

**Department of Community Planning and Economic Development - Planning Division**  
Waiver From Moratorium Application  
BZZ - 4238

**Date:** October 30, 2008

**Applicant:** Tim and Karen Harmsen: 612-718-0476

**Address Of Property:** 1120 8<sup>th</sup> Street SE

**Contact Person And Phone:** Stanley Masoner: 612-685-8928

**Planning Staff And Phone:** Jessica Thesing 612-673-5887

**Date Application Deemed Complete:** October 16, 2008

**End of 60 Day Decision Period:** December 15, 2008

**Ward: 3      Neighborhood Organization:** Marcy Holmes Neighborhood Association

**Existing Zoning:** R2B-Two Family District

**Reason For Waiver:**

To allow for the construction of a new single-family dwelling at 1120 8<sup>th</sup> Street SE in the University District Moratorium area.

**Background:**

The City Council has approved a moratorium on the demolition, new construction, or establishment of single and two-family residential dwellings including rooming units and multiple-family residential dwellings having three or four dwelling units including rooming units in the R1, R1A, R2, R2B, R3, R4, R5, R6, OR1, OR2, and OR3 zoning districts in the "University District" area, including the neighborhoods of Cedar Riverside, Marcy Holmes, Prospect Park, Como, and University. The study area includes in entirety the above referenced neighborhoods and is bounded by the City of Minneapolis border to the east; Hennepin Avenue E, BN & Santa Fe Railroad, Winter St NE, Interstate 35 W, and Hennepin Ave E to the north; Harrison St NE, Central Ave NE, the Mississippi River, and Interstate 35 W to the west; and Interstate 94 and the Mississippi River to the south. The interim ordinance (Chapter 585) was introduced at the August 22, 2008 City Council Meeting, referred to the September 18, 2008 Z & P Committee Meeting, discussed and approved at the October 2, 2008 Z & P Committee Public Hearing, and forwarded to the October 10, 2008 City Council Meeting for final approval.

**Property Information:**

Records indicate that the building located 1120 8<sup>th</sup> Street SE (PID 2402924130097) was constructed in or around the year 1885 as a single-family dwelling and remained a single-family dwelling until it was demolished in 2008. According to the survey provided by the applicant, the lot area is 6,606.97 square feet with 40 feet of frontage along 8<sup>th</sup> Street SE. Included on this block in addition to the single-family dwelling that existed at the subject property are 6 single-family dwellings, one duplex, and two multiple family dwellings. (See table below)

The following table lists the uses on both block faces along 8<sup>th</sup> Street SE from 11<sup>th</sup> Ave S to 12<sup>th</sup> Ave S:

<b>Block Character</b>			
<b>11th Ave SE East Block face</b>		<b>Current Zoning</b>	<b>Structure Type</b>
716 11th Ave SE		R2B	SFD
718 11th Ave SE		R2B	SFD
726 11th Ave SE		R2B	SFD
<b>8th St SE South Block face</b>			
1108 8th St SE		R2B	Multi-family/13 Units
1112 8th St SE		R2B	Multi-family/17 Units
1120 8th St SE		R2B	SFD/Subject Property
1122 8th St SE		R2B	SFD
1126 8th St SE		R2B	SFD
<b>12th Ave SE West Block face</b>			
721 12th Ave SE		R2B	SFD
715 12th Ave SE		R2B	Duplex
<b>8th St SE North Block face</b>			
1101 8th St SE		R5	SFD
1105 8th St SE		R5	Duplex
1107 8th St SE		R5	Duplex
1113 8th St SE		R5	SFD
1117 8th St SE		R5	Triplex
1121 8th St SE		R5	Duplex
1125 8th St SE		R5	Duplex
1129 8th St SE		R5	Duplex

### **Project History:**

In May of 2008, approvals were granted and permits were issued to demolish the existing single-family dwelling at the subject property and construct a new duplex with surface parking. Although the property is zoned R2B-Two Family District, the zoning code requires at least 10,000 square feet of lot area to build a duplex and the subject site has approximately 6,600 square feet. This detail was overlooked both by the applicant and staff during the review process. Once identified, the applicant was ordered to stop work on the duplex and apply for a lot area variance in order to proceed. The applicant submitted an application for a lot area variance and this was discussed and heard before the June 26, 2008 Board of Adjustment Public Hearing. Notwithstanding staff recommendation, the variance to reduce the minimum lot area from 10,000 sq. ft. to 6,600 sq. ft. to allow the new duplex in the R2B Two-family District was denied. The reason for the denial was that it is believed that the proposal does not fit in with the character of the neighborhood and that the character of the neighborhood is not primarily duplexes on similarly sized lots. The applicant appealed the decision of the Board of Adjustment to the Zoning and Planning Committee at the July 31, 2008 meeting and this item was postponed one cycle to the August 14, 2008 meeting. On August 14, 2008, the Zoning and Planning Committee denied the applicants appeal.

On August 22, 2008, the University District Moratorium was introduced at the City Council Meeting and once introduced, moratoriums are immediately in effect. 1120 8<sup>th</sup> Street SE is within the moratorium boundary and therefore, is restricted from proceeding with a proposal to construct a new single-family dwelling until a waiver is approved. Since the demolition of the previous structure was approved and permitted prior to the introduction date of the moratorium,

the moratorium restrictions are capturing only the proposal of the new single-family dwelling at this time.

The applicant submitted the application for the waiver on October 3, 2008. It was determined that the application was complete on October 16<sup>th</sup>, 2008 and will be reviewed at the October 30<sup>th</sup>, 2008 Zoning and Planning Committee Hearing.

**Proposal:**

The applicant is applying for a waiver of the restrictions of the University District Moratorium to allow for the construction of a new single-family dwelling on an existing foundation on a 6,600 square foot lot at 1120 8<sup>th</sup> Street SE. The proposed project consists of a 2,400 square foot, 2½ -story, 30 foot tall single-family dwelling with 4 bedrooms, 3 bathrooms, an open front porch, and two surface parking spaces located in the rear of the lot. The exterior of the dwelling as proposed will be finished with cement-based siding, stone, and shakes. The proposal will meet the design standards set forth in section 530.280 of the Minneapolis Zoning Code by obtaining a minimum score of 15 points. (See BZZ 4238 Appendix A and Appendix B) In addition, the gross floor area (GFA) and height as proposed are within the district bulk limitations set forth in section 546.420 and Table 546-9 of the Minneapolis Zoning Code and the parking spaces provided meet the ½ space per bedroom Marcy Holmes Master Plan requirement.

Approval of the waiver will allow the applicant to proceed with the necessary processes for the granting of approvals and obtaining permits to construct the single-family dwelling as proposed.

**Neighborhood Review:**

The Marcy Holmes Neighborhood Organization (MHNA) was notified by City staff of the application by mail dated October 20, 2008. The Applicant notified the Marcy Holmes Neighborhood Association (MHNA) and Ward 3 Council Member Diane Hofstede on September 25, 2008. Correspondence from MHNA if received will be included in the packet.

**Findings:**

Section 529.50 of the Minneapolis Code states that, “a waiver may be granted where the City Council finds substantial hardship caused by the restrictions and finds that the waiver will not unduly affect the integrity of the planning process or the purpose for which the interim ordinance is enacted.” Based on the information that has been provided to date, staff believes that allowing the applicant to proceed with an application to construct a new single-family dwelling will not negatively affect the purpose or integrity of the planning process underway. In addition, the applicant has demonstrated substantial hardship caused by the restrictions of this moratorium.

**Hardship:**

The applicant indicates that a substantial period of time has passed from the time that the original permit was issued in error to construct a duplex which resulted in a stop work order being issued after the foundation was completed. The applicant indicates that they had planned to have the construction completed by now and instead have had to erect fencing to secure the open foundation within the building site that now sits vacant. The applicant indicates that due to strict adherence to the restrictions of the moratorium which could delay the construction of the new dwelling for another 12 months; the applicant is being deprived the right to restore the property to its original use as a single-family dwelling. In addition, the applicant believes that

constructing a single-family dwelling will not unduly affect the integrity of the planning process, and the purpose for which the interim ordinance was enacted.

**Interference with the purposes of the moratorium:**

The city council is concerned that rapid changes in the residential areas surrounding the University of Minnesota may affect community livability. The city council is concerned that continued residential demolition and construction of single and two-family residential dwellings and multiple-family residential dwellings having three or four dwelling units could substantially alter the character and livability of the study area. The city council is interested in protecting the livability of the study area by examining issues such as parking, density, and whether the existing pattern of zoning districts within the study area is consistent with the policies of the comprehensive plan. As a result of the important land use and zoning issues cited above, the city, through its planning division, will conduct studies to consider possible amendments to the official zoning controls. The city council finds that the interim ordinance should be adopted to protect the planning process and the public health, safety, aesthetics, economic viability, and general welfare of the city.

The new single-family dwelling as proposed will meet the design standard point requirements per section 530.280 and Table 530-2 of the Minneapolis Zoning Code. In addition, a single-family dwelling existed on this site from around the year 1885 until this year when the structure was demolished; and, the block has 6 other single-family dwellings on similar sized lots. Staff believes that proposing a new single-family dwelling that meets the City of Minneapolis design standards as set forth in section 530.280 and the parking requirements as defined in the Marcy Holmes Master Plan on a lot that has had a single-family dwelling for over 100 years will not have a negative affect on the neighborhoods character nor will it negatively affect the purpose or integrity of the planning process underway. In addition, recent Board of Adjustment and Zoning and Planning Committee Actions indicate that a duplex is not appropriate for this site. The only other logical option for this R2B-Two Family District zoned property due to its lot size is a single-family dwelling.

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

The Community Planning and Economic Development Department - Planning Division recommends that the City Council adopt the above findings and **approve** the waiver application to allow for the construction of a new single-family dwelling at 1120 8<sup>th</sup> Street SE in the University District Moratorium area.

**Attachments:**

1. BZZ 4238 Appendix A
2. BZZ 4238 Appendix B
3. Statement of proposed use and findings
4. Relevant previous approvals and public hearing actions
5. Copy of letters sent September 25, 2008, to Ward 3 CM Diane Hofstede and to the Marcy Holmes Neighborhood Association
6. Correspondence
7. Site Plan
8. Zoning map
9. Photos
10. Project proposal

**Design Standards Calculation Table**

<b>Table 530-2 Standards 1 - 4 Dwelling Units</b>			
<b>Possible Points</b>	<b>Design Standards</b>	<b>Project Proposal</b>	<b>Points Awarded</b>
5	Not less than one (1) off-street parking space per dwelling unit is provided in an enclosed structure that is detached from the principal structure.	2 Off-street surface spaces not enclosed	0
5	The structure includes a basement as defined by the building code	Full basement	5
4	The primary exterior building materials are masonry, brick, stone, stucco, wood, cement-based siding, and/or glass	Cement based siding, shakes, and stone	4
3	Not less than twenty (20) percent of the walls on each floor that face a public street, not including walls on half stories, are windows.	20% windows front (see appendix B)	3
3	Not less than ten (10) percent of the walls on each floor that face a rear or interior side lot line, not including walls on half stories, are windows.	10% windows interior sides and rear (see appendix B)	3
2	The pitch of the primary roof line is 6/12 or steeper. However, the points shall be awarded for a building with a flat roof where there is at least one existing building with a flat roof or a hip roof with a primary roof line of less than 6/12 where there is at least one (1) existing building with a hip roof with a similar pitch within one hundred (100) feet of the site.	8/12 Pitch	2
1	The structure includes an open front porch of at least fifty (50) square feet where there is at least one existing open front porch within one hundred (100) feet of the site.	Includes 53.5 sq ft open front porch, however no other open front porch within 100 feet of the site	0
1	The development includes at least one (1) deciduous tree in the front yard.	1 Deciduous tree in front yard (Oak Tree)	1
<b>24 Points Possible</b>	<b>Minimum Required Points needed = 15</b>		<b>18 Points Awarded</b>

**Window Calculation Table**

<b>1st Floor Window (Glass) Requirement for points</b>	<b>Rough Opening</b>	<b>Proposed Window (Glass)</b>
(26 x 8)(10%) = 20.8 Sq Ft	52.5 Sq Ft	41.10 Sq Ft
(26 x 8)(20%) = 41.6 Sq Ft	52.5 Sq Ft	41.10 Sq Ft
(44 x 8)(10%) = 35.2 Sq Ft	54 Sq Ft	37.8 Sq Ft
(48 x 8)(10%) = 38.4 Sq Ft	60 Sq Ft	46.32 Sq Ft
<b>2nd Floor Window Requirement for points</b>	<b>Rough Opening</b>	<b>Proposed Window (Glass)</b>
(26 x 8)(10%) = 20.8 Sq Ft	63.96 Sq Ft	43.26 Sq Ft
(26 x 8)(20%) = 41.6 Sq Ft	63.96 Sq Ft	43.26 Sq Ft
(44 x 8)(10%) = 35.2 Sq Ft	59 Sq Ft	45.12 Sq Ft
(48 x 8)(10%) = 38.4 Sq Ft	60 Sq Ft	46.32 Sq Ft