

**Department of Community Planning and Economic Development - Planning Division**  
Appeal of the Decision of the Zoning Administrator  
BZZ - 2353

**Date:** July 7, 2005

**Applicant:** Marilyn Bohne

**Address Of Property:** 605 Erie Street SE

**Contact Person And Phone:** Marilyn Bohne 612-3805-9847

**Planning Staff And Phone:** Jim Voll 612-673-3887

**Date Application Deemed Complete:** April 28, 2005

**End of 60 Day Decision Period:** June 27, 2005

**Date Extension Letter Sent:** June 13, 2005

**End of 120 Day Decision Period:** August 26, 2005 (appellant has provided a letter extending the review period to September 15, 2005).

**Appeal Period Expiration:** June 13, 2005

**Ward: 2      Neighborhood Organization:** PPERRIA

**Existing Zoning:** R5 Multiple-Family Residential Districts

**Appeal of the decision of the Zoning Administrator:** This item was continued from the June 2, 2005 and June 16, 2005 meetings of the Board of Adjustment. Marilyn Bohne has filed an appeal of the decision of the Zoning Administrator that her property is a single-family dwelling that can't rent rooms as a rooming house for her property at 605 Erie Street SE in the R5 District.

**525.170. Appeals of decisions of the zoning administrator.** All findings and decisions of the zoning administrator, planning director or other official involved in the administration or the enforcement of this zoning ordinance shall be final subject to appeal to the board of adjustment, except as otherwise provided by this zoning ordinance. Appeals may be initiated by any affected person by filing the appeal with the zoning administrator on a form approved by the zoning administrator. All appeals shall be filed within ten (10) calendar days of the date of the decision. Timely filing of an appeal shall stay all proceedings in the action appealed, unless the zoning administrator certifies to the board of adjustment, with service of a copy to the applicant, that a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed. The board of adjustment shall hold a public hearing on each complete application for an appeal as provided in section 525.150. All findings and decisions of the board of adjustment concerning appeals shall be final, subject to appeal to the city council as specified in section 525.180.

**CPED Planning Division Report**  
BZZ-2353

**Background and Analysis:** The subject property is located at 605 Erie Street SE and is zoned R5 Multiple-family Residential. City records show the house as a single-family home. The appellant's letter of appeal states that she has made improvements to the structure including the addition of a kitchen upstairs and in the basement. She also indicates that there are locks on the individual renter's rooms. The structure is being operated as a rooming house. A rooming house is not allowed under in the R5 zoning district. On April 18, 2005 the Inspections Division notified the appellant that her house is a single-family home and that it can not be operated as rooming house (please see the attached letter). The appellant has appealed the decision of the Zoning Administrator.

The appellant argues that the structure has been operated this way since 1962. In order to establish these nonconforming rights the applicant would be required to apply for a nonconforming use certificate. An appeal of the decision of the Zoning Administrator is not the appropriate process to establish nonconforming rights.

Staff makes the following findings:

- 1) The Inspections Division has inspected the structure and has determined that it is a single-family home being operated as a rooming house.
- 2) The appellant's own letter of appeal indicates that it is being operated as a rooming house.
- 3) The R5 District does not allow rooming houses.

Based on the above findings planning staff agrees that the Zoning Administrator has correctly interpreted the zoning code.

**Recommendation of the Department of Community Planning and Economic Development Planning Division:**

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the findings above and **deny** the appeal of the decision of the Zoning Administrator.