

**Department of Community Planning and Economic Development – Planning Division**  
Appeal of the Decision of the Zoning Administrator  
BZZ-4451

**Date:** July 30, 2009

**Applicant:** L and R Development LLC/Ramsey Excavating Co.

**Address of Property:** 4022 ½ Washington Avenue North

**Project Name:** Ramsey Excavating Appeal

**Contact Person and Phone:** Brad Ellis 612-673-3239

**Planning Staff and Phone:** Steven C. Cox, applicant's attorney, 612-359-7617

**Date Application Deemed Complete:** June 16, 2009

**End of 60-Day Decision Period:** August 17, 2009

**Ward:** 04    **Neighborhood Organization:** Webber-Camden Neighborhood Organization  
(Camden Industrial)

**Existing Zoning:**    I2 Medium Industrial District  
                            FP Floodplain Overlay District  
                            SH Shoreland Overlay District  
                            MR Mississippi River Critical Area Overlay District

**Zoning Plate Number:** 4

**Legal Description:** Not applicable for this application

**Proposed Use:** Concrete/Rock Crushing

**Appeal of the decision of the Zoning Administrator:** L and R Development LLC and Ramsey Excavating Co. have filed an appeal of the decision of the zoning administrator that rock crushing is a permanent use and is therefore not permitted on the property at 4022 ½ Washington Avenue North.

**525.170. Appeals of decisions of the zoning administrator.** All findings and decisions of the zoning administrator, planning director or other official involved in the administration or the enforcement of this zoning ordinance shall be final subject to appeal to the board of adjustment, except as otherwise provided by this zoning ordinance. Appeals may be initiated by any affected person by filing the appeal with the zoning administrator on a form approved by the zoning administrator. All appeals shall be filed within ten (10) calendar days of the date of the decision. Timely filing of an appeal shall

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stay all proceedings in the action appealed, unless the zoning administrator certifies to the board of adjustment, with service of a copy to the applicant, that a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed. The board of adjustment shall hold a public hearing on each complete application for an appeal as provided in section 525.150. All findings and decisions of the board of adjustment concerning appeals shall be final, subject to appeal to the city council as specified in section 525.180.

**Background and Analysis:** The applicant is appealing the decision of the Zoning Administrator that rock crushing is a permanent use and is therefore not permitted on the property at 4022 ½ Washington Avenue North. The applicant is asserting that because the property is only used intermittently for crushing, this use constitutes a temporary use as outlined in sections 535.320 to 535.360 of the Minneapolis zoning code.

According to the applicant, the owner has been conducting concrete crushing activities at the property since the building was constructed in 2003. The crusher in question is mobile, and according to the applicant has also been used at off-site jobs.

According to 535.320, the temporary use provisions are established to allow for certain uses and structures which have only a seasonal or temporary duration such as community festivals, fresh produce stands and temporary promotions by permanent businesses. There are eight enumerated temporary uses:

- 1) Storage of building materials and equipment or temporary buildings.
- 2) Temporary real estate tract office.
- 3) Temporary amusement events
- 4) Seasonal outdoor sale of holiday items
- 5) Farmers' markets.
- 6) Promotional activities involving outdoor sales and display.
- 7) Searchlights.
- 8) Additional temporary uses.

The storage of building materials and equipment or temporary buildings is expressly intended for construction sites, as outlined in its description:

The indoor or outdoor storage of building materials and equipment and temporary buildings for construction purposes may be allowed as a temporary use, provided that such storage or temporary building shall be located on the site under construction and shall not exceed the duration of such construction or one (1) year, whichever is less.

“Additional temporary uses” is explained as follows (emphasis added):

In addition to the temporary uses and structures listed above, the zoning administrator may allow other temporary uses and structures, not exceeding fifteen days (15) in one (1) calendar year, provided the zoning administrator determines that the proposed temporary use or structure is substantially similar to a temporary use or structure listed above in the manner provided for in Chapter 525, Administration and Enforcement, governing determination of substantially similar uses.

The zoning administrator has determined that concrete/rock crushing is not substantially similar to any of the listed temporary uses. In addition, a temporary use permit has never been applied for on this property.

The neighborhood association has called with concerns about the use of the property, but had not submitted a written statement at the time of this report.

**Findings:**

- 1) Concrete/rock crushing is first allowed in the I3 General Industrial District as a General Industrial use, and is therefore not allowed in the I2 Medium Industrial District
- 2) Concrete/rock crushing is not substantially similar to the listed temporary uses as outlined in 535.360.

**RECOMMENDATIONS**

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the appeal of the decision of the zoning administrator:**

The Department of Community Planning and Economic Development – Planning Division recommends that the Board of Adjustment adopt the above findings and **deny** the appeal of the decision of the zoning administrator.

**Attachments:**

- 1) Written descriptions and findings submitted by the applicant
- 2) Correspondence from neighbor
- 3) Zoning map