

Department of Community Planning and Economic Development – Planning Division Report**Variance Request
BZZ-1869****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.

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 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

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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:

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

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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.