff's opinion of this.

Finlayson: Question on this?

Dr. Philip Nelson: Could I make a comment on this?

Finlayson: Go ahead.

Dr. Philip Nelson: If you look at the property there, the way that lot is came about in the 1950's. That's an eight-plex that sits behind there I have one full lot and parts of two other lots. Lot one runs east-west, and it runs from Central Avenue to an alley that comes back into the cemetery there. Sometime in the early 50's that building that sits behind me there sits on the back of lots two and lot three. That building in the early 50's was located further down Central Avenue. Someone moved it over there and the city allowed them to split off the back corner of lot two and lot three. That is why it is sitting that way. And if it wasn't for that, I would be able to do something I think a lot different there, I didn't create that situation, that happened long before I bought the property. I have tried to buy that building from the fellow that currently owns it and he is not interested in selling it right now, but if that building was available we wouldn't be having this discussion because as I would tear it down and I would have a much better plan.

Finlayson: Thank you.

Flo: A quick question for staff. Carrie, on your sketch the curb cut is between the apartment and the building. Correct?

Flack: Correct.

Flo: So you drive between the buildings to the parking space in back?

Flack: Correct. And I believe on their plan they have a drive aisle shown in a similar location. I know Public Works had some concern with that. If you adopt their plan they would need to post signs so it would be noted as just “one way”, so that people are not trying to travel in two directions there. If you look at the plan they are proposing it comes in from the alley and kind of snakes down in front of the building and then creeps into their parking lot.

Rand: That is not true. There is no traffic that comes in from the alley.

Flack: There is access to the alley. Traffic can come from there, whether they will or not, they can. The alley is not being blocked off.

Finlayson: Further comment or a motion?

Gates: I move staff recommendation.

Finlayson: Is there a second? I hear no second. Is there another motion?

Fields: I don't have a motion. I am just totally divided on this. I have to say, I am not a professional, I am just staff. But, I have to agree with Peter. There is just something that bothers me. It is such a peculiar parcel. I am just not seeing what can be gained necessarily by switching the parking and the building around. In many ways I find the site and parking right off of 27th more appealing than where it is located in the staff recommendation. It also creates a more complicated access. Mr. Gates I am not finding any compelling hardship to deny the validity of the staff's recommendation, it's a very creative solution. There is a lot of very specific things that can be done and still make it a very workable property and business. That is why I am stuck.

Finlayson: I guess the thing that bothers me about the staff recommendation, is that the drive aisle goes right by the apartment building.

Fields: Yes.

Flo: I will make a motion to grant the variances as requested by the applicant on the condition that the Planning Department review and approve the final site plan and condition two is that access to the building from the alley be limited even only by signage that restricts it to.

Flack: That alley access to the building is restricted?

Flo: Correct?

Finlayson: Is there a second? I would appreciate a second. I have work sitting on my desk.

Dr. Philip Nelson: Can I clarify something? Access to the alley, I assume you are saying that we can get in from that alley, because my intent is I need to get in from that alley with what I have there.

Flo: I kind of ran out of steam, my intent was to restrict access by patrons from the alley.

Dr. Philip Nelson: Yes, I understand it. It is not our intent to have anyone drive through there at all. The reason for leaving that open is to help maybe eliminate some snow and stuff, but I need to get at through the alley so I can get a truck and some things brought into the building that way rather than through my front door. That is why I need to get in that way.

Flo: Absolutely, and I did not mean to restrict business access to that portion, but it may be a mute point.

Finlayson: I can't second it, would someone else? Second one of these motions?

Fields: I'll go ahead and second the latest motion that was put out by Dan.

Finlayson: Any further comment?

Gates: Yes. I find this just amazing and appalling that we are going this route. This is against every current line of thinking about how we build cities, which is to not build them the way the suburbs are built, where the car and the big parking lot is in front of the building. It is completely contrary to everything that has been done in the way of suburban design over the past 50 years. The Zoning Ordinance and the Minneapolis Plan are very clear about locating parking behind the building and they are granting the possibility of a bonus if in fact you do that. And the applicant is here saying we want the bonus, but does not want to comply with the parking requirement. And I cannot see any legitimate reason why we cannot, there is the staff's quick take at a site plan, there are probably two or three others that could be done. In fact one that I can think of is better than staff's, but I do not see any compelling reason to grant this, and lots of reasons not to grant it.

Lasky: I am bothered by the amount of parking in the front, and they could probably compromise the amount of parking. But, I want to rotate that building. The only thing that is compelling to me, which is not a hardship by our definition is that he can still operate his business while the construction is going on and I sympathize with that, but I am having tremendous difficulty with the parking in the front.

Rand: I would like to be able to release from the audience. Front and behind is relative from a corner. It's a corner lot, so Paul, I understand what you are saying, I read the same literature and so on. What is behind the building on one scheme, is also behind the building on another scheme, the only true behind,

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I think, is if the building were a rectangle that paralleled Central Avenue that put the parking behind it. That would be to the west of it, that would be truly behind the building. I see nothing in this particular scheme.

Flo: I would say that I am sensitive also to Mr. Gates comments and theories, and notwithstanding, I look around at the pictures of this area and I think that and I don't necessarily think that its a case that if the applicant cannot build to his proposal that he will not build it at all. Nevertheless I am sensitive to how nice and potentially an anchor this could be for this intersection and for this neighborhood. Hopefully promoting continued growth in that direction.

Fields: We are getting into urban design arguments here. I sympathize with Mr. Gates coming from a neighborhood where we want to see this. I am just saying from my judgment I am agreeing with the comment from the audience, Mr. Rand's. That the address of this property is 2700 Central and I consider that the front yard. All we are doing is switching access to parking lots along Central from north to south. I wish it could be done differently. I wish the building were oriented to Central and the parking were in back. But I don't see anything being gained by calling the front entrance off 27th and saying that necessarily is creating parking in front of a building just because the front entrance is right there.

Gates: I know it is dragging on.

Finlayson: Last comment.

Gates: Staff has made a good effort here and maybe in some ways they have done us a disservice by providing an alternative, because we tend to be focusing on the alternative as though it was the only possible alternative, and in fact I do not think it is. I think that a building that was perhaps L shaped and dragged itself along both streets and vacated more space for parking behind would be more sensitive to both Central and 27th, than putting the building wholly on 27th as staff suggests. But that notwithstanding, I do think that the staff solution is better than what is being submitted. I think that building out the corner, the intersection, putting the building mass at the intersection will be a far more compelling urban condition than vacating the corner and putting a parking lot there. No other corner does that, and we need to be setting a precedent here, this is going in the opposite direction.

Flo: Mr. Chair, I will withdraw my motion. And if you need an explanation I will do so.

Fields: He is withdrawing the motion?

Finlayson: He is withdrawing. You seconded it.

Fields: Yes, I will withdraw my second. I am at the very point here where I do not agree with the whole configuration of the building, I am not even going to vote on this matter.

Finlayson: Is there another motion?

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Gates: Yes, I move that we approve the staff recommendation.

Flo: Second.

Finlayson: Please call the roll.

Roll Call Vote:

Yeas: Finlayson, Flo, Gates

Nays: Lasky

Recused: Rand

Abstained: Fields

Absent: Bloom, Morgan

BOARD OF ADJUSTMENT ACTION:

Mr. Gates moved to adopt staff recommendation. Mr. Flo seconded the motion. Motion passed.

The Motion **denied** the variance to increase the maximum permitted floor area ratio from 4,000 sq. ft. to 6,000 sq. ft. and **denied** the variance to reduce the required front yard setback along Central Avenue NE from 20 ft. to 0 ft. both to allow for the demolition of an existing 1,275 sq. ft. building and the construction of a new 6,000 sq. ft. building for use as a pet clinic.