

Department of Community Planning and Economic Development - Planning Division Report

Variance Request
BZZ-4259

Date: December 4, 2008

Applicant: Joseph Wagner

Address of Property: 359 13th Ave NE

Contact Person and Phone: Joseph A. Wagner, (612) 991-2218

Planning Staff and Phone: Aly Pennucci, (612) 673-5342

Date Application Deemed Complete: November 4, 2008

Publication Date: November 28th, 2008

Public Hearing: December 4, 2008

Appeal Period Expiration: December 14, 2008

End of 60 Day Decision Period: January 4, 2008

Ward: 3 Neighborhood Organization: Sheridan Neighborhood Association

Existing Zoning: C1/Neighborhood Commercial District

Proposed Use: Restaurant use in an existing three tenant commercial building.

Proposed Variances: A variance to reduce the required number of off-street parking stalls from 14 spaces to 4 spaces, (where 4 spaces are grandfathered) for a restaurant use located in an existing commercial building at 359 13th Avenue NE.

Zoning code section authorizing the requested variance: 525.520 (7)

Background: 359 13th Avenue NE (subject property) is located on the northwest corner of 13th Ave NE and 4th Street NE and is zoned C1 Neighborhood Commercial District. The property is 10,980 square feet and contains a 17,346 square foot three-story building originally constructed in 1900 with five tenant spaces. The building is owned by the Polish National Alliance (PNA). The PNA uses the second and third floor as a long established reception hall. On the main floor there are 3 tenant spaces with main entrances facing 13th Ave NE each with separate addresses and one tenant space facing 4th Street NE. The tenant space to the west along 13th Ave NE is a small retail space (355 13th Ave NE), the middle tenant space is used as an art gallery (357 13th Ave NE) and the subject site is located at 359 13th Ave NE. The subject site was formerly a delicatessen. In the northeast corner of the building there is a

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small pet grooming establishment with an entrance facing 4th Street NE. The existing art gallery, pet grooming store and the proposed restaurant use are permitted uses within the C1 Neighborhood Commercial District. A reception hall is not permitted in the C1 district but the PNA established this reception hall prior to the adoption of the current code and therefore is a legal non-conforming use.

The subject property has commercial zoning to the west and south, and two-family residential zoning to the north and east. The subject property has 17 off-street parking spaces used by the PNA reception hall. The building was constructed in 1900 prior to the adoption of the 1963 City of Minneapolis Zoning Code that incorporated parking requirements. The parking requirement for a restaurant or a delicatessen per Table 541-1 is “parking equal to 30% of capacity of persons.” The delicatessen that previously occupied the subject tenant space included seating for 15 people and required 4 off-street parking spaces. The applicant is proposing 735 square feet of seating area which equates to 14 required parking spaces.

Proposal: The applicant has leased the tenant space located at 359 13th Ave NE for use as a restaurant. The proposed new restaurant operated by Joseph Wagner, will be approximately 1,845 square feet in area and have a seating area of 735 square feet. The applicant is applying for a variance to reduce the total required parking spaces from 14 to 10 where 4 are grandfathered.

The existing and proposed uses in the building require a total of 60 spaces. The property has 17 onsite parking spaces that are used by the reception hall. Because the building was constructed prior to 1963, it has been determined that it has 33 parking credits (grandfather rights), and 17 on site spaces. The current requirement is higher than the determined number of parking credits combined with the onsite spaces so a variance to reduce the number of required parking spaces is necessary at this time for the proposed use to operate. *(See parking calculation table below)*

Table 1: Parking Calculation 355-359 13th Ave; 1304-1306 4th Street NE

Address	Use	Required Parking	(less) Provided	(less) Grandfathered	Parking Total
359 13th Ave NE	Restaurant (proposed)	14	0	4	10
357 13th Ave NE	Art Gallery	4	0	4	0
355 13th Ave NE	Retail	4	0	4	0
1306 4th St. NE	Pet Grooming	4	0	4	0
1304 4th St. NE	PNA Reception Hall	34	17	17	0
Total		60	17	33	10

The applicant intends to install bicycle parking spaces and is pursuing a shared parking agreement to lease 11 spaces in a lot located at 1200 University Ave NE to the south of the subject site. This lot is used as a play area by the Sheridan School during the day and is leased to the City of Minneapolis, who

subleases to the Ritz Theater, for use as a parking lot daily from 6pm to midnight. If the applicant was to pursue only the shared parking agreement, the hours of operation for the proposed restaurant would be restricted to 6pm to 11pm due to the parking lot lease agreements and could be terminated at any time. The applicant is seeking the parking variance, in addition to pursuing the shared parking agreement, to allow for typical hours of operation for a neighborhood restaurant and to ensure a long term solution if the lease for the lot located at 1200 University Ave NE is terminated by any of the involved parties.

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.**

A restaurant in the C1 district is a reasonable use. The requested variance is to reduce the required number of off-street parking spaces from 14 spaces to 4 spaces, where 4 spaces are grandfathered. Strict adherence to the parking regulations of zoning ordinance would prevent this restaurant, which is a permitted use in this zoning district, from operating out of this tenant space since and would cause undue hardship. There is no room for additional parking on this site. For these reasons, the existing property can not be put to a reasonable use without the variance.

- 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.**

The circumstances for which the parking variance is sought are unique to the parcel of land and have not been created by the applicant. The structure was built prior to the City of Minneapolis having off-street parking regulations and the size of the building footprint in relation to the size of the lot does not allow for additional parking to be added.

- 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.**

Granting 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. The existing commercial building was constructed in 1900 prior to any parking provisions regulated by the City. It has had various uses over the years and most recently, the tenant space leased by the applicant was used as a delicatessen. Food and beverage uses are permitted uses in neighborhood commercial districts and therefore, a logical use within an existing commercial building. In addition, *The Minneapolis Plan* shows the intersection of 13th Avenue NE and University Avenue NE as a neighborhood commercial node. The plan

states that “Neighborhood Commercial Nodes are the small scale service locations and focal points for neighborhoods. Their character is defined by the limited impact and scale of businesses operating in these locations, making them good neighbors to the largely low-density residential areas that surround them.”

- 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.**

Granting the proposed variance will not substantially increase the congestion of the public streets; the applicant plans to install bicycle racks to accommodate bicycle traffic and is pursuing a lease agreement for 11 off site parking spaces. In addition, this site is serviced by Metro Transit Bus Route #17W and 11C with a frequency of about every 15 minutes during daytime hours. The proposed use in the existing commercial building will not increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.

Recommendation of the Department of Community Planning and Economic Development:

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 number of off-street parking stalls from 14 spaces to 4 spaces, where 4 spaces are grandfathered at 359 13th Ave NE in the C1, Neighborhood Commercial District to allow for a new restaurant use to occupy an existing commercial building subject to the following condition:

1. CPED-Planning review and approve final site plan, floor plans, and elevations.
2. A minimum of four bicycle parking spaces shall be provided. The placement of bicycle racks within the public right of way will be subject to the Public Works Department review and approval.
3. The applicant must comply with the specific development standards set forth in Chapter 536 of the City of Minneapolis Zoning Code.

Attachments:

Appendix A.	Map of Area
Appendix B.	Aerial Photo
Appendix C.	Statement of proposed use and variance findings from applicant
Appendix D.	Authorization letter from property owner
Appendix E.	Letter to Council. Member
Appendix F.	Letter to Neighborhood Group
Appendix G.	Site plan & floor plans
Appendix H.	Photos provided by applicant
Appendix I.	Public comment