

Department of Community Planning and Economic Development – Planning Division

Variance Request
BZZ-4237

Date: November 20, 2008

Applicant: Zalk Steel & Supply Company

Address Of Property: 446 St. Anthony Parkway

Project Name: Zalk Steel & Supply Company

Contact Person And Phone: Matthew Seltzer, 612-335-7116

Planning Staff And Phone: Michael Wee, 612-673-5468

Date Application Deemed Complete: October 10, 2008

End of 60 Day Decision Period: December 10, 2008

Ward: 1 Neighborhood Organizations: Columbia Park

Existing Zoning: I2 Medium Industrial District

Proposed Use: Existing manufacturing

Concurrent Review: Variances for parking screening, landscaping, and hard surfacing.

Proposed Variance:

- Variance to reduce the required landscaping yard from 7' to 5' for one parking space adjacent to 5th Street NE.
- Variance to reduce the screening from 3' to 0' for screening of the parking lot frontage along St. Anthony Parkway.
- Variance to reduce the required 10 canopy trees to 0 trees to screen parking area lot frontage along St. Anthony Parkway, and from the required 6 canopy trees to 0 trees along 5th Street NE parking lot frontage.
- Variance to the surfacing requirements for parking areas and driveways located in the northeast section of the property.

Appropriate Section(s) of the Zoning Code: Chapter 530 Site Plan Review Section 530.170, and Chapter 541 Off-Street Parking and Loading, Section 541.300

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Background: Zalk Steel & Supply Company, located at 446 St. Anthony Parkway, has been in business at the same location since 1955. The primary business is galvanization of metal for customers located throughout the five-state region. The property is an irregular shaped lot with a total area of 182,020 square feet (4.17 acres). The property is located in an I2 district bordering St. Anthony Parkway to the north, 5th Street N. to the east and a railroad to the west and south. Properties in the surrounding areas within 1000 feet are zoned industrial except to the east across 5th Street NE which is a public park that is zoned residential. Low density residential uses are located at least 1000 feet away to the northeast and northwest of subject property.

The business was established in 1955 when the building was constructed. Located immediately to the north of the building are the truck drive-through and parking area that were permitted by 1963 zoning code with a compliance deadline provision by November 1, 1993 when such nonconforming status shall become unlawful. This deadline expired long time ago and the property has not been in compliance to both 1963 and 1999 zoning code, specifically Section 541.300 of the current zoning code. This is the subject of this variance application that was prompted by a code violation complaint. Upon review of this variance application, other relevant code requirements were determined that also require variances. All variances sought are for existing conditions that are not compliant with the 1963 zoning code, let alone the current zoning code.

Concrete driveways and sidewalks being used by the business is located in the right-of-way that staff thought would require an encroachment permit from Public Works Department. This encroachment was then determined by Public Works to be not necessary (see attached email message). Applicant was also offered to submit an application to vacate a section of 5th Street NE that has this encroachment but has shown no interest at this time.

Currently, there are 19 parking spaces located immediately north of the building and 5 parking spaces are located to the east side of the building. A map provided by the applicant indicated trucks come into the building from the south end, exit to the north end of the building and drive through the parking area unto the north driveway entrance. This is the area on site where three variances are sought for landscaping, screening and hard surfacing. These variance requests are listed above.

The applicant submitted a site plan that depicts absence of landscaping and screening of the parking lot frontage along the St. Anthony Parkway. Trees outside the property line do exist but they do not count towards the landscaping requirements of the code. The applicant is aware of the required landscaping but refused to submit a revised site plan to include landscaping plan. Instead, a variance application was submitted in lieu of that requirement.

No comments were received from the neighborhood group or from residents noticed as of writing of this staff report. If any are received, copies will be distributed at the public hearing.

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.**

Landscaping yard from 7 feet to 5 feet for one parking space adjacent to 5th Street NE. The applicant has requested a variance to reduce the required landscaping yard from 7 feet to 5 feet that is located just south of the north entrance drive and abuts 5th Street NE. Neither landscaping nor screening of the two parking spaces is provided. Staff does not believe there is an undue hardship to warrant a variance. However, because the abutting right-of-way is abandoned and moved further to the east, requiring a 7 foot landscaping yard at this location does not make any difference. The 5-foot yard is reasonable and granting a variance is recommended.

Screening from 3 feet to 0 feet to allow for the existing screening of the parking lot. The front parking lot of 19 spaces is located facing St. Anthony Parkway and does not have landscaping and screening as required by Section 530.170(b)(2) of the zoning code. The applicant claims that landscaping and screening is not necessary since there are existing trees along the right-of-way but located outside the property. Trees that are outside the property lines of the applicant do not count towards the requirement of the code. The applicant refused to submit a site plan to include the required screening of parking lot frontage. Staff does not believe that strict adherence of the zoning ordinance will cause an undue hardship to the applicant.

Number of trees per linear feet of parking lot frontage. This variance request is in relation to item above. Staff does not believe that strict adherence to the zoning ordinance will cause undue hardship to the applicant.

Parking lot and driveway surfacing as required by Section 541.300 of the zoning code. These parking lot and driveway have been established for the past 50 years without hard surfacing, which was permitted to exist under the zoning code of 1963. However, the code also provided a code compliance deadline of November 1, 1993 (Section 542.320) when such non-conforming unpaved parking and driveway shall become unlawful. The noncompliance by the due date and the adoption of the 1999 zoning code rendered the subject issues ineligible for grandfather rights, as determined by the zoning administrator.

The parking lot and driveway in question is located immediately to the north of an existing building where, on a typical day, numerous trucks and trailers carrying 25 tons of cargo drive in and through the premises. The two existing entrance driveways have concrete surfaces where they connect to the Parkway. The applicant bases hardship on the soft soil condition and proximity of water table that would require sub-grade corrections as determined by their engineers.

Staff can not find any probable reason that strict adherence to this code can cause an undue hardship to the applicant, except economic hardship which is not a consideration for a variance approval. The parking area and driveways in question could be concreted to the standards of the two existing entrance drives that are able to sustain truck loads carrying 25 tons of cargo for the past years.

- 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.

Landscaping yard from 7 feet to 5 feet for one parking space adjacent to 5th Street NE. The circumstance for which the variance is sought is not unique to the parcel but unique to the abutting right-of-way that is currently abandoned and not vacated. The city's Public Works Department has no interest of using said right-of-way when St. Anthony Parkway was extended to the east of 5th Street NE. While 5th Street NE has not been vacated, a 5 foot landscaping yard is still required by code. Although this circumstance was created by the applicant, requiring the landscaping yard does not make sense when the abutting right-of-way is now abandoned by the city.

Screening from 3 feet to 0 feet to allow for the existing screening of the parking lot. The circumstance for which the variance is sought is not unique to the parcel and certainly created by the property owner. Existing trees outside property lines exist but do not count towards the required screening of parking lots. Additionally, these trees are not dense enough to serve the screening intent of the code.

Number of trees per linear feet of parking lot frontage. The circumstances are not unique to the parcel of land for which the variance is sought. Existing vegetation that are outside the property lines do not count towards the landscaping requirements of Section 530.170 of the zoning code. The site plan submitted indicate only one existing tree that is located far to the west end of the parking area. This does not even meet the landscaping requirement in the required landscape yard where 10 canopy trees along St. Anthony Parkway and 6 along 5th Street NE are required per Section 530.170(b)(3) of the zoning code.

Parking lot and driveway surfacing as required by Section 541.300 of the zoning code. The parking lot and the drive-through for trucks that is located immediately to the north of the building is gravel surfaced since 1955 when the building was constructed. Under the 1963 zoning code, gravel surface was permitted but was also given a compliance deadline of November 1, 1993 (Section 542.320) when such nonconforming status shall become unlawful. Based on Section 525.520(16) of the current zoning code, applicant is claiming the circumstance is unique to this parcel because the property has soft soils and a high water table as determined by their engineer. Due to the building layout, trucks are required to make an immediate sharp right turn upon leaving the building, which would further contribute to the breakup of a hard surface material. However, staff believes that the circumstance is not unique to the parcel to warrant a variance for the fact that the drive entrance aprons have sustained the truck loads all these years. Further, the parking lot could be reconfigured in such manner to allow a better truck exit unto St. Anthony Parkway.

- 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.**

Landscaping yard from 7 feet to 5 feet for one parking space adjacent to 5th Street NE. The landscaping yard in question has been in place for many years. Granting a variance to reduce the required landscaping yard from 7 feet to 5 feet for one parking space adjacent to 5th Street NE will be in keeping with the intent of the ordinance and will not alter the essential character of the locality when the adjacent right-of-way has been abandoned by the city.

Screening from 3 feet to 0 feet to allow for the existing screening of the parking lot. In addition to the required landscaping along a public right-of-way, a 3 foot screening is also required to soften the visual impact of parking lot from the street level. A variance will not alter the essential character of the locality or injurious to the use or enjoyment of other property in the vicinity considering properties in the immediate surroundings are all zoned industrial as well. However, granting a variance to allow screening of 0 feet for the parking lot will not be in keeping with the spirit and intent of the ordinance

Number of trees per linear feet of parking lot frontage. The frontage of the property where landscaping is required is approximately 250 feet in length. Per Section 530.170(b)(3) of the zoning code, this will require a minimum of 10 trees along St. Anthony Parkway. There is one existing canopy tree that is located to the west end of the parking lot. There are also four existing deciduous trees that are located on the right-of-way, but these do not count towards the tree requirements of the code because they are outside the applicant's property. Staff does not believe the variance, if granted, will alter the essential character of the surrounding areas, however, the variance, if granted, will not be in keeping with the spirit and intent of the ordinance, which is generally to soften the visual effect of parking areas.

Parking lot and driveway surfacing as required by Section 541.300 of the zoning code. The purpose of Section 541.300 is to ensure parking lots and driveways are paved with a dustless all-weather hard surface material capable of carrying a wheel load of 4,000 pounds. The parking lot and driveway in question is located immediately to the north of an existing building where, on a typical day, numerous trucks and trailers carrying 25 tons of cargo drive in and through the premise. The two existing entrance driveways have concrete surfaces where they connect to the Parkway and were able to sustain the truck loads for many years. Granting the variance will not be in keeping with the spirit and intent of the ordinance. Allowing an unpaved drive aisle and parking will not only cause erosion on existing site, but also cause off-site consequences such as sediment build-ups that is harmful to the environment.

- 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.**

Landscaping yard from 7 feet to 5 feet for one parking space adjacent to 5th Street NE. The variance requested has no impact on traffic congestion nor would it be detrimental to the public welfare or endanger the public safety.

Screening from 3 feet to 0 feet to allow for the existing screening of the parking lot. The variance requested has no impact on the traffic congestion in the surrounding area nor would it be detrimental to the public welfare or endanger the public safety.

Number of trees per linear feet of parking lot frontage. The variance requested has no impact on the traffic congestion in the surrounding area nor would it be detrimental to the public welfare or endanger the public safety.

Parking lot and driveway surfacing as required by Section 541.300 of the zoning code. The variance requested has no impact on the traffic congestion in the surrounding area nor would it be detrimental to the public welfare or endanger the public safety.

RECOMMENDATIONS:

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

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment **adopt** the findings above and **approve** the variance to reduce the required landscaping yard from 7 feet to 5 feet for one parking space adjacent to 5th Street NE.

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

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 reduce the required screening from 3 feet to 0 feet to allow for the existing screening of the parking lot.

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

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 reduce the required number of trees per linear feet of parking lot frontage.

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

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 parking lot and driveway surfacing as required by Section 541.300 of the zoning code.

Attachments:

- Zoning map
- Site Plan and maps
- Photos
- Supplement to application

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