

Department of Community Planning and Economic Development - Planning Division Report

Variance Request
BZZ-4273

Date: January 22, 2009

Applicant: Phil Rader, on behalf of the New Sky Corporation

Address of Property: 2752 Lyndale Ave S

Contact Person and Phone: Phil Rader, (612) 920-3955

Planning Staff and Phone: Aly Pennucci, (612) 673-5342

Date Application Deemed Complete: November 26, 2008

Publication Date: January 16, 2009

Public Hearing: January 22, 2009

Appeal Period Expiration: February 2, 2009

End of 60 Day Decision Period: January 24, 2009

Ward: 10 **Neighborhood Organization:** Lowry Hill East Neighborhood Association

Existing Zoning: C1/Neighborhood Commercial District

Proposed Use: Restaurant and retail use.

Proposed Variances: A variance to reduce the required number of off-street parking stalls from 15 spaces to 9 spaces and a variance to allow a parking area within the established front yard for a restaurant and retail use at 2752 Lyndale Ave South.

Zoning code section authorizing the requested variance: 525.520 (7)(8)

Background: The subject property is 80 ft. by 118.5 ft. (9480 sq. ft.) and consists of an approximately 1,290 square foot one-story building originally constructed in 1953 with one vacant tenant space and 6 legal on-site parking spaces. The property is located on the northwest corner of Lyndale Ave S and 28th Street West and is zoned C1 Neighborhood Commercial District. The adjacent residential property to the west fronts 28th Street West, making the subject site a reverse corner lot. The applicant is proposing a 954 square foot addition to the existing commercial building to establish a new Subway restaurant and small commercial retail space.

Parking requirement variance: This application has been withdrawn.

Parking location variance: Per section 548.140 of the Minneapolis Code of Ordinances, when a street frontage of a property zoned commercial is adjacent to a residential district or use a front yard is required. A front yard is required equal to the front yard established by the residential use to the west of the subject site for the first 40 feet from the residential property. In addition, section 541.260 prohibits parking areas located in the required front yard. Because of the required front yard and the parking area regulations, a variance is required to accommodate the maneuvering area for parking spaces 1-4 on the submitted site plan (see Appendix F).

Due to the Zoning Board of Adjustment meeting schedule, planning staff sent a letter to the applicant on December 26, 2008 extending the 60-day review period to allow sufficient time for the appeal process.

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.**

Due to the location of the existing building and the reflective front yard setback created by the home to the west, the zoning code limits the area where parking can be located on this lot without seeking a variance. Strict adherence to the regulations would reduce the amount of parking that can be provided onsite and cause undue hardship.

- 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 are unique to this parcel of land and have not been created by the applicant due to the reflective setback created by the adjacent residential structure to the west on 28th Street West. The reflective front yard setback impacts where parking can be located on this site. A restaurant and a retail use in the C1 district are reasonable uses.

- 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 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. Restaurant and retail uses are permitted uses in neighborhood commercial districts and therefore, a logical use within a commercial building. In addition, *The Minneapolis Plan* identifies Lyndale Avenue as a commercial corridor. The plan states that "Commercial Corridors are streets that are available for development including more intensive commercial and high traffic activities. The buildings and structures on these streets are generally similar to traditional commercial storefronts and the siting and massing of new structures should

respect this typology. These corridors must balance both pedestrian and automobile orientation in their design and development.” The applicant intends to install bicycle parking spaces and incorporate other site improvements, including closing two curb cuts and providing landscaping, screening and fencing.

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 plans to install bicycle racks to accommodate bicycle traffic and will close two curb cuts on the site to create more efficient traffic circulation. The proposed use in the existing 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 application for the variance to reduce the required number of off-street parking stalls from 15 spaces to 9 spaces has been withdrawn. There is no staff recommendation. 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 allow a parking area within the established front yard for a restaurant and retail use at 2752 Lyndale Ave South in the C1, Neighborhood Commercial District subject to the following condition:

1. CPED-Planning review and approve final site plan, floor plans, and elevations. The preliminary development review (PDR) process must be completed and approved prior to obtaining final site plan, floor plan and elevation approvals.
2. A minimum of four bicycle parking spaces shall be provided. 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 set forth in Chapter 536 of the City of Minneapolis Zoning Code.

Attachments:

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| Appendix A. | Map of Area |
| Appendix B. | Aerial Photo |
| Appendix C. | Statement of proposed use and variance findings from applicant |
| Appendix D. | Authorization letter from property owner |
| Appendix E. | Letter to Council. Member and Letter to Neighborhood Group |
| Appendix F. | Site plan, floor plans, drawings and sign proposal |
| Appendix G. | Photos provided by applicant |
| Appendix H. | Ground Penetrating Radar (GPR) survey submitted by applicant |
| Appendix I. | Letter to withdraw one variance application submitted by the applicant |