

Department of Community Planning and Economic Development – Planning Division Report

Variance Request
BZZ-2725

Date: December 1, 2005

Applicant: Jeff Hovelsrud

Address of Property: 4554 Minnehaha Avenue

Contact Person and Phone: Jeff Hovelsrud, 612-722-2500

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

Date Application Deemed Complete: October 31, 2005

End of 60 Day Decision Period: December, 30 2005

Appeal Period Expiration: December 12, 2005

Ward: 12 **Neighborhood Organization:** Longfellow Community Council

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

Proposed Use: Addition of an outdoor grill to an existing restaurant/coffee shop

Proposed Variance: A variance to vary the enclosed building requirement to allow for an outdoor grill at a restaurant at 4554 Minnehaha Avenue in the C1 Neighborhood Commercial District and PO Pedestrian Oriented Overlay District.

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

Background: The subject property is at the northwest corner of Minnehaha Avenue and East 46th Street and consists of a lot that is approximately 16,798 sq. ft. The subject site is a renovated service station that is now a restaurant and coffee shop. On January 14, 2002, the site received approval for a Site Plan Review and a variance to allow for parking the required front yard along East 46th Street (*BZZ-376*). The applicant is proposing an outdoor grill and a variance application is required to modify the enclosed building requirement in the Commercial Districts:

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:

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(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.

The subject site does have outdoor seating on the property which is permitted under the above mentioned section of the zoning code.

The applicant is proposing to locate the grill on the north side of the building. The subject site is zoned commercial, however, the property directly north is zoned R1A Single-family District and is a single-family dwelling. The proposed grill would be approximately 16 to 18 ft. from the shared property line.

In addition to obtaining a variance, Environment Health review is required, and either a Seasonal or Short Term Food Permit is required. A Seasonal permit allows for the sale or give away of food for up to three events, not to last more than 14 days each, and a Short Term permit allows for the sale or give away of food for one event, not to last more than 14 days.

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.**

The applicant is seeking a variance to vary the enclosed building requirement to permit an outdoor grill. Without the requested variance, food production is limited to the enclosed portion of the building. The building does not cover the entire site, and a building addition could accommodate a larger kitchen area. The applicant states that the site has a large outdoor area that could accommodate the grilling area and would provide a reasonable return on investment. Staff believes that reasonable use of the property, including the operation of the current business, exists without an outdoor grill.

- 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 for which the variance is sought are not unique to the parcel of land and have been created by the applicant. The site is large enough to add building space to contain a larger kitchen. The applicant states that the grill would be utilized to gain a reasonable return on investment. Economic considerations do not constitute an undue hardship if a reasonable use exists for the property. Prohibiting outdoor grilling at this site still allows for a reasonable use of the property, specifically, the current use of restaurant and coffee shop. The applicant states that

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competitors are engaged in outdoor grilling without the required permits. Zoning and Environmental Health enforcement can be dealt with through other means besides granting variances for this site.

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 the variance will impact the surrounding neighborhood and will be injurious to the use or enjoyment of other property in the area. The proposed site for the outdoor grill is less than 20 ft. to the shared property line of the adjacent single-family dwelling. The portion of the enclosed building requirement that allows for outdoor seating requires that the seating be at least 20 ft. from an adjacent residence use or district. Odors from outdoor grilling may have an impact on surrounding residential properties. There are other areas on the property, such as the west or south side of the building, that an outdoor grill could be located that would have less impact on the surrounding properties.

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 variance would not likely increase congestion in the area or increase the danger of fire safety, nor would the proposed variance be detrimental to welfare or public safety. Odors from outdoor grilling may have an impact on the surrounding residential properties.

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 requirement to allow for an outdoor grill at a restaurant at 4554 Minnehaha Avenue in the C1 Neighborhood Commercial District and PO Pedestrian Oriented Overlay District.