

Department of Community Planning and Economic Development – Planning Division

Variance Request
BZZ-3679

Date: July 26, 2007

Applicant: Tom Snell

Address of Property: 1501 6th Street South

Contact Person and Phone: Tom Snell, (612) 341-1038

Planning Staff and Phone: Brian Schaffer, (612) 673-2670

Date Application Deemed Complete: June 19, 2007

Public Hearing: July 26, 2007

Appeal Period Expiration: August 6, 2007

End of 60 Day Decision Period: August 31, 2007

Ward: 2 Neighborhood Organization: West Bank Community Coalition

Existing Zoning: I1 Light Industrial District and the ILOD Industrial Living Overlay District.

Proposed Use: An outdoor theater as accessory to an indoor theater.

Proposed Variance: A variance to vary the enclosed building requirement to allow for an outdoor theater as accessory to an indoor theater located at 1501 6th Street South in the I1 Light Industrial District and the ILOD Industrial Living Overlay District.

Zoning code section authorizing the requested variance: 525.520 (26)

Background: The Bedlam Theater, located at 1501 6th Street South, uses an adjacent parking lot located at 1507 6th Street South. The applicants are proposing to use an existing 12 by 12 foot loading dock and a 30 by 30 foot cement patio to allow for outdoor performance that will be accessory to the indoor theater space. The enclosed building requirement of the zoning ordinance requires that:

“All production, processing, storage, sales, display or other business activity in the industrial districts shall be conducted within a completely enclosed building, except as otherwise provided in each industrial district.”

This is applicable to outdoor theaters as well; a variance to the enclosed building requirement is required to allow for the proposed accessory outdoor theater.

In March of 2007, the applicants received a temporary use application (BZZ-3470) to allow for outdoor performances between March 20 and March 30, 2007. The applicants are hoping to have more regular outdoor performances in the future and a temporary use application is not meant for regularly scheduled performances.

In August of 2003 the Planning Commission approved a parking variance (BZZ-1252) from 128 spaces to 57 spaces to allow for a retail space, a coffee shop, a banquet room at the Baja Riverside Café. The applicants indicate that they can provide a total of 67 spaces on the site. The proposed outdoor theater areas would result in the loss of five, six, or nine spaces depending on the configuration. This would result in a total of 62, 61 or 58 parking spaces and would not require a parking variance.

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 has requested a variance vary the enclosed building requirement to allow for an outdoor theater as accessory to an existing indoor theater. Staff believes that an outdoor theater as accessory to an existing indoor theater is a 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 property is zoned I1 Light Industrial District and the ILOD Industrial Living Overlay District. Indoor theaters are permitted in the ILOD. An outdoor theater would be allowed as accessory to the indoor theater; however the enclosed building requirement prohibits any outdoor sales or production and would prohibit the outdoor theater. The location of the theater along the Hiawatha Light Rail line, the intersections of I-94, I-35W, and an adjacent park also create a unique location requirement that will help mitigate the impacts of an outdoor theater. Staff believes that the circumstances that require the variance are unique and caused by the zoning ordinance and not the property owner.

- 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 intent of the enclosed building ordinance is to mitigate the visual and noise impacts of the activity on surrounding property owners. The storage of stage and set materials could create negative visual impacts on the surrounding properties. However, the applicants have indicated that all the set and stage materials will be removed from the outdoor area within 48 hours of the end of the event.

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The proposed outdoor theater might have noise impacts that could negatively impact the surrounding properties. The property is zoned I1 Light Industrial, in the I1 District the hour of operation are limited to: Sunday through Thursday, 6am to 10 pm and Friday and Saturday, 6am to 11pm. Staff believes it would be reasonable for the outdoor theater to be held to same requirement.

Staff believes that if the noise and visual impacts of the outdoor theater can be mitigated that the proposed use will not be injurious to the use or enjoyment of the other property in the vicinity nor will it alter the essential character for the neighborhood.

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 variances would likely have no impact on the congestion of area streets or fire safety, nor would the proposed outdoor theater be detrimental to the public welfare or endanger the public safety.

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 vary the enclosed building requirement to allow for an outdoor theater as accessory to an indoor theater located at 1501 6th Street South in the I1 Light Industrial District and the ILOD Industrial Living Overlay District with following conditions.

1. The hours of operation for the outdoor theater production shall not exceed the hours set in chapter 550.90 of the City of Minneapolis Zoning Ordinance for Industrial Districts. All activity associated with the performances including lighting, noise, and the setup and dismantling of the outdoor theater shall be subject to these hours of operation.
2. The outdoor theater production shall not create noise in such a way that violates chapter 535.620 of the Minneapolis Zoning Code or chapter 389 of the Minneapolis Code of Ordinances, Noise.
3. Stage, set, and any other materials used for performances or the watching of performance shall not be stored outdoors, shall be allowed to be set up 48 hours prior to the performance and shall be removed within 48 hours of the completion of the performance.