

Department of Community Planning and Economic Development – Planning Division
Variance
BZZ-4428

Date: June 25, 2009

Applicant: Madina's Auto

Address of Property: 3701 Cedar Avenue South

Project Name: Madina's Auto

Contact Person and Phone: Mohamad Ameerally, (612) 729-5568

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

Date Application Deemed Complete: June 1, 2009

End of 60-Day Decision Period: July 31, 2009

Ward: 9 **Neighborhood Organization:** Standish-Ericsson, adjacent to Powderhorn Park

Existing Zoning: C1 Neighborhood Commercial District

Proposed Zoning: Not applicable for this application.

Zoning Plate Number: 26

Legal Description: Not applicable

Proposed Use: Outdoor storage of vehicles for an existing minor automobile repair use

Concurrent Review:

- Variance of the development standards of Chapter 536 to allow for outdoor storage of vehicles for an existing minor automobile repair use
- Variance of the enclosed building requirement to allow for outdoor storage of vehicles for an existing minor automobile repair use

Applicable Code Provisions: Chapter 525, Article IX, Variances, Specifically Section 525.520(22) “to vary the development standards of Chapter 536...” and 525.520(26) “to vary the enclosed building requirements of this zoning ordinance.”

Background: The subject property is an existing minor automobile repair in the C1 Neighborhood Commercial District. The use has been in existence at this property since it the building was constructed in 1938. The applicant is proposing to store vehicles outdoors in the southeast corner of the lot on a bituminous surface without drive aisles or marked parking spaces. The outdoor storage of vehicles is

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prohibited in the zoning ordinance. Minor automobile repair uses are subject to development standards in Chapter 536, that include all vehicles waiting for repair or pick-up shall be stored on the site in an enclosed building or in parking spaces in compliance with Chapter 541.

Automobile repair, minor.

- (1) All vehicles waiting for repair or pick-up shall be stored on the site in an enclosed building or in parking spaces in compliance with Chapter 541, Off-Street Parking and Loading.
- (2) Except in the I3 District, all repairs shall be performed within a completely enclosed building.
- (3) All vehicles parked or stored on-site shall display a current license plate with a current license tab. Outdoor storage of automotive parts or storage of junk vehicles is prohibited.
- (4) The sale of vehicles shall be prohibited.
- (5) In the C1, C2 and C3S Districts, all service vehicles associated with the establishment shall be parked or stored in an enclosed structure after business hours.
- (6) The use shall employ best management practices regarding the venting of odors, gas and fumes. Such vents shall be located a minimum of ten (10) feet above grade and shall be directed away from residential uses. All storage tanks shall be equipped with vapor tight fittings to preclude the escape of gas vapors from the fill pipes.
- (7) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for purposes of removing any litter found thereon.
- (8) Unattended, automated dispensing of gasoline or other engine fuel shall be prohibited.

Further, Section 548.180 requires that all storage shall be conducted within a completely enclosed building.

548.180. Enclosed building requirement. (a) *In general.* All production, processing, storage, sales, display or other business activity shall be conducted within a completely enclosed building, except as otherwise provided in sections (b) and (c) below or elsewhere in this ordinance.

(b) *Outdoor dining.* Outdoor dining shall be allowed, provided the following conditions are met:

- (1) The outdoor dining area shall be no closer than twenty (20) feet from an adjacent residence or office residence district boundary or from an adjacent ground floor permitted or conditional residential use, and shall be screened from such district boundary or residential use, as specified in Chapter 530, Site Plan Review.
- (2) Sidewalk cafes shall comply with the requirements contained in Chapter 265 of the Minneapolis Code of Ordinances, Special Permits for Specific Businesses and Uses.

(c) *Outdoor sales and display.* The following may include outdoor sales and display provided such outdoor sales and display area shall be no closer than twenty (20) feet from an adjacent residence or office residence district boundary or from an adjacent ground floor permitted or conditional residential use, and shall be screened from such district boundary or residential use, as specified in Chapter 530, Site Plan Review:

- (1) Automobile sales.
- (2) Direct refueling of motor vehicles.

- (3) Lawn and garden sales, provided the outdoor sales and display area shall be included in the maximum gross floor area of such use, as regulated in each district.
- (4) Permitted drive-through facilities.
- (5) Building material sales located in the C4 District only.
- (6) Truck, trailer, boat or recreational vehicle sales, service or rental, subject to the regulations of the C4 District governing the outdoor parking of trucks and other commercial vehicles.

Therefore, the applicant is applying for a variance of the development standards of Chapter 536 and a variance of the enclosed building requirement to allow for outdoor storage of vehicles for an existing minor automobile repair use.

The current manager of Madina's Auto previous completed the Preliminary Development Review process to allow for upgrades to the existing parking area. The site is not currently in compliance with the approved plan.

As of the writing of this report, staff has not received any comments from the Standish-Ericsson Neighborhood Association or Powderhorn Park Neighborhood Association.

VARIANCES

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 variances to allow for the outdoor storage of vehicles in the southeast corner of the lot for an existing minor automobile repair use in the C1 District. Strict adherence to the regulations would not allow for the storage of vehicles outside of a completely enclosed structure. This area of the property has been used for the outdoor storage of vehicles by previous tenants, as well. Staff believes that the applicant can mitigate the potential nuisances of the outdoor storage of vehicles on the lot by improving the landscaping and screening on the site. The property is directly adjacent to residential uses to the south and across the alley to the east. Staff believes that by providing screening, no less than 6 feet in height and at least ninety-five (95) percent opaque will achieve the purpose of providing for the vehicles in an enclosed structure and 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.**

While the applicant is contributing to the need for a variance by requesting the outdoor storage of vehicles, the circumstances upon which the variance is requested are unique to the parcel of land due the insufficient area for parking on the site and in the existing building. The applicant could construct a new building addition that would allow for the storage of vehicles within an enclosed

structure, however, the alternative to the variance would cause a hardship to the property, by not allowing the existing outdoor storage to remain.

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.

Staff believes that the outdoor storage of vehicles will not substantially alter the essential character of the surrounding neighborhood, with the condition that the area be effectively screened and the vehicles are parked on an approved surface. Cedar Avenue South is a community corridor, which support limited commercial uses and are measured against their impacts on residential character, such as the production of fumes or noise or negative aesthetics. Design and development along these streets is oriented towards the pedestrian experience. Commercial uses, whether retail or services, are low intensity in these areas. They do not create noise, significant traffic or disruption to neighbors by being open to the public for extended hours. Staff believes that by allowing the outdoor storage of vehicles in an effectively screened area will not be injurious to the use or enjoyment of other property in the vicinity.

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 of the proposed variances would likely reduce the impact on the congestion of area streets by allowing for additional storage area for vehicles on-site. In addition, the variances should not increase the danger of fire safety, or be detrimental to the public welfare or endanger the public safety.

RECOMMENDATION:

Recommendation of the Community Planning and Economic Development Department – Planning Division for the variance:

The Community Planning and Economic Development Department – Planning Division recommends that the Board of Adjustment adopt the above findings and **approve** the variance of the development standards of Chapter 536 to allow for outdoor storage of vehicles for an existing minor automobile repair use for the property located at 3701 Cedar Avenue South in the C1 Neighborhood Commercial District, subject to the following conditions of approval:

1. Community Planning and Economic Development Department – Planning Division staff review and approval of the site and landscape plans.
2. Site improvements shall be completed by June 25, 2010, or the approvals may be revoked for non-compliance.
3. The applicant shall meet the remainder of the specific development standards for a Minor Automobile Repair in section 536.20 of the zoning code.

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4. At least 800 square feet (10.3 percent of the net lot area) of landscaped area shall be provided on-site.
5. At least 1 canopy tree, 2 deciduous trees and 13 shrubs shall be provided on-site as required by section 530.160 of the zoning code or in the public right-of-way with permission by the city engineer. The applicant is encouraged to plant native grasses and perennials in addition to the required trees and shrubs.
6. The applicant shall remove the bituminous in the right-of-way.
7. Screening, not less than 3 feet in height and less than 60% opaque is required along Cedar Avenue South and 37th Street East and screening, not less than 6 feet in height and less than 95% opaque is required around the area for the outdoor storage of vehicles.
8. The parking and maneuvering areas shall be surfaced with a dustless, all-weather hard surface material capable of carrying a wheel load of four thousand (4,000) pounds. Acceptable surfacing materials shall include asphalt, concrete, brick, cement pavers or similar material installed and maintained per industry standard.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the variance:

The Community Planning and Economic Development Department – Planning Division recommends that the Board of Adjustment adopt the above findings and **approve** the variance of the enclosed building requirement to allow for outdoor storage of vehicles for an existing minor automobile repair use for the property located at 3701 Cedar Avenue South in the C1 Neighborhood Commercial District.

Attachments:

- 1) Statement and findings from applicant.
- 2) May 20, 2009, e-mail to SENA and CM Schiff
- 3) Zoning map
- 4) Site plans
- 5) Photos