

Department of Community Planning and Economic Development - Planning Division Report

Variance Request
BZZ-4004

Date: May 22, 2008

Applicant: Bob Gustafson (contractor on behalf of restaurant owner Harvey Thomas McLain)

Address of Property: 3415-3421 West 44th Street

Contact Person and Phone: Bob Gustafson, (612) 920-3954)

Planning Staff and Phone: Aaron Hanauer, (612) 673-2494

Date Application Deemed Complete: April 28, 2008

Publication Date: May 16, 2008

Public Hearing: May 22, 2008

Appeal Period Expiration: June 2, 2008

End of 60 Day Decision Period: June 7, 2008

Ward: 13 **Neighborhood Organization:** Linden Hills Neighborhood Council

Existing Zoning: C1/Neighborhood Commercial District and LH/Linden Hills Overlay District

Proposed Use: Interior remodel to allow for a new restaurant and to establish parking rights for existing restaurant

Proposed Variances: A variance to reduce the required number of off-street parking stalls from 53 spaces to 30 spaces, where 23 spaces are grandfathered at 3415-3421 West 44th Street in the C1, Neighborhood Commercial and LH/Linden Hills Overlay Districts.

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

Background: The subject property is located on the south side of West 44th Street. This parcel is zoned C1/Neighborhood Commercial District and is in the LH/Linden Hills Overlay District. The property is 5,808 sq. ft. and contains a one-story building which was built in 1912. The only tenant at this time is Turtle Bread Company.

Properties to the east and west of the subject site along West 44th Street are also zoned commercial and are in the Linden Hills Overlay District. Higher density residential properties are located to the

southwest of the subject property, and low-density residential, R1A and R2B, are located to the north, east, and south.

The subject property does not have off-street parking. The property owner of the subject property leases a parking lot of 30 spaces from the City of Minneapolis to the south of the subject property (4352 West 44th Street). However, this lot is zoned R2B, and, the zoning code does not allow for a commercially zoned property to count parking spaces that are zoned residential (Table 541-3).

Proposal: The applicant is proposing an interior remodel that would maintain the Turtle Bread Company at 3421 West 44th Street and then create a new restaurant, Tosca, at 3415 West 44th Street. The total parking requirement for the building is 53 spaces. The variance sought is for a reduction in off-street parking of 30 spaces with 23 spaces grandfathered (See Table 1).

The proposed new restaurant, Tosca Restaurant, would be 2,292 square feet in area and have a seating area of 1,702 square feet; this includes a basement seating area of 662 square feet in the basement (see Appendix B3). The parking requirement for Tosca’s 1,702 square foot seating area is 34 parking spaces. This is reduced to 30 spaces because it has rights to four grandfathered parking spaces. As for Turtle Bread Company, the Zoning Administrator determined that the restaurant has grandfathered parking rights of 19 spaces, which provides the needed parking for the restaurant’s 960 square foot seating area (see Appendix B2).

Table 1: Parking Calculation

3415 West 44 th Street (Tosca) Parking Required	34 spaces
(Less) Grandfathered	4 spaces
3415 West 44th Street Parking Total	30 spaces
3421 West 44 th Street (Turtle Bread Company Parking) Required	19 spaces
(Less) Grandfathered	19 spaces
3421 West 44th Street Parking Total	0 spaces
3415-3421 West 44 th Street Parking Required	53 spaces
(less) Grandfathered	23 spaces
3415-3421 West 44th Street Required Parking Total	30 spaces

Public Comment: CPED received a letter form the Linden Hills Neighborhood Council that unanimously voted not to oppose the variance request (See Appendix D).

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.**

The requested variance is to reduce the required number of off-street parking spaces from 53 spaces to 30 spaces, where 23 spaces are grandfathered. Strict adherence to the parking regulations in the Zoning Code would prevent this interior remodeling project that includes adding a second restaurant, since there is no room for additional parking on this site. Furthermore, providing the required parking would likely necessitate demolition of a nearby property. 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.**

There are two circumstances for which the parking variance is sought that are unique to the parcel of land and have not been created by the applicant. First, the structure was built in 1912, which was prior to the City of Minneapolis having off-street parking regulations. Second, the size of the building footprint in relation to the size of the lot does not allow space for additional parking.

- 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.**

The spirit and the intent of the off-street parking requirements is to, in part, prevent traffic and parking congestion on the public streets, while recognizing constraints of existing properties and the characteristics of the surrounding area. Granting of this variance will be keeping with be keeping with spirit and intent of the ordinance for three reasons. First, the location of this restaurant, on West 44th Street, is recognized in the TMP as a Community Corridor; it is also located in the Linden Hills Pedestrian Overlay District. Both community corridors and the Linden Hills Pedestrian Overlay District encourage small scale commercial uses, which is the proposed restaurant's intended purpose. Second, even though some additional traffic may occur with a second restaurant, it will not substantially add to the current traffic levels of West 44th Street. Currently, the average annual daily traffic count for West 44th Street is 8,100 vehicles. And third, even though there may be an increase for parking in the area, the parking lot to the south of the subject property and the on-street parking in the area provide options. In addition, high-frequency mass transit is available a few blocks away, and it is likely that patrons of the restaurants will walk and bike to the subject 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.**

Granting the proposed variance will not substantially increase the congestion of the public streets for two reasons. First, as noted in the third finding, the proposed restaurant is located along a Community Corridor. A traffic characteristic of Community Corridors is that they carry from 4,000 to 15,000 in average annual daily traffic. The average annual daily traffic count for West 44th Street is 8,100 vehicles. Second, on-street parking and high frequency bus service (bus route #6) is available three blocks to the west on France Avenue and four blocks to the east on Xerxes Avenue South. Granting this variance will also not substantially increase other negative side effects.

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 53 spaces to 30 spaces, where 23 spaces are grandfathered at 3415-3421 West 44th Street in the C1, Neighborhood Commercial and LH/Linden Hills Overlay Districts to allow for a new restaurant and to establish parking rights for an existing restaurant 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 be provided on the site of 3415-3421 West 44th Street.

Attachments:

Appendix A: Zoning map

Appendix B: Application

Appendix C: Aerial

Appendix D: Public Comments