

Department of Community Planning and Economic Development - Planning Division
Rezoning and Variance
BZZ-4598

Date: November 9, 2009

Applicant: Leif Ogren-Amdahl

Address of Property: 3231 23rd Avenue South

Project Name: 3231 23rd Avenue South

Contact Person and Phone: Leif Ogren-Amdahl 612-396-1808

Planning Staff and Phone: Jim Voll 612-673-3887

Date Application Deemed Complete: October 19, 2009

End of 60 Day Decision Period: December 18, 2009

Date Extension Letter Sent: October 20, 2009

End of 120 Day Decision Period: February 16, 2010

Ward: 9 Neighborhood Organization: Corcoran

Existing Zoning: R1A Single-family District

Proposed Zoning: R2B Two-family District

Zoning Plate Number: 27

Legal Description: Lot 9, Block 1, Parkers Addition to Minneapolis

Existing/Proposed Use: Duplex.

Concurrent Review:

Rezoning: Rezoning from the R1A Single-family District to the R2B Two-family District.

Variance: To reduce the minimum required lot area for a duplex established after 1995 from 10,000 to 9,167 square feet.

Applicable zoning code provisions: Chapter 525, Article VI, Zoning Amendments; Chapter 525, Article IX, Variances, specifically Section 525.520(2) “to vary the lot area requirements up to thirty (30) percent.”

CPED Planning Division Report

BZZ-4598

Background: The property at 3231 23rd Avenue South was converted to a duplex sometime in the last 30 to 40 years. Staff can find no record of it being legally converted to a duplex. With the adoption of the 1963 zoning code the R1A Single-family District was established on this property (please see attached maps) and it has remained in this classification since that time. The R1A District does not allow duplexes. The historical building permit record cards show this structure as a one-unit building in 1974. Based on that information the site was converted to a duplex after it was zoned to a single-family district.

The applicant purchased the property as a duplex in January of 2009. The Hennepin County property information web page shows the property as a two-family structure. The applicant has indicated that he viewed the records as far back as possible to 1993 and they showed it as being taxed as a duplex back to that time. The City's property info web page shows the property as having a rental license back to 1991. City building permit records show permits for electrical service in 1976 and a second floor addition in 1978, which indicates that the work may have been done at that time. The applicant indicates that Xcel informed him that the second electrical service was added in 1972.

The R2B District allows duplexes as a permitted use. The applicant is requesting a rezoning of the property to the R2B Two-family District to legalize the duplex. Duplexes established before January 1, 1995, and single-family homes are allowed on lots of 5,000 square feet, with a minimum lot width of 40 feet, in the R2B Two-family District. A new duplex in the R2B District requires a minimum lot size of 10,000 square feet and a minimum lot width of 40 feet.

The maximum allowable lot size variance is 30 percent for most uses. A variance of up to 55 percent is allowed for newly constructed duplexes in the R2B Districts when the surrounding properties are primarily two-family developments on lots of similar size to the proposed development. The applicant proposes to reduce the lot size from the required 10,000 square feet to 9,167 square feet. This is an eight percent variance for an existing structure, so this application falls under the 30 percent variance and not the standards for the 55 percent variance.

If the rezoning and lot area variance are approved it does not constitute an approval of the duplex for building code or housing regulations.

As of the writing of this report, staff has not received any correspondence from the neighborhood group, but will forward comments, if any, at the Planning Commission meeting.

REZONING (from the R1A Single-family District to the R2B Two-family District)

Findings As Required By The Minneapolis Zoning Code:

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

The Minneapolis Plan for Sustainable Growth (adopted October 2, 2009) designates this area as Urban Neighborhood. The plan states (page 1-8) that the Urban Neighborhood land use category is "predominantly residential area with a range of densities, with highest densities generally to be

CPED Planning Division Report

BZZ-4598

concentrated around identified nodes and corridors. It may include undesignated nodes and some other small-scale uses, including neighborhood-serving commercial and institutional and semi-public uses (for example, schools, community centers, religious institutions, public safety facilities, etc.) scattered throughout. More intensive non-residential uses may be located in neighborhoods closer to Downtown and around Growth Centers. It is not generally intended to accommodate significant new growth, other than replacement of existing buildings with those of similar density.” The plan further states (page 1-10) that low density residential, single and two-family residential at eight to 20 dwelling units per acre are the most appropriate density in the Urban Neighborhood land use category, but “actual densities within these features may vary depending on a variety of conditions, including size and orientation, surrounding neighborhood character, unit mix, and other factors.”

The site is in the area covered by the *Hiawatha/Lake Station Area Master Plan* adopted in 2001. The land use plan (page 44) shows the subject property as part of a single-family area. The plan (page 31) states that single-family, carriage units, and duplexes are appropriate uses in single-family areas.

This site is just south of the area covered by the *Corcoran Midtown Revival* plan adopted in 2002.

While the comprehensive plan and small area plans indicate that higher densities may be appropriate within LRT station areas and that the R2B District may be appropriate within the Urban Neighborhood land use category, there is not policy guidance that it is appropriate for every property in these areas to be rezoned from the R1A to the R2B District. The fact that the lots on the east side of 23rd Avenue South between East 32nd and 33rd Streets are large lots of almost 10,000 square feet makes them more appropriate for two-family dwellings and density than other properties in the area, but again staff did not find direct policy guidance to support moving the R2B District boundary to the east side of 23rd Avenue South.

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

The rezoning is primarily in the interest of the property owner.

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 district boundary between the R1A Single-family District and the R2B Two-family District runs along 23rd Avenue South, with the subject property on the R1A (east) side of the street. The area is mainly single-family homes with some multi-family properties, but the east side of 23rd Avenue is single-family homes. The R2B District is directly across the street from the site, so the rezoning is less likely to change the character of the area; however, staff does not find direct policy guidance to support extending the district to the east side of 23rd Avenue South.

CPED Planning Division Report

BZZ-4598

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 R1A District allows single-family homes on lots of this size, which would be a reasonable use of the property; however, it should be noted that the structure has been operated as a duplex for several years with little noticeable impact on the surrounding area.

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.

This area has remained generally a single-family area with some multi-family properties since it was placed in the R1A Single-family District as a part of the general remapping of the City with the adoption of a revised zoning code in 1963. The R1A zoning was retained with the 1999 zoning code revisions. A major change to the area has been the construction of the Hiawatha LRT line which runs east of the site with a LRT station within a half mile at Lake Street.

VARIANCE (to reduce the minimum required lot area from 10,000 to 9,167 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 site is currently zoned R1A Single-family District, which does not allow duplexes. The applicant is proposing a rezoning to the R2B Two-family District, which allows duplexes, but requires 10,000 square feet of lot area for a duplex legally established after January 1, 1995. Duplexes legally established before January 1, 1995, and single-family homes in the R2B Two-family District require 5,000 square feet of lot area. The variance is only applicable if the property is zoned to the R2B Two-family District.

The lot is 54 by 172 feet and has an area (according to Hennepin County property maps) of 9,167 square feet. This is a little smaller than the area of 9,288 square feet obtained by multiplying 54 by 172, due to the fact that lots are not always perfect rectangles. The lot is 833 square feet short of the minimum required lot area of 10,000 square feet for a newly established duplex. The proposed variance is an eight percent reduction. Without the variance the applicant would not be able to establish a duplex on this lot, when there duplexes on similarly or smaller sized lots in other areas zoned R2B throughout the city. If the rezoning to R2B is approved, the requested variance will allow a reasonable use of the property. However, because staff is recommending denial of the rezoning, staff also recommends denial of the variance.

CPED Planning Division Report

BZZ-4598

- 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 consists of a platted lot that is 833 square feet short of the required minimum lot area in the R2B District for a newly established duplex. There are other similarly sized properties zoned R2B throughout the city, but this is a condition that is not generally applicable to other properties in the R2B District throughout the city. However, because staff is recommending denial of the rezoning, staff also recommends denial of the variance.

- 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 intent of minimum lot area requirements is to provide a reasonable lot size that that allows for adequate room for the principal and accessory structures, sidewalks, drives, and yards. The lot is short of the minimum lot area requirement by 833 square feet. This is not a difference that would make the legalizing of the existing duplex more difficult than if it were 10,000 square feet. Granting this variance will not circumvent the intent of the ordinance. However, because staff is recommending denial of the rezoning, staff also recommends denial of the variance.

- 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 duplex is existing, but not legally established. The variance should have no effect on congestion, as it will not significantly increase traffic demand at the site. The site has a garage and a parking pad that provided two parking spaces. The variance should not be detrimental to the public welfare or safety and will not increase the danger of fire.

RECOMMENDATIONS:

Recommendation of the Community Planning and Economic Development Department - Planning Division for the rezoning :

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission and City Council adopt the findings above and **deny** the rezoning from the R1A Single-family District to the R2B Two-family District for property located at 3231 - 23rd Avenue South.

CPED Planning Division Report

BZZ-4598

Recommendation of the Community Planning and Economic Development Department - Planning Division for the lot area variance:

The Community Planning and Economic Development Department - Planning Division recommends that the City Planning Commission adopt the findings above and **deny** the variance to reduce the required lot area from 10,000 to 9,167 square feet to allow a duplex for property located at 3231 - 23rd Avenue South.

Attachments:

1. Statements from applicant.
2. Zoning map.
3. Site plans and floor plans.
4. Photos.