

Department of Community Planning and Economic Development – Planning Division Report**Variance Request
BZZ-2680**

Date: November 17, 2005

Applicant: Aide Salgado, on behalf of Orlando Cruz

Address of Property: 1855 East Lake Street

Date Application Deemed Complete: October 6, 2005

End of 60 Day Decision Period: December 5, 2005

End of 120 Day Decision Period: February 3, 2006

Appeal Period Expiration: November 14, 2005

Contact Person and Phone: Aide Salgado, 612-770-8751

Planning Staff and Phone: Molly McCartney, 612-673-5811

Ward: 9 Neighborhood Organization: Corcoran

Existing Zoning: C2 Neighborhood Corridor Commercial District and PO Pedestrian Oriented Overlay District

Proposed Use: Establish three new businesses (retail store, restaurant, and reception hall) and to construct a wall

Proposed Variance: A variance to reduce the required off-street parking requirement from 58 spaces to 19 spaces for a commercial building that includes one retail space, a restaurant, and reception hall and a variance to increase the maximum permitted height of a wall to 6 ft 6 in. and to increase a portion of a wall to 8 ft. 11 in. for a property located at 1855 East Lake Street in the C2 Neighborhood Corridor Commercial District.

Zoning code section authorizing the requested variance: 525.520 (7) (5)

Background: This application was continued from the November 3, 2005, Board of Adjustment meeting.

The subject site is a corner lot that is approximately 125 ft. by 150 ft. (18,765 sq. ft.) and consists of a building that once housed an automobile repair shop. The applicant is proposing to convert the building into three new businesses, a retail store, restaurant, and reception hall. The applicant has begun work on

a wall that exceeds the maximum height permitted and the proposed new uses that require a parking variance.

The applicant has begun work on a wall that surrounds the parking lot on the east and north sides of the property. A portion of the wall is located in the public right of way and the applicant has applied for an encroachment permit with Public Works, Right of Way Office. The wall is a solid masonry wall that scallops up towards piers that are spaced approximately 9 ft. apart. In the scalloped area, the applicant has proposed to place decorative wrought iron-type fencing. The maximum height allowed for a solid fence in the C2 District is 6 ft. and 8 ft. for an open fence, less than 60 percent opaque. The subject fence is more than 60 percent opaque. In addition, a portion of the fence located on the corner of East Lake Street and 19th Avenue South, is 8 ft. 11 in. tall and will have a sign for the reception hall.

The subject site is located in the Lake and Hiawatha Transit Station Area of the PO Pedestrian Oriented Overlay District. In the Transit Station Areas, the parking requirement is 75 percent of the number specified in Chapter 541, Off-Street Parking Requirements. The following parking requirements are based on this reduced parking requirement. The off-street parking requirement for the new uses is 58 spaces, more than the 19 spaces on-site. The parking requirement is 3 spaces for the retail store, 6 for the restaurant, and 49 spaces for the reception hall. The applicant has begun to secure 45 parking spaces at an off-site location at 2005 and 2019 East Lake Street, but does not have a lease agreement at this time to apply for the Shared Parking Application available through the Planning Division.

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.**

Fence height variance: Strict adherence to the zoning prohibits a solid fence taller than 6 ft. The applicant has stated that the wall is colonial style fence to emulate a Mexican hacienda. While the design of the fence is unique, there is no hardship on the property that necessitates a fence constructed taller than the maximum height permitted.

Parking variance: Strict adherence to the code requires land uses to have parking requirements that can be provided on-site. The applicant is proposing to renovate the existing building for three new businesses, a retail store, restaurant, and a reception hall. There is enough parking for the retail store and the restaurant onsite, but the parking requirement for the reception hall exceeds the amount of parking on-site. The subject site is located in the Transit Station Area and has a reduced parking requirement. Even though the applicant is reusing an existing building, staff believes that businesses which do not require such a large parking variance are a 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.

Fence height variance: The circumstances for which the variance is south are not unique to the parcel and have been created by the applicant. Strict adherence to the code prohibits a solid fence taller than 6 ft. The applicant has stated that the wall is colonial style fence to emulate a Mexican hacienda. While the design of the fence is unique, there is no hardship on the property that necessitates a fence constructed taller than the maximum height permitted.

Parking variance: The circumstances for which the variance is south are not unique to the parcel and have been created by the applicant. The applicant is locating three new businesses by reusing an existing building. The retail store and restaurant have smaller parking requirements which can be met on-site. The reception hall parking requirement is based on the floor area that accommodates customers; the lobby, seating, and dancing areas. The size of the reception area is over 3,000 sq. ft. and will be able to accommodate more than 200 guests. While a reception hall would not be used on a daily basis and will likely happen at times other than time the retail store and restaurant will be open, the demand for parking for events will be greater than what can be provided on-site and the surrounding on-street parking. Staff believes that locating a reception hall that has such a large parking requirement is the circumstance created by the applicant.

- 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.**

Fence height variance: Granting of the variance will be keeping with the spirit and intent of the ordinance and will not alter the essential character of the surrounding area. Only a small portion of the wall exceeds the height requirements because of the scalloped design. The wall will be of a decorative colonial style fence to emulate a Mexican hacienda. The applicant is also proposing a landscaped buffer between the wall and the parking surface. A portion of the wall is located in the public right of way and the applicant has applied for an encroachment permit with Public Works, Right of Way Office.

Parking variance: Staff believes that the parking variance could alter the essential character of the neighborhood. The applicant has started the process of investigating a shared parking agreement one block east at 2005 and 2019 East Lake Street, but does not have a lease agreement at this time to apply for the Shared Parking Application available through the Planning Division. Directly to the south the subject site is residential uses and districts. Parking for the subject site that is not accommodated on-site will likely spill over into this area. While the subject site is located along major transit lines on Lake Street and adjacent Cedar Avenue, as well as being located in the and Hiawatha Transit Station Area of the PO Pedestrian Oriented Overlay District, staff believes that the parking variance request does not meet the intent of the ordinance and could be injurious to the use or enjoyment of other property in the vicinity by decreasing the parking for surrounding residences and businesses.

- 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.**

Fence height variance: Granting the variance would likely have no impact on congestion of area streets or fire safety, nor would the proposed variance be detrimental to the public welfare or public safety. At the northeast corner of the fence at the intersection of East Lake Street and 19th Avenue South, the fence is positioned at a diagonal and does not interfere with a 15 ft. site triangle. The applicant should be mindful that this wall may be a target for graffiti because the wall is a solid surface and that the inside corner of the wall that is 8 ft. 11 in. could be an area that attracts illicit activity. The applicant should ensure there is proper lighting of the parking lot.

Parking variance: Granting the parking variance will likely increase congestion and on-street parking in the surrounding area due to the lack of existing parking in the area. Staff does not believe the parking variances will increase the danger of fire safety, nor would the proposed variance be detrimental to welfare or public safety.

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** a variance to reduce the required off-street parking requirement from 58 spaces to 19 spaces for a commercial building that includes one retail space, a restaurant, and reception hall, and **deny** a variance to increase the maximum permitted height of a wall to 6 ft 6 in. and to increase a portion of a wall to 8 ft. 11 in. for a property located at 1855 East Lake Street in the C2 Neighborhood Corridor Commercial District.