

Department of Community Planning and Economic Development - Planning Division Report

Variance Request
BZZ-3150

Date: September 7, 2006

Applicant: Dave Bouquet, dba Northeast Properties

Address of Property: 323 13th Avenue NE

Contact Person and Phone: Dave Bouquet, (612) 382-3357

Planning Staff and Phone: Shanna Sether, (612) 673-2307

Date Application Deemed Complete: July 24, 2006

Public Hearing: September 7, 2006

Appeal Period Expiration: September 18, 2006

End of 60 Day Decision Period: September 22, 2006

Ward: 3 **Neighborhood Organization:** Sheridan Neighborhood Association

Existing Zoning: C1 Neighborhood Commercial District

Proposed Use: Existing Restaurant

Proposed Variance: Dave Bouquet, dba Northeast Properties has applied for a variance to reduce the minimum required landscaping and screening requirement along the north interior side property line as approved by application BZZ 1954 for a minor site plan review of an existing restaurant located at 323 13th Avenue Northeast in the C1 Neighborhood Commercial District.

Zoning code section authorizing the requested variance: 525.520 (25)

Background and Analysis: The zoning enforcement staff sent Northeast Properties a notice of violation, dated July 7, 2006 and March 21, 2006, that stated that 323 13th Avenue Northeast is in violation of Sections 541.580, 530.160 (b) and 530.170 (please see attached violation letters) of the Minneapolis Code of Ordinances and were found to be out of compliance with the previously approved minor site plan review (BZZ 1954). The minor site plan was approved October 21, 2004 (please see attached letter of approval) and the compliance date for all of the required improvements was required one year from the date of approval, October 21, 2005. The minor site plan was required in tandem with an application to reduce the parking requirement to allow for the expansion of the exiting restaurant

Erte'. Applications for minor site plan review and parking variance were applied for by the previous owner, Mark Kraske. The new owners received the violation notice, previously mentioned, and were given three options. One option was to comply with the previously approved site plan, the second option was to appeal the decision of the Zoning Administrator and the third was to apply for a variance to reduce the required screening and landscaping. Dave Bouquet, on behalf of Northeast Properties, chose to apply for the variance to reduce the landscaping and screening requirement.

The intent of the ordinance in Chapter 530 and the application for minor site plan are to promote development that is compatible with nearby properties, neighborhood character, natural features and plans adopted by the city council, to minimize pedestrian and vehicular conflict, to reinforce public spaces, to promote public safety and to visually enhance development. These regulations attempt to recognize the unique character of land and development throughout the city and the need for flexibility in site plan review and therefore allows for Staff to make recommendations, based on several criteria including built environment.

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 applicant is seeking a variance to reduce the required landscaping and screening for an existing restaurant, along the north property line, as approved by minor site plan review (BZZ 1954). The subject property is an existing restaurant, zoned C2. The neighboring use to the north is a duplex, zoned R2B Two Family District. Parking and loading facilities and all other areas upon which motor vehicles may be located that abut or are across an alley from a residence or office residence district or a permitted or conditional residential use shall comply with the landscaping and screening requirements. The applicant states that the requirement to comply with the required screening and landscaping, as previously approved, will cause undue hardship, because of the impediment of the loading zone area and the size of the waste truck used for dumpster service adjacent to the north interior property line. Strict adherence to the regulations would not allow for any further reduction in the landscaping and screening requirement. While staff recognizes the constraints of the loading area, staff still believes that the required landscaping and screening requirements should be met and would still allow for reasonable use of the property.

- 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 variance is sought are unique to the parcel of land; however they have been created by the applicant. The subject site is located on a commercial corridor and a neighborhood commercial node at University Avenue Northeast and 13th Avenue Northeast, as defined by the Minneapolis Plan. The subject property is comprised of a two-story commercial

building, an attached garage, and a driveway, that together serve as the loading area. The site is constrained for a location of the dumpster enclosure; therefore, the attached garage serves that purpose. The owners have employed the services of a trash removal company that uses a truck to access the attached garage off of University Avenue Northeast. The applicant has stated that another alternative location for the trash removal does not exist and that due to the maneuverability and size of the truck, the landscaping and screening would impede the trash removal. However, Staff believes that the dumpster can be moved to the street during trash collection times and that the waste truck would not have to maneuver on the property and would allow for the required landscaping and screening of the north interior side property line. The constraints of the site have been created by the existing building location and the size of the lot, however the employment of the dumpster service with this size of truck are circumstances created by the applicant.

- 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 alter the essential character of the surrounding neighborhood and will be injurious to the use or enjoyment of other property in the area. The required landscaping and screening is due to the adjacency to a residential use to minimize the visual and audible impacts of the restaurant and loading area. The applicant has stated that both the trucks in the loading area and the adjacent neighbor use both driveways for maneuvering onto University Avenue Northeast. Staff has not received any comment from the neighboring 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 variance may not likely increase congestion in the area or increase the danger of fire safety, and may not be detrimental to welfare or public safety. The intersection is very congested and there is a need for the trash removal for all of the properties along University Avenue Northeast. The applicant, however, has stated that there are numerous public hazards that may occur if the variance is not granted and the truck must still maneuver on the site.

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 **deny** the variance to reduce the minimum required landscaping and screening requirement along the north interior side property line as approved by application BZZ 1954 for a minor site plan review of an existing restaurant located at 323 13th Avenue Northeast in the C1 Neighborhood Commercial District.