

**Department of Community Planning and Economic Development – Planning Division****Variance Request  
BZZ-2382****Date:** June 16, 2005**Applicant:** Ton Hiep and Kimcyong Nguyen**Address of Property:** 213 Oak Street Southeast**Contact Person and Phone:** Laura Boyd, (763) 413-8887**Planning Staff and Phone:** Tanya Holmgren, (612) 673-5887**Date Application Deemed Complete:** May 24, 2005**End of 60 Day Decision Period:** July 23, 2005**Appeal Period Expiration:** June 27, 2005**Ward: 2      Neighborhood Organization:** PPERIA**Existing Zoning:** C1 Neighborhood Commercial District, PO Pedestrian Oriented Overlay District**Proposed Use:** A new restaurant use.**Proposed Variance:** A variance to reduce the required amount of off-street parking from 25 to 8 spaces to allow for a restaurant, where 8 spaces have grandfather rights.**Zoning code section authorizing the requested variance:** 525.520 (7)

**Background:** The subject property is approximately 60 ft. by 150 ft. The property consists of an existing 48 ft. by 90 ft. (4,320 sq. ft.) commercial building. The remaining 12 ft. along the south side of the building is paved and used for parking by pizza delivery trucks. An existing 14 ft. wide curb cut exists on the adjacent property to the south that allows access to the parking in the rear of the surrounding properties. The proposed property has 6 standard parking space and 1 handicap parking space. However, the applicants do not have an easement to legally allow access to the parking at the rear of the property.

The commercial space was previously occupied by a bike shop, but the space has remained vacant for approximately one year. The applicant is planning to renovate the building for a restaurant. The previous bike shop required 4 parking spaces. The adjacent business on the same property is Domino's pizza delivery and requires 4 parking spaces. The site previously required 8 parking spaces between the two uses on the property. The proposed floor area of the restaurant is approximately

1,090 sq. ft. and requires 22 parking spaces. The site has 7 parking spaces, but has no legal access to them.

The applicant is grandfathered for 8 parking spaces counted towards the property, 4 for each of the commercial uses. Therefore, the variance is from the required 26 parking spaces for the property to 8 grandfathered parking spaces, which is a difference of 18 spaces.

**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.**

**Parking reduction:** The applicant is seeking a variance to reduce the required number of off-street parking spaces from the required 26 spaces to 8 spaces, where 8 have grandfather rights. The subject site consists of 7 parking spaces with no legal access, therefore zero count toward the site. The previous parking requirement was for 8 parking spaces are considered grandfathered for the property. Strict adherence to the regulations would not allow for the proposed restaurant based on the parking requirement. Based on the submitted information and the fact that the use is near parking facilities that are available to the general public, that the vicinity is pedestrian-oriented and is designated as an Activity Center, and is well served by public transportation, the proposed restaurant is a reasonable use of the property with little on-site parking.

- 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.**

**Parking reduction:** The circumstances for which the variance is sought are unique to the parcel of land and have not been created by the applicant. The subject site consists of an existing building with zero legal parking spaces. The site consists of an existing building that could not be utilized as a restaurant based on the parking requirement. The size and location of the building were not circumstances created by the applicant. The parcel is unique in that it has parking that has no legal access, this could be remedied by obtaining an easement from an adjacent property owner. The applicant states that the access issue may date back to the original construction of the building. Additionally, the property is uniquely located in a pedestrian oriented overlay district, near the University of Minnesota, and has a number of bus routes in the area and parking facilities that are available to the general public.

- 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.**

**Parking reduction:** Granting the variance 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 area. The subject site is located within a pedestrian oriented overlay district that supports preserving and encouraging the pedestrian character of commercial areas and promoting street life. The applicant has stated that the new restaurant will serve surrounding area residents and a parking garage is located south of the property on Oak Street. Additionally, there are 7 parking spaces located at the rear of the property that could be made legal if the applicant could obtain a legal easement for access to the existing parking. In addition, the proposed restaurant would be located near a number of bus lines and parking facilities. The restaurant will provide an additional viable local amenity for the neighborhood where a vacant space currently exists. To increase the opportunity for patrons to arrive at the site via alternative transportation modes, staff recommends that the applicant incorporate bicycle racks on the site or in the adjacent public right of way, with the approval of the Public Works Department.

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.**

**Parking reduction:** Granting the parking variance would likely have little or no impact on the congestion of area streets or fire safety, nor would the proposed use be detrimental to the public welfare or endanger the public safety. While a restaurant/café use has a higher requirement for parking than some other more general retail uses, staff does not believe that the new restaurant will negatively impact the surrounding neighborhood. There is significant pedestrian traffic in the area and the property is located within a pedestrian overlay district.

#### **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 amount of off-street parking from 25 to 8 spaces to allow for a restaurant, where 8 spaces have grandfather rights subject to the following conditions:

1. That the Planning Division review and approve final site and floor plans.
2. Bicycle racks shall be provided to accommodate no fewer than four (4) bicycles at each establishment on the property. The bicycle parking may be located in the public right-of-way with permission of the city engineer.