

City of Minneapolis
Community Planning and Economic Development Division
Planning Department

350 South Fifth Street, Room 210
Minneapolis, MN 55415-1385
(612) 673-2597 Phone
(612) 673-2728 Fax
(612) 673-2157 TDD

MEMORANDUM

DATE: January 20, 2004
TO: City Planning Commission
SUBJECT: BZZ-1539 : 2700 Grand Street NE

Based on the recommendation of the City Planning Commission at the public hearing held on January 12, 2004, BZZ-1539 was continued until the January 26, 2004 public hearing. This occurred in order for Staff to evaluate some new information that was provided to the City Planning Commission by the applicant the night of the hearing. Staff was completely unaware that the applicant possessed additional information regarding the property. Staff has analyzed the information that was submitted to the Planning Commission the night of January 12, 2004 and spoken with rental housing staff. It is Staff consensus that the information submitted in no way conclusively proves that a legal duplex unit has ever existed on the subject property.

Staff has reviewed all building permit records for the property. There is no evidence that permits were ever legally attained for a second dwelling unit. The records do indicate that a building addition was constructed and legally permitted, however, no specification is made to signify that it was for an additional unit. All building permit records refer to one dwelling unit.

Staff has also reviewed all available rental licensing and housing records. According to the records there is no rental license history for the property. The structure information according to City records indicates that there is only one registered dwelling unit on the property.

The applicant has misinterpreted some information that was acquired from the City's housing department. A print off from a program that stores city records lists "CRA-Retail & Apartments" for the property located at 2700 Grand Street NE. This has been a title utilized by the City's housing department for properties that at one time had a retail use as well as a residential use. Specifically, the word "Apartments" was used to represent either a single apartment or many apartments. The conclusion by rental housing staff based on that print-off is that the property is categorized as one dwelling unit plus retail space. As the above mentioned information suggests, there are no additional city records that corroborate that there have ever been two legal dwelling units on the property.

Furthermore, the applicant has also provided to Staff for review, a 1994 property tax statement from Hennepin County. On the statement it does indicate "tax-rental units". However, the county records are not verified by inspectors. It is Staff's understanding that property owners can claim that a property is a rental unit, and be taxed as such, however, this in no way implies that the city has recognized the property as having two legal dwelling units.

It is important to note, as referenced in the Staff Report, that the applicant did try and attain a non-conforming use certificate from the Board of Adjustment in 1997. His request was denied on the basis of

his inability to show that the property had been continuously occupied since 1963.

Staff has requested a thorough history of the site from the Housing Department including the results of the 1934 Survey. Should Staff receive this information prior to the public hearing, the results will be provided to the City Planning Commission for review.

Minneapolis City Planning Department Report

Rezoning & Variance Application (BZZ-1539)

Date: January 12, 2004

Date Application Deemed Complete: December 10, 2003

End of 60-Day Decision Period: February 8, 2004

Applicant: James Harrison

Address of Property: 2700 Grand Street NE

Contact Person and Phone: James Harrison, 612-788-8587

Planning Staff and Phone: Becca Farrar, 612-673-3594

Ward: 3 **Neighborhood Organization:** Concerned Citizens of Marshall Terrace

Existing Zoning: R2B (Two-family District)

Proposed Zoning: R3 (Multiple-family District)

Zoning Plate Number: 9

Legal Description: Lot 15, Block 5, East Riverside Addn to Mpls

Proposed Use: Legalize an existing duplex residential dwelling unit.

Proposed Variance: Lot size variance for a two-family dwelling unit from the requirement of 5,000 square feet in the R3 zone district to 4,760 square feet. This application is provisional on the rezoning application.

Appropriate Section(s) of the Zoning Code: Chapter 525, Article VI Zoning Amendments and Article IX, Variances, specifically Section 525.520(2).

Background: The applicant, James Harrison, is proposing to rezone his property from the R2B zone district to the R3 zone district. He is also applying for a lot size variance in the R3 zone district from the required 5,000 square feet for a two-family dwelling unit to 4,760 square feet (approximately 5%). Two-family dwelling units in the R2B zone district require a minimum lot size of 10,000 square feet. A lot size variance under the existing R2B zoning on the property would not be possible as it exceeds the maximum variance of 30% for existing structures. The variance that the applicant would need under the existing R2B zoning classification would be approximately 50%. He is attempting to legalize the existing duplex unit currently on the property. There are two dwelling units as well as a shop area which is adjacent to the dwelling unit on the first floor. The site is zoned R2B, which allows duplex residential uses, however, a rezoning and variance application are required in order to legalize the site.

The applicant has previously applied for non-conforming rights as a duplex residential unit to the

Board of Adjustment. His application was denied in 1997. Unfortunately all building records indicate the structure as a single-family dwelling, plus store. There is no available license history as a duplex rental unit. Due to the lot size, the building would not have been allowed as a two-family unit since May 31, 1963. There was an affidavit submitted with the non-conforming rights request from a previous owner who had purchased the building in 1972. At that time the structure contained one 2-bedroom unit, one 1-bedroom unit and one studio apartment. One of these units was on the first floor, as well as a storefront shop area. Staff recommended that the application be postponed to allow the applicant more time to come up with additional information such as affidavits and statements.

Staff did point out that the submitted application was contradictory. It requested rights to a duplex, but the submitted floor plans showed 3 total units, two residential units and a shop. The applicant also was unable to provide evidence of continuous occupancy since 1963. At the following hearing the application was denied by the Board of Adjustment. The applicant was unable to attain any additional information. The one year vacancy had expired for the use of the first floor as any kind of commercial area. There is no indication of why the unit has been vacant for more than a year thereby technically losing its right. Additionally, prior to Mr. Harrison purchasing the property, the entire building was vacant for a period of 3-4 years.

Findings As Required By The Minneapolis Zoning Code for the Rezoning Application:

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

The Minneapolis Plan shows this site as located in a Low-Density Residential area. Policy 4.14 of *The Minneapolis Plan* states that “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.” Furthermore, the plan states in Policy 9.8 “Minneapolis will maintain and strengthen the character of the city’s various residential areas.” It is Staff’s position that the rezoning application does not conform with the above listed applicable policies of the comprehensive plan. The rezoning of the subject property to the R3 zone district may set precedent for future rezonings in the neighborhood which could alter the character as well as the density of the existing neighborhood.

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

The rezoning is in the interest of the applicant. It will allow the applicant to attain building permits for the dwelling unit to make improvements as well as legally permit the second dwelling unit.

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.

The existing uses in the general area are predominantly single family and duplex residential dwelling units. The area is completely surrounded by R2B zoned properties which permit both single family and duplex residential units. There are no R3 zoned properties in the vicinity.

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.

The site could be utilized as a single-family residential dwelling unit based on the lot size restriction under the R2B zoning classification.

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.

Within this area of Minneapolis there has not been a significant change in zoning or in the type of development. The neighborhood has been predominantly and still remains a low-density residential neighborhood. The building was formerly a storefront shop that was converted to a dwelling unit.

VARIANCE (to reduce the lot size from 5,000 square feet in the R3 zone district to 4,760 square feet)

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.

The existing and proposed use will include 2 dwelling units and a shop area. The applicant is attempting to legalize an existing duplex use on the property. A new two-family dwelling unit in the R2B zone district requires a minimum lot area of 10,000 square feet. A lot size variance under the existing R2B zoning on the property would not be possible as it exceeds the maximum variance of 30% for existing structures. The variance that the applicant would need under the existing R2B zoning classification would be approximately 50%.

The applicant is proposing to rezone the property to the R3 zone district. The variance is provisional on the rezoning application. A two-family dwelling unit in the R3 zone district requires a minimum lot size of 5,000 square feet. The lot size variance needed under the R3 zone district classification would be approximately 5% as the lot area for the subject property is 4,760 square feet.

The use of the property as a single-family residential property is a reasonable use. There is not an undue hardship, as it appears that reasonable use of the site is possible.

- 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 site is relatively flat and rectangular, so there is no unique physical characteristic. The need for the variance is caused by the applicants desire to legalize the existing illegal duplex on the property. The City has the property categorized as a single-family dwelling unit.

- 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 zoning code allows for a lot size variance of up to 30% in most cases. Should the rezoning be recommended for approval, the granting of the lot size variance would be within 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 applicant is seeking a lot size variance of approximately 5% of the requirement in the R3 zone district from 5,000 square feet for a two-family dwelling unit to 4,760 square feet.

- 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.**

The proposed variance will not increase the congestion of the public streets or increase the danger of fire or be detrimental to the public welfare or safety.

Recommendation of the CPED Planning Division:

REZONING

The City Planning Department recommends that the City Planning Commission and City Council adopt the above findings and **deny** the rezoning application from the R2B district to the R3 district for property located at 2700 Grand Street NE.

VARIANCE

The City Planning Department recommends that the City Planning Commission adopt the above findings and **deny** the variance application for lot size from the required 5,000 square feet for a two-family dwelling unit in the **R3** zone district to 4,760 (approximately 5%) for property located at 2700 Grand Street NE.

Attachments:

1. Zoning map.
2. Site plan & Floor plan

3. Applicable letters