

Department of Community Planning and Economic Development – Planning Division Report

Variance Request
BZZ-2232

Date: April 7, 2005

Applicant: Metropolitan Artists Market Inc.

Address of Property: 211 Lyndale Avenue North

Date Application Deemed Complete: March 2, 2005

End of 60 Day Decision Period: May 1, 2005

Appeal Period Expiration: April 18, 2005

Contact Person and Phone: Roger Miller

Planning Staff and Phone: Carrie Flack, 612-673-3239

Ward: 5 Neighborhood Organization: Harrison

Existing Zoning: I2, Medium Industrial District

Proposed Use: Outdoor art gallery

Proposed Variance: A variance to vary the enclosed building requirements to allow for an art gallery.

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

Background: The subject site is a parking lot located south of International Market Square bounded by Glenwood Avenue on the north, 2nd Avenue North on the south, Aldrich Avenue North to the west, and Lynddale Avenue North to the east. The site is approximately 53,900 sq. ft. and consists of approximately 131 parking spaces for International Market Square (IMS). The applicant is proposing to utilize the parking lot as an open air art gallery on Saturdays and Sundays from late May through early September. The hours of operation would be 8:00 am to 2:00 pm with vendor setup starting no earlier than 6:00 am and final clean up by 5:00 pm each day. The market would consist of a minimum of 25 exhibiting artists and a maximum of 75. Food vendors as well as entertainment will also be provided for the event.

The industrial districts require that all products, 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. Therefore, because the applicant is proposing a seasonal open air art gallery that will utilize tents, a variance to the enclosed building requirement is necessary for the proposed business operation.

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The proposed project would utilize an entire parking lot consisting of 131 spaces dedicated to IMS and The Lofts, a residential development associated with IMS. Therefore, a parking analysis of the property to ensure that required parking is not being eliminated is necessary. The required amount of weekday parking for IMS and The Lofts is 658 spaces. The required amount of weekend parking for IMS and The Lofts is 97 spaces for the residential and 84 spaces for IMS. This leaves 477 parking spaces available on weekends. The Metropolitan Artists Market would utilize a parking lot that removes 131 spaces from the available weekend amount of parking and the market is required to provide 30 spaces for their proposed use. This leaves 316 available parking spaces available for use on the weekends. Therefore, the proposed project will not be removing more required weekend parking than available for the site. In addition, the total amount of parking provided for site is also the amount of parking required for the site. Therefore, the proposed use cannot be expanded to operate during weekdays as there is not an excess of parking provided. Although the applicant has submitted information stating that 704 parking stalls exist for the site, staff has not reviewed an overall site plan to confirm that number. Staff has utilized information provided in a staff report for The Lofts development (BZZ 1518, Jan. 04). At that time a site plan with additional landscaping was approved for the subject parking lot and will still need to be implemented as approved by the City Planning Commission on January 12, 2004.

The applicant has submitted a detailed description of the proposed artist market operation including selection criteria for the artists and the categories of art that will be displayed. This information is attached in the packet.

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.**

Enclosed building requirement: The applicant is seeking a variance to vary the enclosed building requirements to allow for an art gallery. The applicant states that strict adherence to the ordinance places undue hardship upon the operation of the artists market because the purpose of the market is for a weekend seasonal, outdoor venue and permanent structures would interfere with the weekday use of the property. Strict adherence to the regulations allow for a reasonable use of the property as a parking lot as used currently. Strict adherence to the ordinance would not prohibit a new use of the property to be located within a building as required which is also a reasonable use of the property. Adherence to the ordinance may not be convenient for the proposed use, but is not a hardship for 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.**

Enclosed building requirement: The circumstances upon which the variance is requested are not unique to the parcel of land and have been created by the applicant. The subject site is a parking lot that provides required parking for IMS and The Lofts. The use proposed by the

applicant is unique. However, there are no characteristics unique to the subject property. Many parking lots in the city provide required weekday parking and are not heavily utilized during weekends.

- 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.**

Enclosed building requirement: Granting the variance will not be in keeping with the spirit and intent of the ordinance and will alter the essential character of the area and may be injurious to the use or enjoyment of other property in the vicinity. The spirit and intent of the ordinance does allow for outdoor sales and display in the I2 District for specifically identified uses such as building material sales, direct refueling of motor vehicles, farmers market, permitted drive-through facilities, and lawn and garden sales subject to specific screening criteria. Other permitted uses in the I2 District are also allowed outdoor storage which, are also subject to specific landscaping and screening requirements. The proposed project consists of outdoor sales and display of art and is similar to the farmers market specifically identified in the I2 District. However, art galleries and open air markets are not specifically identified and thus the variance is necessary. In addition, the proposed project will not be meeting the specific screening and landscaping criteria identified in the ordinance. Therefore, staff does not believe the artists market is in keeping with the spirit and intent of the ordinance and is not being reviewed similarly to other uses in the area. Staff is also concerned that a precedent might be established for various other types of outdoor sales and display in numerous other potential parking lot locations in the city which is would not be consistent throughout the city.

- 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.**

Enclosed building requirement: Granting the variance would likely have no impact on the congestion of area streets or fire safety or to the public welfare or endanger the public safety since the proposed use is utilizing a parking lot during weekend hours versus weekday hours when the parking lot is primarily used by IMS and The Lofts. Due to the required parking for IMS and The Lofts, this use could not operate during the week at any point as it would impact traffic negatively by removing required weekday parking.

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 **deny** the variance to vary the enclosed building requirements to allow for an art gallery.

Suggested conditions should the Board grant approval of the variance request:

1. That the Planning Division review and approve final site plans.

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2. That the applicant submit a final copy of the Exhibiting Artists Standards and Parking Lot Lease Use Statement.
3. That the approved site plan for BZZ 1518 be implemented by the applicant as approved by the City Planning Commission on January 12, 2004.
4. That outdoor speakers shall not be audible from a residence or office residence district boundary, or a permitted or conditional residential use as required by the ordinance.
5. That the use be operated on weekends only based on the amount of required parking necessary during weekdays for IMS and The Lofts.