

**Department of Community Planning and Economic Development – Planning Division**  
Expansion of a Nonconforming Use and a Variance  
BZZ – 2831

**Date:** March 6, 2006

**Applicant:** Jeff Carlson & Jason Simmering, P.O. Box 154, Prior Lake, MN 55372

**Address of Property:** 3128 Grand Ave S

**Project Name:** 3128 Grand Ave S

**Contact Person and Phone:** Jason Simmering, P.O. Box 154, Prior Lake, MN 55372, 952-292-5886

**Planning Staff and Phone:** Tara Beard, 612-673-2351

**Date Application Deemed Complete:** January 27, 2006

**End of 60-Day Decision Period:** March 28, 2006

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

**Existing Zoning:** R2B (Two-family) district

**Proposed Zoning:** Not applicable for this application

**Zoning Plate Number:** 25

**Lot Area:** 5,800 square feet

**Legal Description:** Not applicable for this application

**Proposed Use:** Four-car, 800 square foot detached garage accessory to an existing non-conforming four-unit building in an R2B District.

**Concurrent Review:**

- Expansion of a non-conforming use to permit an attached garage accessory to a four-plex in the R2B (Two-family) district.
- Variance to allow an increase in the allowable accessory structure size from 676 square feet to 800 square feet for an attached four car garage.

**Applicable zoning code provisions:** Expansion or alteration of nonconforming uses and structures 531.50 and Article IX Variances.

**Background:** The applicant's four-unit residential building is nonconforming in the existing R2B District. There is no existing garage, and recently the building was transitioned from rental property to condominiums. The applicant would like to provide enclosed parking for the current and future owners of the four units. A four car garage within the 676 square foot requirement results in relatively small individual stalls. The proposed garage is at the maximum height of 1 story or 12 feet permitted by the Code. Construction of a garage constitutes an expansion of the nonconforming use under section 531.50 of the zoning code. A four-car garage with 800 square feet of area is proposed and would be used for off-street parking. In addition to the expansion of the non-conforming use, a variance is being applied for to permit an increase in the maximum square footage permitted for an accessory structure.

There are many nearby and adjacent nonconforming uses in the R2B district in the vicinity of the project. The majority of nearby garages are one- or two-car in size but there is one four-car garage three buildings to the south.

At this time staff has not received written correspondence from any stakeholders.

#### **EXPANSION OF A LEGAL NONCONFORMING USE -**

#### **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:**

**The Planning Commission may approve an application if it meets the following standards and all other applicable regulations in the zoning ordinance (this section shall not authorize a use prohibited in the zoning district in which it is located to be expanded beyond the boundaries of its zoning lot):**

**(1) A rezoning of the property would be inappropriate.**

The property is located on block where all residential properties are zoned R2B. Rezoning the property to a higher zoning classification would not be appropriate for this property within the context of the surrounding area.

**(2) The enlargement, expansion, relocation, structural alteration or intensification will be compatible with adjacent property and the neighborhood.**

The proposed placement of the attached garage, fifteen feet from the public alley, is not consistent with the placement of other attached garages in the vicinity, which generally sit on the property line facing the alley. The applicant would like to provide space between the garage and the alley for additional off street parking.

**(3) The enlargement, expansion, relocation, structural alteration or intensification will not result in significant increases of adverse, off-site impacts such as traffic, noise, dust, odors, and parking congestion.**

The proposed garage would accommodate four vehicles; one enclosed parking space per unit. The garage would allow for convenient enclosed parking instead of the surface parking which is currently utilized. Because of the 15 foot rear setback proposed for the garage, the impervious surface on the site will be doubled with the creation of the garage over what is now lawn, and the site would be able to hold eight parked cars instead of the four that are currently provided (four in the proposed garage and four in the 15 foot driveway). Staff believes that this impact would be reduced if the garage were setback less than 10 feet from the rear property line keeping the number of cars that can be accommodated off site at four.

**(4) The enlargement, expansion, relocation, structural alteration or intensification, because of improvements to the property, will improve the appearance or stability of the neighborhood.**

The applicant proposes the new garage exterior be composed of vinyl lap siding to match the color of the principal structure's stucco material and the vinyl sap siding on a small addition in the rear of the building. Planning staff believes the selected material will be relatively consistent with the principal structure. To ensure compatibility with the property and surrounding area, all areas not covered by the driveway or walkways include turf or landscaping. The proposed driveway must be paved with asphalt, concrete, brick, cement pavers or similar material as required by section 541.300 of the zoning code.

**(5) In districts in which residential uses are allowed, the enlargement, expansion, relocation, structural alteration or intensification will not result in the creation or presence of more dwelling units on the subject property than is allowed by the regulations of the district in which the property is located.**

No additional dwelling units are proposed.

**(6) The enlargement, expansion, relocation, structural alteration or intensification will not be located in the Floodway District.**

The site is not located in a Floodway District.

**Findings Required by the Minneapolis Zoning Code for the Proposed Variance to increase accessory structure size from 676 square feet to 800 square feet:**

**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 4-car garage with walls for security between stalls within the 676 square feet allowed is likely too small to be practicably used by residents. It would not be possible to provide covered parking for all four units located on site with strict adherence to the regulations of the zoning ordinance.

- 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 circumstances are unique to this parcel of land as four units are established on a relatively small parcel. In order to provide enclosed parking for each unit a variance of the accessory structure size must be provided.

- 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 granting of the variance will not alter the essential character or be injurious to the use or enjoyment of other property in the vicinity. However, the proposed placement sets the garage back from the alley further than most surrounding garages. Staff recommends requiring the applicant to locate the garage closer to the rear setback, limiting the off street parking that can be accommodated by the site to four cars. This would put the garage in a location more consistent with surrounding garages.

- 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.**

Staff does not believe that the granting of a variance to increase the allowable accessory structure size shall impact or affect public safety in any way.

## **RECOMMENDATIONS**

### **Recommendation of the Community Planning and Economic Development Department – Planning Division for the Expansion of a Nonconforming Use:**

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for an expansion of a nonconforming use to allow a new attached garage accessory to an existing four-family building in the R2B District at 3128 Grand Ave S, subject to the following conditions:

1. The rear setback for the garage will not exceed 10 feet.
2. All areas not covered by the driveway or walkways include turf or landscaping. The proposed driveway must be paved with asphalt, concrete, brick, cement pavers or similar material as required by section 541.300 of the zoning code.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the variance to allow an increase in the allowable accessory structure size from 676 square feet to 800 square feet for an attached four car garage for the property located at 3128 Grand Ave S subject to the following condition:

1. The rear setback for the garage will not exceed 10 feet.

**Attachments:**

1. Statement of use
2. Findings
3. Zoning map
4. Plans
5. Photos