

**Department of Community Planning and Economic Development - Planning Division**  
Change of Non-conforming Use and Variance  
BZZ - 2907

**Date:** April 24, 2006

**Applicant:** Helena Kriel

**Address Of Property:** 658 Fillmore Street NE

**Contact Person And Phone:** Barry Moloney, 612-724-4656

**Planning Staff And Phone:** Michael Wee, 673-5468

**Date Application Deemed Complete:** March 13, 2006

**End of the 60 Day Review Period:** May 12, 2006

**End of the 120 Day Review Period:** N/A

**Ward:** 3      **Neighborhood Organization:** Beltrami

**Existing Zoning:** R1A Single-Family District

**Proposed Zoning:** Not applicable for this application

**Zoning Plate Number:** 15

**Proposed Use:** Changing non-conforming use from a neighborhood grocery to a yoga studio in an R1A Single-Family District.

**Concurrent Review:** Off-street parking variance from the required 3 spaces (in addition to 4 being grandfathered) to zero spaces for the yoga studio.

**Appropriate Section(s) of the Zoning Code:** Section 531.80 (Change of non-conforming use), and Section 541.180 (Parking Requirement).

**Background:**

The applicant made a contingent offer to purchase the property at 658 Fillmore Street NE for another location of her existing business known as Center for Happiness. The subject property is a two-unit dwelling with an attached grocery store and an attached garage in R1A district. Current use is legal non-conforming in an R1A single-family district. Per Chapter 531 of the code, any alteration or intensification of non-conforming use shall be approved by the City Planning Commission. The applicant's proposal is to modify the first floor unit by adding a set of bathrooms and keeping it as a residential unit for the caretaker. The upper floor will remain as a rental unit. The proposed yoga studio

will occupy the area of what is currently the grocery known as Delmonico's. Interior walls and the area housing the cooler will be removed, thus increasing the yoga studio area by approximately 10 square feet (see attached floor plan). No change is proposed for the garage.

The structure was built in 1922 with the grocery section added sometime in 1935 and hasn't changed since then. The site has no off-street parking, but has rights to four spaces that are grandfathered. These rights can be transferred to the proposed use, of which the applicant wants to do. At its peak capacity of 20 students at one time, mostly during early weekday evenings, the proposed yoga studio will require 7 parking spaces (Section 541.180). The existing two-car garage will be used by the rental unit tenants, thus, will not count for this requirement. A parking variance therefore is also requested from the required three spaces to zero parking spaces.

**Findings As Required By The Minneapolis Zoning Code:**

**The Community Planning and Economic Development Planning Division has analyzed the application and makes the following findings:**

**The Planning Commission may approve a proposed change in use if the use meets the following standards as specified in section 531.80 of the Zoning Code:**

- (1) The proposed use is compatible with adjacent property and the neighborhood.**  
The property is located across a public park to the north in a predominantly single-family district. Neighborhood grocery and yoga studio are first allowed in OR2 district. The proposed use is therefore no less compatible than the current use.
- (2) The proposed use is less intense than the existing, nonconforming use.**

  - (a) Hours of operation:** The yoga business will open from 7am through 8 pm seven days a week, except on certain holidays. Classes are held one at a time with its peak attendance at night.
  - (b) Signage:** All existing signs on the premise will be removed and replaced with an unobtrusive sign to identify the business. The applicant has not come up with the sign details yet, but indicated that the new sign will be a small wall sign to identify the business. Sign clutter will be reduced as a result. Recognizing that the existing commercial use has maintained legally nonconforming signs, staff is recommending that the Commission allow a sign or signs equivalent to the signs that would be allowed in the OR2 District – the first zoning district that allows the proposed use. Under the residence district sign standards, the applicant would not have the ability to install a reasonable amount of sign area in space in spite of the fact that the overall sign area would be significantly reduced compared to the current situation.
  - (c) Traffic generation and safety:** The existing grocery is a neighborhood-base store that does not generate substantial vehicular traffic. On the contrary, the yoga studio is dependent on its students citywide. Although traffic may increase based on class schedules, it will be unlikely to cause significant congestion and hazard.

**(d) Off-street parking and loading:** The property does not have adequate room for off-street parking, but has four grandfathered parking rights that the applicant will retain. The new use will still need three more parking spaces per Section 541.170. Ample on-street parking is available on both sides of Summer Street, where students and instructors can park their cars. One instructor is present at a time, and number of students will vary on classes.

**(e) Nature of business operations:** The business generally provides yoga instructions. Generally, the existing use and the proposed use are both first permitted in OR2 district.

**(f) Number of employees:** All instructors are independent contractors, so there are no employees. Classes are held one at a time with only one instructor present at one time, which is most often conducted by the applicant herself.

**(g) Building Bulk:** Interior modifications will take place in one rental unit to add one bathroom and the area of what currently is the grocery to accommodate the new use. In addition, the space in between the cooler and garage will be enclosed to increase the yoga studio by 10 square feet. This addition will not change its overall building bulk. No other exterior work is proposed.

**(h) Aesthetic impacts on surrounding property:** No cosmetic change is anticipated of this application except the removal of existing signs. In addition, staff recommends that the Commission require a seven-foot-wide landscaped area adjacent to the public sidewalk along Summer Street. The rear yard is currently paved up to the public sidewalk.

**(i) Noise, odor, heat, glare and vibration:** None of these is anticipated to result of the application.

**(j) Other:** The proposed use will not generate a significant amount of trash, so the applicant will utilize services already provided by the city.

**Findings Required by the Minneapolis Zoning Code for the Variance of the required 3 parking spaces to zero parking spaces for the yoga studio at 658 Fillmore Avenue NE:**

**1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

The property is 39' x 131' with no adequate room left for the required three parking spaces. The paved area towards the alley is currently used as a parking, but not enough to comply parking requirements. There is no way for the applicant to comply this requirement without a variance.

**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 property had been established since 1935. Its lot size and use are unique circumstances that the applicant did not create.

- 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.**

The parking variance will not alter the essential character of the surroundings, but granting such variance can potentially reduce on-street parking opportunity for residents using the public park.

- 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.**

Potential increase in traffic volume will be very negligible as to negatively affect its public welfare and safety.

### **RECOMMENDATIONS:**

#### **Recommendation of the Community Planning and Economic Development Planning Division for the change of nonconforming use:**

The Community Planning and Economic Development Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the application for the change of non-conforming use from a grocery to a yoga studio in R1A district located at 658 Fillmore St. NE, subject to the following conditions:

1. All existing signs are to be permanently removed. New wall sign, installed only on non-residential portion of the building, shall be regulated under the OR2 zoning district.
2. A seven-foot-wide landscaped area with turf grass and one canopy tree shall be installed along the public sidewalk in the area west of the garage. The paved area behind this landscaped area shall be one parallel parking space.

#### **Recommendation of the Community Planning and Economic Development Department – Planning Division for the variance:**

The City Planning Department recommends that the City Planning Commission adopt the findings above and **approve** the parking variance application for the proposed yoga studio located at 658 Fillmore Street NE in an R1A district from the required 3 parking spaces to zero spaces.

#### **Attachments:**

1. Statement of use
2. Findings
3. Correspondence
4. Zoning map
5. Plans
6. Photos