



Request for City Council Committee Action from the Department of Community Planning & Economic Development – Planning Division

Date: August 2, 2007

To: Council Member Gary Schiff, Chair, Zoning and Planning Committee
Members of the Committee

Referral to: Zoning and Planning Committee

Subject: Appeal a Zoning Board of Adjustment decision to deny a variance for a proposed 8 foot tall decorative fence that would encompass a new outdoor garden sales area (BZZ-3605) at 3915 E Lake Street by Faulkner Construction, Inc.

Recommendation: Deny the variance for the 8 foot tall fence.

Previous Directives: N/A

Prepared or Submitted by: Erik Carlson, Senior Planner, 612-673-5348

Approved by: Jack Byers, Planning Supervisor, 612-673-2634

Presenters in Committee: Erik Carlson, Senior Planner

Financial Impact (Check those that apply)

- No financial impact (If checked, go directly to Background/Supporting Information).
 Action requires an appropriation increase to the _____ Capital Budget or _____ Operating Budget.
 Action provides increased revenue for appropriation increase.
 Action requires use of contingency or reserves.
 Business Plan: _____ Action is within the plan. _____ Action requires a change to plan.
 Other financial impact (Explain):
 Request provided to department's finance contact when provided to the Committee Coordinator.

Community Impact (use any categories that apply)

Ward: 12

Neighborhood Notification: The Longfellow Community Council was notified of the appeal on August 2, 2007.

City Goals: See staff report.

Comprehensive Plan: See staff report.

Zoning Code: See staff report.

Living Wage/Job Linkage: Not applicable.

End of 60/120-day Decision Period: The end of the 60 day decision period is August 10, 2007

Other: Not applicable.

Background: The applicant applied for four variances in order to construct an outdoor garden center. The appellant has modified their design to satisfy three of the four variances which addressed setbacks. Staff recommended approval of the 8 foot fence height variance and denial of the setback variances. The Zoning Board of Adjustment denied all variance requests with a 5 to 1 vote.

Supporting Information Attached:

Zoning Board of Adjustment Testimony and Actions, July 12, 2007

Staff Report

Zoning Code

Appeal Application Materials

Maps, Aerial Photographs, Site Photographs

Board of Adjustment Hearing Testimony and Actions

Thursday, July 12, 2007
4:30 p.m., Room 317 City Hall

Board Membership: Mr. Matt Ditzler, Mr. John Finlayson, Mr. Paul Gates, Ms. Marissa Lasky, Ms. Alissa Luepke Pier, Mr. Matt Perry, and Mr. Peter Rand

The Board of Adjustment of the City of Minneapolis will meet to consider requests for the following:

8. 3915 East Lake Street (BZZ-3605, Ward 12)

John Borden has applied for the following variances at 3915 East Lake Street to allow for a hardware store with garden center in a C2/Neighborhood Corridor Commercial District:

1. Decrease the front yard setback from 20 feet to 0;
2. Decrease the side yard setback from 5 feet to 0;
3. Increase the maximum fence height from 4 feet to 8 feet;
4. Decrease the required outdoor sales area setback from 20 feet to 6 feet; and

Mr. Perry moved and Ms. Lasky seconded the motion to adopt staff recommendation and

1. **Deny** the front yard setback from 20 feet to 0,
2. **Deny** the side yard setback from 5 feet to 0,
3. **Deny** the outdoor sales area setback variance from 20 feet to 12 feet; and

Notwithstanding staff recommendation

4. **Deny** Increase the maximum fence height from 4 feet to 8 feet

Roll Call Vote:

Yeas: Finlayson, Lasky, Luepke Pier, Perry and Rand

Nays: Ditzler

Recused: None

Absent: None

TESTIMONY

Mr. Perry: – Thank you Mr. Chair. I need to ask you to re-educate me on height of fences, what is allowed and what is not allowed if it were not in a side yard setback. So let's say if it were on Lake Street.

Mr. Carlson (staff): The maximum height of a fence in that area would be three feet.

Mr. Perry: regardless?

Mr. Carlson (staff): However, because it is decorative, they allow one more foot in height. That is how we arrive at the four feet.

Mr. Perry: So, because it is in this required side yard setback?

Mr. Carlson (staff): That is correct.

Mr. Perry: Okay. And, on Lake Street is that also considered, given the orientation of the building a side yard setback...a required side yard setback as well?

Mr. Carlson (staff): Chair Gates, Board Member Perry, the entrance of the building is changing from this location to this location here, and so the ordinance says that fences in the front yard, here must be a maximum of three feet.

Mr. Perry: Okay. Thank you.

Mr. Gates: Further questions. Mr. Carlson, for my own edification, if for nothing else, site plan review standards typically require that there be things like, a certain percentage of the window area facing the street, a certain percentage of the non-built area being landscaped, maybe even a door facing the front, which I guess in this case, would be Lake Street. Those issues aren't seeming to apply here. Can you help me out on that...why would that be?

Mr. Carlson (staff): Chair Gates, the purview of my review was simply the variances. We did look at some of the site plans standards as they apply to commercial structures ... I admit I'm a bit unfamiliar because I deal with residential structures primarily in site plan review. They are, as I mentioned I believe in my report, they are closing the windows down on the first floor on this site here and again moving the entrance over here. I can't say if that would be acceptable or not, in terms of closing those windows. I expect it would be unacceptable.

Mr. Gates: Mr. Byers do you want to shed some light on that?

Mr. Byers (staff): Just that I agree that it would likely be unacceptable and that the Board does not have purview over site plan review as you know. Just the variance.

Mr. Gates: And so does this go through a separate site plan review?

Mr. Byers (staff): It will.

Mr. Gates: All right. Thank you. Is there anyone here to speak on behalf of the application, the applicant?

Andy Faulkner: 471 Roselawn East, I'm a commercial general contractor.

Tom Frattollone: 2708 Emerson Avenue South in Minneapolis. I'm I'm not the owner of the property, I'm the owner of the store that I'm trying to (inaudible)

Mr. Faulkner: The kind of situation that we had with the project as you know and you've seen from the aerial is this is an existing loading dock and this is actually a ramp down loading dock. When the Frattollones came to lease the building they looked at their options for adding a garden center and that seemed like the most reasonable case to do it in this area as the existing parking lot is all right here without re-routing all this. There are also dock doors and garage doors here so if we add a fence along this area that creates a garden center. It's a pretty simple, straight forward

project. There is already an existing fence along this property line here and along this edge of the loading dock. We were a little baffled at all the ... how unwelcome the project was taken by the neighborhood group. It really makes sense; the building has been vacated for over a year. There is graffiti on it now; they are looking to bring a great use into the neighborhood. Lake Street is all getting redone right now; there is a rod iron fence that runs along Lake Street. So to move the entrance over here would only make sense from our view point. I guess I don't know...I'm really open to questions from you guys. I'd like to field questions and answer those.

Mr. Gates: Do you have any comments related to what you believe to be hardship associated with the site that might warrant issuance of variances?

Mr. Faulkner: Part of the hardship is that it is a corner lot, so we are hitting the setbacks on both sides when I talked to staff that is what we discussed, is the corner lot and when we are moving the main entrance over there then that creates that as the front yard so then our fence coming into play over there as opposed to it being a rear yard setback...or side yard.

Mr. Gates: Okay, we seem to have lots of questions lining up for you here. Ms. Luepke Pier?

Ms. Luepke Pier: I just have two quick ones. On the existing fence on the alley and loading dock how tall are they?

Mr. Faulkner: Yeah, I believe it's like three feet and it's just a two board fence.

Ms. Luepke Pier: And then the new fence that you talked about along Lake Street, how tall is that one?

Mr. Faulkner: I believe its three feet, I'm not sure, I haven't seen any plans for the Lake Street project, it's all tore up right now.

Mr. Luepke Pier: It's not one that you guys are putting in?

Mr. Faulkner: No, it's outside of our property. But it cuts off...essentially that rod iron fence is going to cut off the parking lot so if you park in the parking lot you're going to have to walk around to the sidewalk to come in this front door.

Mr. Gate: Yes, Ms. Lasky?

Ms. Lasky: This question is for staff. Let's say we were going to level that parking lot and we were going to put the garden center somewhere. Where was an acceptable location for the garden center? Or none?

Mr. Carlson (staff): Chair Gates, Board Member Lasky, there are design alternatives, our job is not to design it for the applicant but we believe that size of the garden center could be adjusted to allow for landscaping around the parking lot and the garden center. The garden center could be moved this direction if the entrance were kept here the garden center could go somewhere in this location it could be a linear design along this wall here. Various permeations of those designs.

Ms. Lasky: Alright, would they still be able to meet the parking requirements? I'm seeing a no, sharking of heads, no?

Mr. Carlson (staff): They are required to have seventeen parking spots and they may or may not be able to meet the parking requirement. It depends on how they designed it.

Ms. Lasky: I understand what you're saying.

Mr. Gates: Further questions? Mr. Ditzler, did you have one?

Mr. Ditzler: I did, I guess it was sort of along the same lines, I know this was probably design choice number one and if there would be a way to see it work, I think it would be great, because this site right now in my opinion is god awful, and there is nothing better than having an abandoned loading dock in a neighborhood. That's just great for the kids and all that stuff, but did you guys explore any other design alternatives for the garden center which seems to be one of the issues here or is this the first design – only design that you constructed and threw at the citizens?

Mr. Faulkner: This is the first design, we looked at other options, but it decreases our parking spots and then we're going to have to get a variance for parking stalls.

Mr. Ditzler: Okay.

Mr. Faulkner: One of the main things to the project is moving the main entrance to this location here.

Mr. Ditzler: Okay.

Mr. Faulkner: So if we move this over here, that also limits where our garden center could go. You can't walk through the garden center to come into the store.

Mr. Ditzler: and how many proposed spots are on the lot now, 20...parking spots according to your plan now...24?

Mr. Faulkner: Yeah, that was the existing plan, and this is the proposed.

Mr. Ditzler: How many are you proposing with your project?

Mr. Gates: I thought it was 20.

Mr. Faulkner: 21 I believe.

Mr. Carlson (staff): Chair Gates its 21 parking spots 2 of which are handicap.

Mr. Gates: Thank you.

Mr. Ditzler: Okay.

Mr. Gates: Any further questions of the applicant? I see none. Thank you very much. Is there anyone else here to speak in favor of the application? I see no one. Anyone here to speak in opposition of the application?

James Logan: 1666 Niles, St. Paul. I also own River Lake Hardware, which is located three blocks from the proposed hardware store. We are a second generation hardware store that was started in 1944. I take some umbrage at the fact that the developer says he doesn't understand what all the hoopla about this new project is about. There was a neighborhood meeting June 5th. The Longfellow Community Council held it at the Longfellow Community Council Center. They unanimously, with the exception of Mr. Borden, shot down all the variances. The neighborhood is not in favor of not only not allowing these variances, but for the most part having another hardware store come in. We have served the community for quite a time. The Frattollones are

wonderful people. I know the father. They currently have 12 stores. They are expanding the base that Ace Hardware has which is going on around the country. The only objection that I have is to the fence. We that are on Lake Street, and I have owned that business for 35 years, are struggling as it is, those of us in small business, to take care of the financial burden that is going to occur when we are accessed on the properties. The design that currently there is for a three foot fence. They put it in on a very long stretch already. It's attractive; it's a green painted rod iron with colonnades. If a variances is allowed for this fence to be put up at eight feet all the way out to the sidewalk quite honestly that building which already is closed windows on all five sides except for the front, which they are going to close off. With an eight foot fence around that property its going to look like a small jail on Lake Street and that's not what we're trying to do right now.

Mr. Gates: All right, thanks for your comments.

5645 Clinton: Could I have the site map. I should tell you that I too have a conflict. I have an account at Frattollone's Hardware on 18th and Nicollet and I do business there and they run a wonderful operation. I'm not speaking for or against this. But I want to point out certain things. Again I do have another conflict in there is no love between myself and Mr. Borden, the owner of the property, but be that as it may, if you look...this is my property right here, and this is my parking lot right here...the staff did not address the five foot setback from my parking lot. It goes right up to Mr. Borden's lot. In addition, there is no curb cut from the parking lot onto Lake Street. Which means all the cars going into Mr. Frattollone's Hardware Store and again, I'm not in opposition, have to go in off of 39th. Again, he runs a good operation, but those are things that the staff did not address. I can see that at sometime in the future if the hardware store is there, they are going to come back and want a curb cut, because for traffic to come in and out that way would be difficult.

Mr. Gates: All right.

I'm not done...It's America, he has a right to have his own business...one of the things that concern's me about it is Mr. Logan's Hardware Store is just about two blocks away and it could hurt him badly, but again, it's America it's competition and I have no objection. I just wanted to point those things out.

Mr. Gates: We note your comments, and for the previous speaker as well. The Board is really here to look at the physical aspects of the request and not the economic ones.

I understand that, but they don't address the setback on my property.

Mr. Gates: We heard your comments. Thank you. Any further commentary, people here to speak in opposition? I see no one. We'll close the public testimony and take Board testimony.

Mr. Finlayson: I thought it was interesting the amount of testimony. At least it was consistent in that it was pretty much self serving. It is apparent to me that the variances requested are a small portion of several other things that will be going on, possibly site plan review. I don't see any indication that the applicant tried to work with staff at all. There are other options on this as a result; I move the staff position on this.

Mr. Rand: Second.

Mr. Gates: Further comment, Mr. Perry.

Mr. Perry: I would like to support that motion, but I would like to also deny the variance request for the fence. I do not see a hardship that hasn't been created by the applicant in this situation.

Mr. Gates: Okay, well we have a motion on the table which is for the staff recommendation, period.

Mr. Perry: is there anyway I can make a friendly amendment to that?

Ms. Lasky: yeah, I concur with that, to separate the ... I would like to see it separated.

Mr. Finlayson: My position is that staff recommendation is probably a larger picture view and I'm willing to except it and not accept the amendment.

Mr. Rand: As the seconder I agree.

Mr. Perry: Mr. Chair, If I will ...I support the motioners logic and I would support the motion but I am going to vote against that motion because I would like to move that we also deny the variance request adopted by the staff, or recommended by the staff for the 8 feet fence.

Mr. Gates: Okay, further comment, Ms. Lasky.

Ms. Lasky: I agree with that and my vote will be reflecting that.

Mr. Gates: Mr. Ditzler.

Mr. Ditzler: I'm actually going to be a little less hostile on this one than the rest of the Board and I will not be supporting the motion either and from my standpoint it seems to be that the variances that are requested in this project are pretty much needed as a starting point for a plan that site plan review will have to spend considerable amount of time flushing out with the applicant. It sounds like there are several issues regarding...having to get public safety involved with curb cuts and windows and doors and landscaping and blah, blah, blah, and while that's definitely not our job to do that it would seem to me that this site, it's current condition, it's current lack of use and what it is not - maybe should be given some exception and levity in this situation. Although it would be hard for me to define exactly what that would be considering the current standing of my fellow Board members that there is probably no hope of the applicant getting past his proposal, but I will not be supporting the motion, because I have more favor towards the project and not for the other reasons the other people will not be.

Mr. Perry: Mr. Chair, if may just respond a moment. I know Mr. Ditzler didn't mean it in this way, but I want to be clear to the applicant that my comments are not meant to be hostile in any way shape or form for development of a property, I'm simply looking at it and taking into consideration the arguments within the contexts of the zoning code and the constraints that we have looking at hardship, uniqueness and so forth.

Mr. Lasky: and I'm concurring because that I think that there are alternative locations. I think that's the logical place, but I think there are alternative locations that they can explore.

Mr. Gates: We have a motion and a second to approve the staff recommendation. Please call the roll.

Ditzler: No

Finlayson: Yes

Lasky: No

Luepke Pier: No

Perry: No

Rand: Yes

Mr. Gates: The motion fails.

Mr. Perry: Mr. Chair, I would move that we deny all of the variance requests including the fence and as I said that the reason denying the fence height increase is that I do not see a compelling argument that makes them not be able to meet their garden area ... there is no uniqueness or hardship in this case.

Mr. Gates: Thank you Mr. Perry. Is there a second?

Ms. Lasky: Second.

Mr. Gates: Further comment. We have a motion to deny all variance requests. Please call the Roll.

Ditzler: No

Finlayson: Yes

Lasky: Yes

Luepke Pier: Yes

Perry: Yes

Rand: Yes

Mr. Gates: Motion carries. You can see staff about your further options.

**Department of Community Planning and Economic Development – Planning Division
Report**

Variance Request

BZZ-3605

Date: July 12, 2007

Applicant: John Borden

Address of Property: 3915 East Lake Street

Contact Person and Phone: Andy Faulkner, (612) 426-4706

Planning Staff and Phone: Erik Carlson, (612) 673-5348

Date Application Deemed Complete: May 25, 2007

Hearing Date: July 12, 2007

Appeal Period Expiration: July 22, 2007

End of 60 Day Decision Period: August 10, 2007

Ward: 12 **Neighborhood Organization:** Cooper

Existing Zoning: C2, Neighborhood Corridor Commercial District

Proposed Use: Hardware Store

Proposed Variances:

- 1) Decrease the front yard setback from 20 feet to 0,
- 2) Decrease the side yard setback from 5 feet to 0,
- 3) Increase the maximum fence height from 4 feet to 8 feet, and
- 4) Decrease the required outdoor sales area setback from 20 feet to 6 feet

Zoning code section authorizing the requested variances: 525.520(1), 525.520(5), 525.520(26)

Background: The lot is 187.5 feet long and 100 feet wide. The lot contains a commercial building that is proposed to be occupied by Frattallone's Ace Hardware. This building is 9,000 square feet. The parcel also contains a parking and a loading dock. The lot on which the building is located contains a mixed use structure to the east, separated by an alley and residential structures to the south, also separated by an alley. Across 39th Avenue South is an office building.

The applicant proposes to fill in the loading dock area to construct a garden center at the corner of 39th Avenue North and an alley just to the south as a part of a hardware store. This outdoor sales and display area (40 feet by 50 feet) would be fenced and would have two entrances: one into the building and another in the fence that leads onto the sidewalk along 39th Avenue South.

All first-floor window openings along East Lake Street would be filled as would the main entrance on this façade. A new main entrance would be created that faces 39th Avenue South. As a result, the west side of the building is considered the front of the building and the south is considered an interior side yard.

The parking lot would be reconfigured to contain 21 parking spaces two of which are handicap stalls. No landscaping buffer would be provided in the parking area.

Setbacks

Due to the zoning of the site, the setbacks of the proposed garden center are based upon the setbacks of adjacent uses. The residence to the south provides the basis for the setback dimensions.¹ This parcel is zoned R1A, Single Family Residential with front and side yard setbacks of 20 and 5 feet respectively. These setbacks apply to the garden center when that structure is within 40 feet from the line that divides the commercial and residential districts which is the midpoint of the alley.

The proposed garden center is also required to be no closer than 20 feet from an adjacent residential district boundary and shall be screened. The residential district boundary begins at the midpoint of the south alley and extends south. The distance from proposed garden center fence to the residential district boundary is 6 feet. The screening requirement is satisfied by the proposed wrought iron fence.²

Fence

The outdoor sales area would be fenced in with a an 8 foot high decorative wrought iron fence with rock-face block concrete piers spaced out approximately 8 feet. The fence would be placed on top of the south property line. To the west, garden center gates would swing open to meet the west property line. The maximum height of a fence in the front yard is 3 feet unless it is decorative. The proposed fence is decorative therefore a maximum of 4 feet is allowable.

Parking

The required parking for the site is a parking space for every 300 square feet of gross floor area over 4,000 square feet. This equals 17 required spaces

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.

Setbacks

A garden center at the subject property is a reasonable use. The zoning code allows it and it is compatible with commercial uses which line East Lake Street. However, design options exist which could accommodate a garden center without the need for setback variances, including the district setback variance. Design options include making the garden center

¹ 548.140(b)(1 and 2)

² 530.160(b)(1)

smaller and/or relocating the garden center away from the property lines. Therefore, the property can be put to reasonable use under conditions allowed by the zoning ordinance and there is no hardship.

Fence

Due to the fact that the fence protects an outdoor sales area from crime (stolen merchandise and vandalism) and the district allows commercial uses, an 8 foot high decorative fence to protect a garden center is reasonable. There are no feasible options to protect the merchandise in an outdoor sales area which would meet the strictures of the code.

- 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.**

Setbacks

The circumstances that have created the need for the setback variances have been created by the applicant—that is the construction of a garden center at the proposed location. There are no unique aspects of the property that limit design options to the proposed location and therefore there is not hardship.

Fence

The circumstances that have created the need for an 8 foot high fence have not been created by the applicant but are a result of the garden centers location in an urban area.

- 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.**

Setbacks

The intent of the front yard setback ordinance is to promote good urban design by providing each property owner with similar views from his or her property out into the street, access to light and the presence of green space. The proposed 8 foot high fence in the front yard setback by virtue the opacity of as a wrought iron fence, and the position of the home to the south which is setback about 8 feet from the front of the fence, the position of the fence along 39th Avenue S is in keeping with the purpose of the front yard setback.

The intent of the side yard setback ordinance as it relates to structures is to separate structures to provide privacy and green space, among other benefits. The alley to the south of the subject property provides this separation adequately. The required side yard setback for the home to the south and garden center are 5 feet. Structures are therefore required to be at least 10 feet apart according to the code. The width of the alley is 12 feet. Therefore the proposed setback for the garden center by virtue of the separation the alley provides is in keeping with the spirit and intent of the ordinance.

Though the intent of the front and interior setback ordinance is satisfied in most cases as described above, however, the complete absence of landscaping in the parking lot is not in keeping with the purpose of the setback or site plan review sections of the ordinance.

The intent of the district setback is to separate uses. Again the alley plays a role. The required 20 foot setback ordinance language does not assume an alley to be present, therefore the presence of the alley skews the setback requirements in this case. If the alley was not present and the lots were coterminous as the ordinance assumes, the district dividing line would be a shared interior property line and the garden center area would need to be 20 feet away from that line. Using the north property line of the home to the south as a proxy for an interior lot line and district boundary, the garden structure would still not meet the district setback requirement. Therefore, the location of the garden center does not meet the intent or spirit of the ordinance.

Buildings along East Lake Street are and have been for decades commercial in nature. A garden center on the subject property is in keeping with the character of the area. A garden center, given that it does not meet district setback requirements, would be injurious to the home owner to the south. The home owner's privacy may be compromised as shoppers use the garden center.

Fence

The fence, being decorative and wrought iron, would not be injurious to the enjoyment of other property in the area. A protective fence would deter vandalism and the stealing of merchandise making the neighborhood less attractive to criminals.

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.

Required parking is provided. Congestion of public streets is not expected. A garden center and fence would not increase the danger of fire. The design of the garden center with its protective fence would not attract criminal activity and therefore would not endanger public safety by providing an opportunity for would be thieves or vandals.

Recommendation of the Department of Community Planning and Economic Development

The Department of Community Planning and Economic Development recommends the Board of Adjustment **adopt** the findings above and

Deny the front yard setback from 20 feet to 0,

Deny the side yard setback from 5 feet to 0,

Approve Increase the maximum fence height from 4 feet to 8 feet, and

Deny the outdoor sales area setback variance from 20 feet to 12 feet

ZONING CODE

535.420. Fence height. Fence height shall be limited by its location as specified below. Except as otherwise provided in sections (1) and (2) below, the maximum fence height may be increased by two (2) feet if the entire fence is constructed of open, decorative, ornamental fencing materials that are less than sixty (60) percent opaque. For purposes of this provision, vinyl coated chain link shall qualify. In no case shall a fence exceed eight (8) feet in height, regardless of location.

(1) Front yard. Fences located in the required front yard shall not exceed three (3) feet in height. The maximum fence height may be increased by one (1) foot if constructed of open, decorative, ornamental fencing materials that are less than sixty (60) percent opaque.

(2) Corner side yard. Fences located in the required corner side yard shall not exceed three (3) feet in height. The maximum fence height may be increased by one (1) foot if constructed of open, decorative, ornamental fencing materials that are less than sixty (60) percent opaque. In addition, the maximum height may be increased to six (6) feet beginning at the point of intersection of the corner side wall and the rear wall of the principal structure to the rear lot line. For the purpose of this section, open decks and porches shall not be considered part of the principal structure.