

**Department of Community Planning and Economic Development – Planning Division**  
Appeal of the Decision of the Zoning Administrator  
BZZ-5598

**Date:** June 28, 2012

**Applicant:** Mohamed Wadi, on behalf of Cedar Food and Grill

**Address of Property:** 2600 Cedar Avenue South

**Project Name:** Appeal of the determination of the Zoning Administrator

**Contact Person and Phone:** Mohamed Wadi, (912) 354-3631

**Planning Staff and Phone:** Jacob Steen, (612) 673-2264/Steve Poor (612) 673-5837

**Date Application Deemed Complete:** June 1, 2012

**End of 60-Day Decision Period:** July 30, 2012

**Ward: 9      Neighborhood Organization:** East Phillips Improvement Coalition

**Existing Zoning:** C1 Neighborhood Commercial District

**Zoning Plate Number:** 26

**Legal Description:** Not applicable for this application

**Proposed Use:** Mixed use building: grocery store and two dwelling units

**Appeal of the decision of the Zoning Administrator:** Application by Mohamed Wadi, on behalf of Cedar Food & Grill for an appeal of the Zoning Administrator's determination that the business at 2600 Cedar Avenue South is in violation of Minneapolis Code of Ordinances section 530.120 as a result of blocking first floor windows with cooler equipment.

**§ 525.170. Appeals of decisions of the zoning administrator.**

All findings and decisions of the zoning administrator, director of regulatory services, planning director or other official involved in the administration or the enforcement of this zoning ordinance shall be final subject to appeal to the board of adjustment, except as otherwise provided by this zoning ordinance. Appeals may be initiated by any affected person by filing the appeal with the zoning administrator on a form approved by the zoning administrator. All appeals shall be filed within ten (10) calendar days of the date of the decision. Timely filing of an appeal shall stay all proceedings in the action appealed, unless the zoning administrator certifies to the board of adjustment, with service of a copy to the applicant, that a stay would cause imminent peril to life or property, in which case

the proceedings shall not be stayed. The board of adjustment shall hold a public hearing on each complete application for an appeal as provided in section 525.150. All findings and decisions of the board of adjustment concerning appeals shall be final, subject to appeal to the city council as specified in section 525.180

**Background and Analysis:** In February 2011, a two-story mixed-use building located at 2600 Cedar Avenue South was destroyed in a fire. The structure, which was legally nonconforming as to setbacks and parking, was rebuilt through an administrative building permit review. The building permit for the new structure was subject to the provisions of Minneapolis Code of Ordinances Chapter 530, Site Plan Review, including section 530.120, which regulates window requirements for nonresidential uses. The final approved permit specified approximately 33% windows on the north elevation (26<sup>th</sup> Street East) and 36% windows on the east elevation (Cedar Avenue South). After construction, the appellant placed coolers in front of four of the windows facing the east elevation, reducing the windows counting towards the required window area to approximately 16.4%. Following a complaint, zoning enforcement staff inspected the property and issued a notice of non-compliance, which was appealed by the property owner.

Section 530.120 specifies the following requirements for windows in nonresidential uses:

Nonresidential uses. Principal entrances shall be clearly defined and emphasized through the use of architectural features such as roofs, or other details that express the importance of the entrance. Multiple entrances shall be encouraged. *Thirty (30) percent of the walls on the first floor and ten (10) percent of the walls on each floor above the first that face a public street, public sidewalk, public pathway, or on-site parking lot, shall be windows as follows:*

- a. Windows shall be vertical in proportion.
- b. Windows shall be distributed in a more or less even manner.
- c. The bottom of any window used to satisfy the ground floor window requirement may not be more than four (4) feet above the adjacent grade.
- d. First floor or ground floor windows shall have clear or lightly tinted glass with a visible light transmittance ratio of six-tenths (0.6) or higher.
- e. *First floor or ground floor windows shall allow views into and out of the building at eye level. Shelving, mechanical equipment or other similar fixtures shall not block views into and out of the building in the area between four (4) and seven (7) feet above the adjacent grade.* However, window area in excess of the minimum required area shall not be required to allow views into and out of the building.
- f. Industrial uses in Table 550-1, Principal Industrial Uses in the Industrial Districts, may provide less than thirty (30) percent windows on the walls that face an on-site parking lot, provided the parking lot is not located between the building and a public street, public sidewalk or public pathway.
- g. In multiple tenant buildings, each individual ground level tenant space that faces a public street, public sidewalk, public pathway, or on-site parking lot shall comply with the minimum window requirements of this section.

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Minimum window area at the first floor or ground level shall be measured between two (2) and ten (10) feet above the adjacent grade. Minimum window area on walls above the first floor shall be measured between the upper surface of a floor and the upper surface of the floor above.

Minneapolis Code of Ordinances section 530.120(b)(2) (emphasis added).

The requirement that 30% of the walls on the first floor are windows is applicable to each elevation that faces a public street. By placing coolers in front of the windows along the east elevation, the appellant is in violation of section 530.120(b)(2)(e), which prohibits blocking required windows with shelving, mechanical equipment or other similar fixtures at eye level.

**Appeal:** The appellant's statement consists of a letter from the architect, DJR Architecture. The statement asserts that the appellant's building is in compliance with section 530.120 of the zoning code. In the architect's calculations, the total of all windows provided along 26<sup>th</sup> Street East is 36.6%, and the percentage of windows not blocked by coolers along Cedar Avenue South is 18.7%. When both elevations are calculated together, the architect arrives at 30.5%. Therefore, the appellant contends, the windows that are blocked with coolers are not required and not in violation of section 530.120(b)(2)(e).

Because windows are calculated separately for each elevation, the appellant's statement is incorrect in concluding that the windows are not required under section 530.120. Furthermore, the calculations used by the architect appear to use approximate distances and rough openings for windows. A site inspection by CPED staff and a review of documents shows that the actual percentage of windows, after the coolers were placed in front of the windows, are 33.4% along 26<sup>th</sup> Street East and 16.4% along Cedar Avenue South. Although CPED staff does not combine elevations for purposes of window calculations, if the elevations were combined, the total would be 27.5%, which would still not satisfy the minimum requirement of 30%.

Since the initial zoning violations were appealed, the appellant has added additional window signage, further obstructing required window area. As of June 13, 2012, the total unobstructed window area along 26<sup>th</sup> Street East is 27.5% and along Cedar Avenue South is 14.4%.

**Findings:**

1. Minneapolis Code of Ordinances section 530.120(b)(2)—which requires that 30% of the walls on the first floor that face a public street shall be windows—is calculated separately for each elevation fronting on a public street.
2. The structure at 2600 Cedar Avenue South has elevations fronting 26<sup>th</sup> Street East and Cedar Avenue South, both of which are subject to the 30% window requirement pursuant to section 530.120(b)(2).
3. The obstruction of the first floor windows with coolers along Cedar Avenue south is a violation of section 530.120(b)(2)(e).

## **RECOMMENDATIONS**

### **Recommendation of the Department of Community Planning and Economic Development – Planning Division for the appeal of the decision of the zoning administrator:**

The Department of Community Planning and Economic Development–Planning Division recommends that the Board of Adjustment adopt the above findings and **deny** the appeal of the Zoning Administrator’s determination that the business at 2600 Cedar Avenue South is in violation of Minneapolis Code of Ordinances section 530.120 as a result of blocking first floor windows with cooler equipment.

#### **Attachments:**

- 1) Statement of reason for the appeal submitted by the applicant
- 2) Zoning map
- 3) Zoning Inspector’s post-construction window measurements
- 4) Zoning Inspector’s photos
- 5) Window calculations
- 6) Correspondence