

Department of Community Planning and Economic Development - Planning Division Report

Variance Request
BZZ-4162

Date: September 18, 2008

Applicant: Bruce W. Thomson on behalf of Scott Pampuch with Clean Plate LLC

Address of Property: 708-710 West 40th Street

Contact Person and Phone: Bruce W. Thomson, (612) 825-5355)

Planning Staff and Phone: Jessica Thesing, (612) 673-5887

Date Application Deemed Complete: August 20, 2008

Publication Date: September 12, 2008

Public Hearing: September 18, 2008

Appeal Period Expiration: September 28, 2008

End of 60 Day Decision Period: October 19, 2008

Ward: 10 **Neighborhood Organization:** East Harriet Farmstead Neighborhood Association

Existing Zoning: C1/Neighborhood Commercial District

Proposed Use: Food and beverage use in addition to an existing retail sales and service use in an existing two tenant commercial building.

Proposed Variances: A variance to reduce the required number of off-street parking stalls from 17 spaces to 8 spaces, where 8 spaces are grandfathered for a food and beverage use in addition to an existing retail sales and service use to be located in an existing two tenant commercial building at 708-710 West 40th Street. If approved, the variance will have the effect of requiring no parking at the subject property location.

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

Background: 708-710 West 40th Street (subject property) is located on the north side of West 40th Street and is zoned C1/Neighborhood Commercial District. The property is approximately 2,997 square feet and contains a 2,997 square foot one-story building originally constructed in 1940 with two identically sized tenant spaces. Each tenant space has a separate main entrance facing 40th Street West and separate addresses; the space to the east is 708 West 40th Street and the space to the west is 710 West 40th Street. The tenant space to the east (708 West 40th Street) is currently a women's retail

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clothing store and the proposed tenant to be located in the space to the west (710 West 40th Street) is a deli/coffee shop. Both the existing retail sales and service use and the proposed food and beverage use are permitted uses within the C1/Neighborhood Commercial District.

The subject property has commercial zoning to the north, east, and south, high density residential zoning containing a single family dwelling to the west, and low density residential zoning to the southwest. The property located directly to the east of the subject site along West 40th Street (3946 Lyndale Ave S) is zoned C1/Neighborhood Commercial District and contains a mixed use building with three dwelling units, retail, and office space, directly to the north (3944 Lyndale Ave S) is also zoned C1/Neighborhood Commercial District and contains two retail tenant spaces, and directly to the south across West 40th Street (4000 Lyndale Ave S) shares this zoning as well and contains a vacant automobile convenience facility.

The subject property does not have off-street parking. The building was built lot line to lot line and was constructed in 1940; the City of Minneapolis Zoning Code did not require parking until 1963. The current parking requirement for a general retail sales and service use per Table 541-1 is “one space per 300 square feet of gross floor area (GFA) in excess of 4,000 square feet; the parking requirement for coffee shops, delicatessen’s, and sit down restaurants per Table 541-1 is “parking equal to 30% of capacity of persons”. The applicant wishes to lease the space located at 710 West 40th Street to Clean Plate LLC for the use as a deli/coffee shop. The proposed new restaurant operated by Clean Plate LLC, will be approximately 1,500 square feet in area and have a seating area of 637 square feet. The parking requirement for this proposed restaurant is 13 parking spaces; the requirement for the women’s clothing store located at 708 West 40th Street is 4 spaces totaling 17 required spaces for the building. Since the building was built prior to the 1963 adopted Minneapolis Zoning Code which first established parking requirements and does not have parking, it has a total of 8 grandfather rights (4 for each tenant space) for the building. Because the current requirement is higher than the determined number of parking credits (grandfather rights), a variance is required to reduce the number of required parking spaces at this time for the proposed use to operate in addition to the existing retail sales and service use at the subject property location.

Proposal: The applicant is applying for a variance to reduce the total required parking spaces from 17 to 8 where 8 are grandfathered to allow for the deli/coffee shop to occupy the 710 West 40th Street tenant space in addition to the existing women’s clothing store located at 708 West 40th Street. (*See Parking calculation table below*)

Table 1: Parking Calculation

710 West 40 th Street (Clean Plate LLC) Deli/Coffee Shop	13 spaces
(Less) Grandfathered	4 spaces
<i>710 West 40th Street Parking Total</i>	<i>9 spaces required</i>
708 West 40 th Street Women’s Clothing Store	4 spaces
(Less) Grandfathered	4 spaces
<i>708 West 40th Street Parking Total</i>	<i>0 spaces required</i>

708-710 West 40 th Street Parking Required	17 spaces
(less) Grandfathered	8 spaces
708-710 West 40th Street Parking Total	<i>9 spaces required-Variance of 9 spaces needed</i>

Public Comment: The applicant has provided three letters in support of this project signed by neighbors located at 3952 Lyndale Ave S, 712 W 40th Street, and 715 W 40th Street.

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 17 spaces to 8 spaces, where 8 spaces are grandfathered. Strict adherence to the parking regulations in the Zoning Code would prevent this deli/coffee shop which is a permitted use in this zoning district from operating out of this tenant space since there is no room for additional parking on this site. Furthermore, providing the required parking would likely necessitate demolition of a nearby property which would be a negative outcome. 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 circumstances for which the parking variance is sought that are unique to the parcel of land and have not been created by the applicant. The two tenant commercial structure was built lot line to lot line in 1940, which was prior to the City of Minneapolis having off-street parking regulations. This particular situation is unique because the size of the building footprint in relation to the size of the lot; there is no land available for parking on this parcel.

- 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 keeping with the spirit and intent of the ordinance and the Minneapolis Plan (TMP) by promoting business start-ups; retention and attractions. Scott Pampuch, the representative for Clean Plate LLC also operates a food and beverage facility “The Corner Table” located at 43rd and Nicollet. The food for the proposed deli/coffee shop will be prepared at the 43rd and Nicollet location and brought to the proposed location where it will be stored in a cold food case for take-out or eat-in. Also, a wine and beer component will be applied for separately in the future. This proposal has the potential to increase the success of the

business located at 43rd and Nicollet while also providing products for the start-up restaurant use at the proposed location.

In addition, the Minneapolis Plan (TMP) aims to provide a range of goods and services for city residents, to promote employment opportunities, to encourage the use and adaptive reuse of existing commercial buildings, and to maintain and improve compatibility with surrounding areas. The existing two tenant space commercial building was constructed at the subject location in 1940 prior to any parking provisions regulated by the City. It has had various uses over the years and most recently, part of the building was used by Triangle Printing Company. Food and beverage uses are permitted uses in neighborhood commercial districts and therefore, a logical use within an existing commercial building. The applicant has also indicated that the Great Cities Design Team working with the 40th Street Task Force has recommended a restaurant type facility at the 40th and Lyndale node. According to the applicant, the design team made their recommendations based on neighborhood input received through focus groups.

Granting of the variance will be consistent with the current zoning ordinance. The applicant is proposing a deli/coffee/wine bar with the wine bar and possibly outside seating component being proposed at a later date. Per Chapter 546 of the Minneapolis Zoning Code; coffee shops with limited entertainment, delicatessens, and sit down restaurants including the service of alcoholic beverages with limited entertainment are all permitted uses within C1 Neighborhood Commercial District. Although these uses are permitted, specific development standards and other requirements must be met per Chapter 548.180 and Chapter 536.20 of the Minneapolis Zoning Code.

Granting of the variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity; according to the applicant the response from the neighborhood has been positive. The applicant has included with this application three letters signed and received by neighbors located at 712 and 715 West 40th Street and 3952 Lyndale Ave South.

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 is working on an agreement with the neighbor to the east to install bike racks at the node to accommodate bicycle traffic visiting the mix of uses. In addition, the applicant has indicated that there are two one hour parking spaces directly in front of the building that will help reduce congestion. The applicant anticipates that most of the customers will walk, bike, or park in the short-term parking located in the front of the building and the nature of the business will be primarily “pick up and go”. In addition, the Lyndale and West 40th Street node is serviced by Metro Transit Bus Route #4 at Bryant Ave with a frequency of about every 15 minutes during normal daytime hours.

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The proposed use in the existing building 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 17 spaces to 8 spaces, where 8 spaces are grandfathered at 708-710 West 40th Street in the C1, Neighborhood Commercial District to allow for a new food and beverage use and existing retail sales and service 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. The Planning Division is suggesting that bicycle racks be installed to accommodate bicycle traffic for the mix of uses at the node. 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 and enclosed building requirements set forth in Chapter 536.20 and 548.180 of the City of Minneapolis Zoning Code.

Attachments:

Appendix A: Zoning map

Appendix B: Application

Appendix C: Aerial

Appendix D: Public Comments

Appendix E: Photos