

**BOARD OF ZONING APPEALS STAFF REPORT**  
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**TYPE OF APPLICATION:** Major Variance **FILE #**11-282158  
**APPLICANT:** KEVIN D. VANDERAA  
**HEARING DATE:** December 27, 2011  
**LOCATION:** 949 GRAND AVENUE  
**LEGAL DESCRIPTION:** Summit Park Addition Tost Pa Lot 22 Blk 27  
**PLANNING DISTRICT:** 16  
**PRESENT ZONING:** B2 Sign-Grand **ZONING CODE REFERENCE:** 63.207  
Grand Avenue Special Sign District  
**REPORT DATE:** October 11, 2011 **BY:** Yaya Diatta  
**DEADLINE FOR ACTION:** January 3, 2012 **DATE RECEIVED:** September 29, 2011

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A. **PURPOSE:** The applicant is requesting a variance of the off-street parking requirements in order to obtain a wine and beer license for Cup Cake Restaurant. The previous retail use required 3 off-street parking spaces, the new use requires 10 off-street parking spaces for a variance of 7 parking spaces.

B. **SITE AND AREA CONDITIONS:** This is a 40 by 150 foot lot with alley access to a surface parking area at the rear.

Surrounding Land Use: Mixed commercial and residential uses.

C. **HISTORY:** The building on this property was originally a house with a commercial storefront addition up to the front property line and was destroyed by fire in 2005. The previous building had 5 off-street parking spaces; the number of spaces were nonconforming under the zoning code. State law allows the replacement of nonconformities if a building permit is applied for within 180 days. A new building of 4,354 square feet of floor area was constructed with 5 off-street parking spaces, the same nonconformity as the original building.

In 2009, an office use which occupied 1,240 square feet of floor area on the first floor was discontinued and replaced by a retail business. The change in use from office to retail resulted in a parking shortfall of 2 parking spaces and a parking variance (file #09-069043) was granted for the new retail use.

In August of 2010, new parking regulations were adopted for Saint Paul. Under these parking standards, retail uses require parking at a rate of one space for each 400 square feet of floor area and restaurants with a beer and wine license require one space for each 125 square feet of floor area. The retail uses in this building require 11 off-street parking spaces under the new code; 5 spaces were existing for a deficit of 6 spaces.

The applicant intends to occupy a former retail space of 1,240 square feet for Cup Cake Restaurant with a wine and beer license. The proposed use requires an additional 7 off-street parking spaces.

**D. CODE CITATION:**

Sec.63.207. - Parking requirements by use.

- (a) Off-street parking minimum. The minimum number of off-street parking spaces by type of use shall be determined in accordance with table 63.207, minimum off-street parking by use.

General retail	1 space per 400 sq. ft.
Restaurant, Coffee shop, tea house, deli	1 space per 400 sq. ft. GFA
Establishment with on-sale wine, strong beer, or nonintoxicating malt liquor	1 space per 125 sq. ft. GFA

**E. FINDINGS:**

1. *The variance is in harmony with the general purposes and intent of the zoning code.*

Finding 1 is not met. Cup Cake is primarily a from-scratch bakery and café currently operating on University Avenue in Minneapolis. The name of the restaurant is a misnomer as the menu is not consisted of cup cakes only. The restaurant also serves coffee, beer, wine, sandwiches, salads, and small plates. The applicant is opening a new Cup Cake Restaurant with a capacity of 37 seats in Saint Paul.

The applicant's request for a variance of 7 parking spaces in order to secure a wine and beer license will increase the parking deficiency for this relatively small lot. Grand Avenue is a street with a high traffic volume in a neighborhood that is already confronted with parking issues. This request is not in keeping with the general purposes and intent of the code in that it will not lessen congestion on public streets as intended in the comprehensive plan.

- 2. The variance is consistent with the comprehensive plan.*

Finding 2 is not met. The comprehensive plan calls for providing off-street parking of motor vehicles to lessen congestion in public streets. Although there are 5 parking spaces available on the property for all tenants' use, the applicant's customers will most likely resort to on-street parking. This request would increase congestion on public streets; it is not consistent with the above mentioned goal of the comprehensive plan.

- 3. The applicant has established that there are practical difficulties in complying with the provision, that the property owner proposes to use the property in a reasonable manner not permitted by the provision. Economic considerations alone do not constitute practical difficulties.*

Finding 3 is not met. This lot is typical of converted, originally residential properties along Grand Avenue and provides limited space for developing off-street parking. A restaurant without wine and beer has the same off-street parking requirement as retail sales and would be more in keeping with this lot due to the lack of space to provide off-street parking. The applicant could find a location with sufficient off-street parking or operate without wine and beer.

- 4. The plight of the landowner is due to circumstances unique to the property not created by the landowner.*

This finding is not met. There are a number of properties on Grand Avenue with lots of similar size as the applicant's property but do not serve wine and beer. There are no circumstances unique to the property to justify the variance request.

- 5. The variance will not permit any use that is not allowed in the zoning district where the affected land is located.*

Finding 5 is met. A restaurant with wine and beer is permitted in this zoning district; the variance if granted will not change or alter the zoning classification of this property.

- 6. The variance will not alter the essential character of the surrounding area.*

Finding 6 is not met. This request could cause an increase in on-street parking that will affect traffic on Grand Avenue; it could change the essential character of the neighborhood.

F. **DISTRICT COUNCIL RECOMMENDATION:** Staff has not received a recommendation from District 16.

G. **CORRESPONDENCE:** Staff has not received additional correspondence.

H. **STAFF RECOMMENDATION:** Based on findings 1 through 5 and finding 6, staff recommends denial of the variance request.