

Department of Community Planning and Economic Development – Planning Division
Variance
BZZ-5322

Date: October 27, 2011

Applicant: African Development Center

Address of Property: 1929-1931 5th Street South

Project Name: African Development Center ATM

Contact Person and Phone: Rich Thomasgard, (612) 333-4772 x113

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

Date Application Deemed Complete:

End of 60-Day Decision Period:

Ward: 2 Neighborhood Organization: West Bank Community Coalition

Existing Zoning: C1 Neighborhood Commercial District and PO Pedestrian Oriented Overlay District

Proposed Zoning: Not applicable for this application.

Zoning Plate Number: 21

Legal Description: Not applicable

Proposed Use: Automatic Teller Machine (ATM) on the exterior wall of an existing building

Variance: to the enclosed building requirement to allow for an ATM on the exterior of an existing building wall

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 mixed use building with a financial institution/bank and restaurant in the C1 Neighborhood Commercial District and PO Pedestrian Oriented Overlay. The applicant installed an ATM on the exterior building wall facing 5th Street South in 2009. The location of the ATM is prohibited in the zoning ordinance, because it is not located within the enclosed building, in accordance with Sections 537.110 and 548.180 of the zoning code:

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537.110. Allowed accessory uses and structures. The following accessory uses and structures shall be allowed, subject to the following development standards:

Automatic teller machine. Automatic teller machines shall be allowed accessory to nonresidential uses located in districts other than the residence and OR1 Districts. Such automatic teller machines shall be located within the principal structure served, except when part of a drive-through facility accessory to a bank.

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 enclosed building requirement to allow for an ATM on the exterior building wall.

As of the writing of this report, staff has not received any comments from the West Bank Community Coalition. Staff will forward comments, if any are received, at the Zoning Board of Adjustment public hearing.

VARIANCES

Findings Required by the Minneapolis Zoning Code:

- 1. Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.**

Practical difficulties do not exist in complying with the ordinance due to circumstances unique to the property. One of the uses of the property is a financial institution/bank and the applicant has stated that they installed the ATM for the convenience of their users and is integral to the community-service nature of the business. Staff believes that there are alternative locations for the ATM, within the enclosed building, that would comply with the ordinance.

- 2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.**

The applicant is seeking a variance to allow for an ATM on the exterior building wall of an existing building in the C1 and PO Districts. The intent of prohibiting ATMs outside of the enclosed building is due to the potential for theft or robbery for users of the ATM, which is also a crime prevention through environmental design (CPTED) measure supported by policies of the comprehensive plan. The applicant has stated that the ATM is located outside of their classrooms where training sessions and community meetings occur throughout the day and on weekends. Further, the building is well-lit and there is a security light and camera focused on the area of the ATM. The subject property is near to the University of Minnesota, Augsburg College and Fairview Health Services, which are active areas late into the evening. The applicant has also stated that there have been no reports of criminal activity associated with the ATM in the two years since it was installed. While staff recognizes that the property is in a pedestrian oriented area, there are still safety concerns about its location. Further, staff believes that the relocation of the ATM to within the building would allow for reasonable use of the property.

- 3. The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.**

Staff believes that the location of the ATM will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. However, if granted, the proposed variance may be detrimental to the public safety due to the potential for theft or robbery.

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 **deny** the variance to the enclosed building requirement to allow for an automatic teller machine (ATM) on the exterior of an existing building wall located at 1929-1931 5th Street South in the C1 Neighborhood Commercial District and PO Pedestrian Oriented Overlay District.

Attachments:

- 1) Statement and findings from applicant.
- 2) Copies of letters sent to West Bank Community Coalition and CM Gordon
- 3) Zoning map
- 4) Site plan
- 5) Photos