

Community Planning and Economic Development Planning Division Report

Rezoning Application
Variances
Nonconforming Use Certificate [added]
BZZ-1749

Date: July 12, 2004 [continued from June 7, 2004]

Applicant: Matthew L. Knopp

Address Of Property: 3150 Harriet Avenue South

Date Application Deemed Complete: May 5, 2004

End of 60 Day Decision Period: July 4, 2004

End of 120 Day Decision Period: September 2, 2004

Contact Person and Phone: Matthew L. Knopp, 612/825-3898

Planning Staff and Phone: Fred Neet, 612/673-3242

Ward: 10 **Neighborhood Organization:** Lyndale Neighborhood Association

Existing Zoning: R2B

Proposed Zoning: R5

Zoning Plate Number: 24

Legal Description: East 44.5 feet of lots 12 and 13, Block 6, Motor Line addition to Minneapolis

Proposed Use: fourplex

Appropriate Section(s) of the Zoning Code: Chapter 525, Articles VI (Zoning Amendments) and IX (Variances) and Chapter 531 (Nonconforming Uses)

Background:

On June 7, the Planning Commission requested that the applicant apply for a nonconforming use certification *in lieu of* rezoning. The applicant's statement is enclosed. Staff analysis is appended to this report.

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The applicant purchased the existing fourplex in 1993. The building was constructed in 1910 as a duplex, legally converted to a triplex in 1939. No record can be found indicating when the triplex was converted to a fourplex, but the property apparently has been zoned R2B since 1963. To legalize the fourth unit, the property must be rezoned to R5 and be granted a variance to reduce minimum lot size from 5000 square feet to 4000. The property provides one parking space and has grandfathered rights to two more. To provide a required second parking space for the fourplex, another variance is required to place the added space within six feet of the residential building.

With this one exception, all R2B properties on Harriet Avenue between 31st and 33rd Streets are properly zoned. However, one block to the west, Garfield Avenue between 31st and 33rd Streets, twelve properties zoned R2B are residential structures ranging from four to 17 dwelling units.

The subject property is on a reverse corner lot which imposes particular hardships.

Lyndale Avenue is two blocks west, with R4, R5, and C1 zoning districts, and is designated a Community Corridor. Lake Street, two blocks north, is designated a Commercial Corridor.

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:

REZONING

1. Whether the amendment is consistent with the applicable policies of the comprehensive plan.

4.9 Minneapolis will grow by increasing its supply of housing.

Support the development of new medium- and high-density housing in appropriate locations throughout the City.

4.10 Minneapolis will increase its housing that is affordable to low and moderate income households.

4.11 Minneapolis will improve the availability of housing options for its residents.

Increase the variety of housing styles and affordability levels available to prospective buyers and renters.

Provide and maintain moderate and high-density residential areas. But also...

Provide and maintain areas that are predominantly developed with single and two family structures.

Promote the development of housing suitable for people and households in all life stages, and that can be adapted to accommodate changing housing needs over time.

Promote mixed-income housing development that offers a range of dwelling unit sizes and levels of affordability.

4.14 Minneapolis will maintain the quality and unique character of the city's housing stock, thus maintaining the character of the vast majority of residential blocks in the city.

Encourage adaptive re-use, retrofit and renovation projects that make the city's housing stock competitive on the regional market.

Provide the flexibility in the city's ordinances to improve and maintain existing structures.

2. Whether the amendment is in the public interest and is not solely for the interest of a single property owner.

The amendment is primarily for the interest of the property owner. However, retention of a dwelling unit affordable to middle-income residents could also be considered.

3. Whether the existing uses of property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification, where the amendment is to change the zoning classification of particular property.

All the houses on Harriet Avenue to the north and south are one- or two-family dwellings. However, on Garfield Avenue one block to the west are twelve structures which do not conform to their R2B district, ranging in size from four to 17 dwelling units each.

4. Whether there are reasonable uses of the property in question permitted under the existing zoning classification, where the amendment is to change the zoning classification of particular property.

One- and two-family dwellings are permitted, and a three-unit dwelling is allowed as a legally nonconforming use.

5. Whether there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its present zoning classification, where the amendment is to change the zoning classification of particular property.

As the commercial area known as Lyn-Lake has improved and expanded, housing renovation and new construction has been occurring recently in the general area, including townhouses and multi-family structures.

VARIANCES: a) to reduce the minimum lot area from 5000 to 4000 square feet, and
b) to allow parking within six feet of a residence.

Findings Required by the Minneapolis Zoning Code:

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.

a) One- and two-family dwellings are reasonable uses, and a three-family dwelling is also allowed. Considerable expense would be incurred to remove the fourth unit.

b) The additional parking space is located in the only possible place due to the reverse corner lot.

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.

a) The City cross-platted two lots into three, and permitted construction of a duplex on the corner lot in 1910, then permitted conversion to a triplex in 1939. The fourth unit was added prior to the current owner.

b) With two “grandfathered” parking spaces and a one-car garage, the fourth unit requires an additional off-street parking space.

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.

a) The fourth unit has existed since before 1993 with no indication of harm to the neighborhood.

b) The additional parking space will reduce the current parking nonconformity by one.

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.

a) Neighbors report no concerns with congestion, public welfare or safety with the existing conditions.

b) The Fire Department has no objection to the location of the additional parking space because another bedroom window is available for emergency evacuation.

NONCONFORMING USE CERTIFICATE

1. Former City Council action: This site was rezoned from “Multiple” and “E” (density) to R2B in 1963 which it has remained since. “Multiple-E” permitted 6 units, R2B permits 2.

2. Period between the Council’s action and the present: The Zoning Code [Section 531.30 (4)] states the “burden of proof shall be on the applicant to establish the lawful nonconforming status of the use or structure and the lack of abandonment...” (emphasis added). The applicant summarizes Polk Directories as listing 4 units at 3150 Harriet in 1956 and 3 units in 1966-67 (“lower vacant”) and in 1979 and 1980. The 3 units could be relevant because the applicant states that 500 W. 32nd St. has a separate listing which routinely lists an additional unit, but provided no Polk copies to this effect.

The Zoning Code in Section 531.40 (a) (1), states “if the nonconforming use is discontinued for a continuous period of one (1) year, it shall be deemed to be abandoned....A property owner may rebut the presumption of abandonment only by presenting clear and convincing evidence that discontinuance of the nonconforming use for the specified one-year period was due to

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circumstances beyond the property owner's control." The Polk Directories are only snapshots in time. Since the 1966-67 directory covered two years in one volume, this does not mean that a third unit (plus any at the 32nd St. address, was vacant for an entire year.

- 3. Nonconforming rights:** Based on the above, the Community Planning and Economic Development Planning Division concludes that clear and convincing evidence has not been presented to establish continuous rights to four units.

Recommendations of the Community Planning and Economic Development Planning Division:

REZONING

The Community Planning and Economic Development Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **deny** the application to rezone 3150 Harriet Avenue South from R2B to R5.

VARIANCES

The Community Planning and Economic Development Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the applications to a) reduce the minimum lot area from 5000 to 4000 square feet and b) allow a parking space within six feet of a residence at 3150 Harriet Avenue South, on condition that the property is rezoned to R5 or a nonconforming use certificate is granted for the property.

NONCONFORMING USE CERTIFICATE

The Community Planning and Economic Development Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the Nonconforming Use Certificate for four dwelling units at 3150 Harriet Avenue South.

attachments: applicant's statements
statements of support (6)
map
site plan
floor plans
photographs
aerial photograph