

Department of Community Planning and Economic Development – Planning Division**Variance Request
BZZ-1955****Date:** October 7, 2004**Applicant:** Lester Emard and Linda Rauen owners of the CC Club**Address of Property:** 2600 Lyndale Avenue South**Contact Person and Phone:** Laura Boyd, Boyd Associates, (763) 413-8887**Planning Staff and Phone:** Tanya Holmgren, (612) 673-5887**Date Application Deemed Complete:** September 1, 2004**End of 60 Day Decision Period:** October 31, 2004**End of 120 Day Decision Period:** December 30, 2004**Ward:** 10 **Neighborhood Organizations:** Lowry Hill East Neighborhood Association and Whittier Alliance**Existing Zoning:** C2, Neighborhood Corridor Commercial District**Proposed Use:** A rear deck addition to restaurant and bar.**Proposed Variance:** A variance to reduce the required front yard setback along 26th Street West from 20 ft. to 0 ft. to allow for the construction of trash enclosures to an existing restaurant and bar and a variance to allow outdoor dining within 20 ft. of the OR1 district boundary.**Zoning code section authorizing the requested variance:** 525.520 (1) (26)**Background:** The subject property is a reverse corner lot that is approximately 43 ft. by 119 ft. (5,117 sq. ft.) and consists of an existing bar restaurant (CC Club). The applicant is proposing to construct a rear deck addition for outdoor dining with a handicap accessible ramp and enclosures for trash containers at the rear of the deck addition. The proposed construction will not remove parking from the property, as no parking occurs on site. Currently, there are no enclosures for the existing dumpsters. The applicant is requesting a variance to reduce the required front yard setback along 26th Street West from the required setback to 0 ft. to allow for the construction of trash enclosures to an existing restaurant and a variance to allow outdoor dining within 20 ft. of the OR1 district boundary.

The property is located at the corner of Lyndale Avenue South and 26th Street West and fronts onto Lyndale Avenue South. However, the adjacent property to the west has frontage along both Aldrich Avenue South and 26th Street West. Thus, the subject site is a reverse corner lot and is required to maintain two front yard setback requirements. Although the adjacent property to the west maintains a 0

ft. setback from the north front property line along 26th Street West, the district setback of 20 ft. is required for 40 ft. from the adjacent property line, this requirement affects 27 ft. of the subject property. The adjacent structure is a non-conforming industrial use in the OR1 district. The accessible ramp and the area of the deck meet zoning regulations and do not require a variance. The trash enclosures, although located at the rear of the property, along the alley, lay within the required front yard. Therefore, they require a variance from 20 ft. to 0 ft. Additionally, due to the location of the OR1 district boundary a variance is required for the outdoor dining portion of the proposed construction.

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.**

Front yard setback: The applicant is seeking a variance to reduce the required north front yard setback from to 0 ft. to allow for the construction of trash enclosures to house dumpsters on a reverse corner lot. Strict adherence to the code requires the construction of trash enclosures and that the subject property maintains the district setback because the adjacent property to the west is zoned OR1. This poses a hardship on the property by not allowing any construction to occur within this area. The adjacent structure maintains a 0 ft. setback from the north property line. Due to the configuration of the lot, the rear of the building is the only location the dumpsters can be located, which is a reasonable use of the property. Strict adherence to the regulations would not allow for the proposed trash enclosures on the property.

Outdoor dining setback: The applicant is seeking a variance to allow outdoor dining within 20 ft. of the OR1 district boundary. Strict adherence to the code requires that the subject property maintain the setback of 20 ft. from the district boundary. The district boundary is located in the center of the alley. Strict adherence to the regulations would not allow for the proposed outdoor dining within 20 ft. of the OR1 district boundary, which based on the adjacent industrial use seems reasonable.

- 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.**

Front yard setback: The circumstances upon which the setback variance is requested are unique to the parcel of land. As previously mentioned, the subject property is a reverse corner lot, therefore, a front yard setback is required along 26th Street West. The adjacent use maintains a 0 ft. setback and is a non-conforming use, which is a unique circumstance. The district requires a setback the adjacent property is not maintaining and the adjacent non-conforming industrial use does not need protection from the adjacent commercial property. This is not a circumstance that was created by the applicant, but is an existing circumstance.

Outdoor dining setback: The circumstances upon which the setback variance is requested are unique to the parcel of land. The adjacent use maintains a 0 ft. setback and is non-conforming use, which is a unique circumstance. The adjacent OR1 zoning district triggers a 20 ft. outdoor dining setback to provide protection from the adjacent commercial property. However, the adjacent property contains an industrial use, which is a more intense use than the bar.

- 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.**

Front yard setback: Staff believes that granting the variance to allow for the construction of the trash enclosures will not alter the essential character of the surrounding neighborhood. The purpose of a front yard setback requirement is to protect the adjacent use and to maintain a consistent front along the street. The adjacent non-conforming industrial use has already disrupted the setbacks of the neighborhood. Additionally, an industrial use does not need protection from a trash enclosure. Staff believes that the location of the trash enclosure meets the intent of the ordinance by, having little impact on the adjacent property. The proposed trash enclosures will not be injurious to the use or enjoyment of other property in the vicinity because they will be decreasing clutter on the site by housing the dumpsters inside of enclosures instead of having them exposed as they are currently.

Outdoor dining setback: Staff believes that granting the variance to allow for the proposed seasonal outdoor dining will not alter the essential character of the surrounding neighborhood and will not be injurious to the use or enjoyment of other property in the vicinity. The purpose of the enclosed building requirement is to protect the adjacent use and to maintain a residential feel. The adjacent non-conforming industrial use does not need protection from seasonal outdoor dining. Staff believes that the outdoor dining meets the intent of the ordinance by, having little impact on the adjacent property.

- 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.**

Front yard setback: Granting the front yard setback variance would likely have no impact on congestion of area streets or fire safety, nor would the proposed trash enclosures be detrimental to the public welfare or endanger the public safety due to the adjacent building maintaining a 0 ft. setback.

Outdoor dining setback: Granting the outdoor dining setback variance would likely have no impact on congestion of area streets or fire safety, nor would the outdoor dining be detrimental to the public welfare or endanger the public safety due to the presence of screening of the outdoor dining.

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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 **approve** the variance to reduce the required front yard setback along 26th Street West from the required setback to 0 ft. to allow for the construction of trash enclosures to an existing restaurant and bar and **approve** the variance to allow outdoor dining within 20 ft. of the OR1 district boundary subject to the following conditions:

1. Review and approval of final site and elevation plans by the Planning Department.