

**CITY OF MINNEAPOLIS
CITY COUNCIL
ZONING AND PLANNING COMMITTEE**

In Re: Appeal from decision of Minneapolis
Planning Commission denying applications for
third-story addition at 4609 28th Avenue South

**FINDINGS OF FACT
AND
RECOMMENDATION**

The above-entitled matter came before the Standing Committee on Zoning and Planning of the Minneapolis City Council for a public hearing on Thursday, May 7, 2015, in Room 317, City Hall, 350 South Fifth Street, Minneapolis, MN 55415. On April 13, 2015, the Minneapolis Planning Commission (“CPC”) denied the land use applications required to add a third-story addition and roof top deck to a nonconforming four-plex located at 4609 28th Avenue South. Lora Grgich, property owner of record, appealed the CPC’s denials to the City Council pursuant to Minneapolis Code of Ordinances (“MCO”) § 525.180. Having held a public hearing on the appeal, the Committee now makes the following findings:

FINDINGS OF FACT

1. The existing four unit residential building was legally established and built in 1929. All four of the dwelling units within the building currently have one bedroom and one bathroom. The applicant is proposing to add a third level to the building in order to increase the size of the two existing dwelling units on the second floor. Both of the second floor dwellings would become two level units with two bedrooms and two bathrooms each.
2. The property is zoned R2B (with the Shoreland and Airport overlay districts) and a four-plex is nonconforming in this district.

3. The number of dwelling units is not increasing with this proposal. The property was originally built in 1929 as a four-plex and will remain a four-plex.
4. The proposal required the submission of several land use applications: expansion of a nonconforming use, a conditional use permit (“CUP”) to increase height, a variance to increase the floor area ratio, and two side yard setback variances.
5. The proposal will not increase the footprint of the building because the requested addition is vertical. Even though the proposal will not reduce existing setbacks (no horizontal expansion of the footprint), it still triggered the need to submit setback variances because the building (as originally built in 1929) does not comply with current setback requirements.
6. The proposal meets the criteria to expand a nonconforming use. Rezoning of the property would be inappropriate because the surrounding area is zoned R2B and R1A. In order to make the property conforming, a rezoning to R3 would be required. In addition to the lack of consistency with the surrounding area, rezoning to R3 is also not supported by adopted City policy because 28th Avenue South is not a designated corridor. The proposal does not add dwelling units to the building and is not located in the Floodway District. It would be fairly compatible with adjacent properties, which include duplexes with two bedrooms and one bathroom in each unit.
7. The expansion would not result in significant increases of adverse, off-site impacts. There is an existing four-car garage on the property and each dwelling unit has access to one parking space. A study furnished by the applicant shows that the expansion does not significantly increase the shadowing on adjacent properties. The expansion will improve

and update the building's exterior, while also adding two new balconies on the second floor, some new windows, stucco repair, and new paint.

8. The proposal also qualifies for a CUP to increase height. The existing building is two stories and 23.5 feet in height. With the proposed third-story addition, the height to the top of the parapet would be 32 feet, 6 inches. The underlying zoning district classifications provide for a maximum height of 2.5 stories or 35 feet, whichever is less. Although the proposal exceeds the number of stories, the overall height in feet (32 ft. 6 in. to the top of the parapet) is less than what is allowed by the zoning. Increasing the height of the building in the requested manner will not be detrimental to or endanger the public health, safety or general welfare, nor will it be injurious to the use and enjoyment of other property in the vicinity. The increase in height will have no impact on utilities, access roads, or drainage. It will also have no impact on traffic congestion in the public streets. The proposal does not add dwelling units to the building and the property contains a garage with a parking space for each of the units. The Comprehensive Plan supports rehabbing and reinvesting in the existing structure.
9. The third-story addition will not reduce access to light or air of the surrounding properties. The windows on the south side of the single-story duplex to the north are already shaded by the subject property, which is a long-standing condition since the duplex was built after the subject property. The proposal will also not significantly increase the shadowing of adjacent properties as indicated by the shadow study furnished by the applicant. There are no existing solar energy systems in the area. Because the third-story addition is pulled back from the front of the building, the shadow from the addition has little impact on the duplex to the north. The proposal fits in with the scale

and character of surrounding uses, which includes a mix of single family homes, duplexes (with two bedroom units), and a triplex. The hip roof of the property to the south would be within one foot of the height of the flat roof on the subject property. Finally, there are no landmark buildings, significant open spaces, or water bodies that the proposed building addition would block views of.

10. The applicant also meets the standard to grant the variances based on a showing of practical difficulties. It is both reasonable and in keeping with the adopted policy of the Comprehensive Plan for a property owner to rehab and reinvest in their existing structure. A unique circumstance exists based on the fact that this building is already over the floor area ratio and does not meet the setbacks, so no increase in size could be made to the building without triggering the need for the variances. This is true even though the existing setbacks (since the building's inception in 1929) are not changing. In addition, the overall height in feet of the building with the addition is less than what is allowed by the underlying zoning. Granting of the variances will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity as noted in the preceding paragraphs.

Therefore, based on the foregoing Findings of Fact, the Committee makes the following recommendation:

RECOMMENDATION

1. That the City Council grant the appeal and approve all of the land use applications at issue.
2. That these Findings of Fact and Recommendation be adopted by the City Council as their official Findings and be made part of the official record.