

Department of Community Planning and Economic Development – Planning Division Report

Variance Request
BZZ-3245

Date: October 19, 2006

Applicant: Richard Pratt

Address of Property: 201 5th Avenue North

Contact Person and Phone: Richard Pratt, 612-333-0855

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

Date Application Deemed Complete: September 27, 2006

Public Hearing Date: October 19, 2006

Appeal Period Expiration: October 30, 2006

End of 60 Day Decision Period: November 27, 2006

Ward: 7 **Neighborhood Organization:** North Loop Neighborhood Association

Existing Zoning: C3A Community Center Activity District

Appeal of the decision of the Zoning Administrator: Richard Pratt has filed an appeal of the decision of the ZA administrator that the ground floor windows of the building at 201 5th Avenue North do not meet window requirements.

525.170. Appeals of decisions of the zoning administrator. All findings and decisions of the zoning administrator, 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:

The property at 201 5th Avenue North received site plan approval in April 2004 (*BZZ-1627*) to build a new eight story, mixed-use building with 215 residential units. The building has retail on the most of the first floor and residential units on the second through eighth floors. The business, Metro Market on 5th, occupies a corner of the first floor at the 2nd Street North and 5th Street North corner.

In response to complaints about the window transparency of Metro Market on 5th, Zoning Inspection staff issued a letter on August 31, 2006 to comply with the window requirements code the zoning or appeal the order. As a result of the order, the business owners are appealing the Zoning Inspections orders that the windows for the business, Metro Market on 5th, which faces the 2nd Street North and 6th Avenue North façades of the building, do not meet the window requirement of the zoning code. Chapter 530 Site Plan Review of the City of Minneapolis Zoning ordinance requires that ground floor windows of commercial uses be clear glass and that mechanical equipment or shelving not be placed directly in the windows:

530.120. Building design.

(b) Entrances and windows.

(2) 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:

- d. First floor or ground floor windows shall have clear or lightly tinted glass with a visible light transmittance ratio of 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.

The building was built in compliance with the zoning code window requirement, but recent modifications to Metro Market have altered compliance with the window requirement. The window requirement was part of the approved site plan review in 2004 and the applicant in that case did not request any deviation in the window requirements. The portion of the building in question does exceed the minimum 30 percent window requirement, but does comply with the portion of the code that requires views in and out of the building because the windows are frosted glass and have mechanical equipment and shelving in front of the window.

The current appellant states in the appeal that the entire first floor, including the 5th Avenue North and the interior elevation that faces a parking lot, exceeds the minimum window requirement for transparency, so the frosted glass and equipment should be allowed for the portion of the building the houses the Metro Market. The zoning code allows window area that is in excess of the minimum to not

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be required to allow views in and out of the building. However, window transparency is not transferable from one elevation to another. The elevation along 2nd Street North does not comply with the minimum 30 percent windows requirement as is pertains to visibility.

Recommendation of the CPED Department Planning Division:

The Department of Community Planning and Economic Development Planning Division recommends **denial** of the appeal of the Decision of the Zoning Administrator that the ground floor windows of the building at 201 5th Avenue North do not meet window requirements of the zoning code.