

Department of Community Planning and Economic Development – Planning Division
Expansion of a Nonconforming Use and Variance
BZZ – 1996

Date: October 25, 2004

Applicant: Rea-Hal Partners, Laurence Reardon, 3080 North Shore Drive, Wayzata, MN 55391

Address of Property: 3112 Bryant Avenue South

Project Name: N/A

Contact Person and Phone: Curt Gunsbury, 2711 W. 47th Street, Minneapolis, MN 55410,
(612) 598-9416

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

Date Application Deemed Complete: September 23, 2004

End of 60-Day Decision Period: November, 21, 2004

Ward: 10 **Neighborhood Organization:** Calhoun Area Residents Action Group (Carag)

Existing Zoning: R2B (Two-family) district

Proposed Zoning: Not applicable for this application

Zoning Plate Number: 24

Lot Area: 5,836 square feet or .13 acres

Legal Description: Not applicable for this application

Proposed Use: Four-car, 835 square foot (40 feet 7 inches x 20 feet 7 inches) 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 a detached garage accessory to a four unit residential building in the R2B (Two-family) district.
- Variance to allow an increase in the allowable accessory structure size from 676 square feet to 835 square feet for a detached 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. Construction of a garage constitutes an expansion of the nonconforming use under section 531.50 of the zoning code. A four-car garage with 835 square feet of area is proposed and would replace surface parking. In addition to the expansion of the non-conforming use, one variance is also being applied for which would allow an increase in accessory structure size from 676 square feet to the proposed 835 square feet.

There are other garages within the general vicinity of the subject property that are of similar size. The applicant's intention is to provide one enclosed parking space for each residential unit in the building. The applicant believes that the garage will improve the appearance and stability of the neighborhood by providing safety for the existing residents and their possessions as well as an easily maintained alternative to the current uncovered parking lot. The applicant proposes to utilize cementitious siding on the exterior of the proposed garage. Staff will require that the garage exterior be composed of stucco to match the existing residential structure on site. Additionally, staff will require that the garage roof pitch be modified to a flat roof which will match the existing roof line of the residential structure. The applicant is also indicating the construction of additional decking to connect the garage with decking to the residential structure. Staff will require that a minimum 6 foot separation be maintained between the garage and the decking per building code requirements.

Staff has not received a response from the neighborhood association.

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 a block and within an area 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 placement of the detached garage at approximately 5 feet 1 inch from the public alley, would be compatible and relatively consistent with the placement of other detached garages in the vicinity.

- (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 currently exists. The expansion of the non-conforming use will not result in significant increases of adverse off-site impacts.

- (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 garage, as noted, would replace surface parking on site. The applicant proposes the garage exterior be composed of cementitious siding. Planning staff will require that the garage exterior be composed of stucco to match the existing residential structure on site. Additionally, the garage roof pitch must be modified to a flat roof to match the principal structure as well. 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 835 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.**

The site could be put to a reasonable use because the site as it currently exists with only surface parking is a reasonable use of the property. However, 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. It is not uncommon for Staff to allow garages that permit one enclosed parking space per unit. Having covered parking is also a reasonable use of the property.

- 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. There are similarly sized and designed garages in close proximity to the site.

- 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 detached garage accessory to an existing four-family building in the R2B District at 3112 Bryant Avenue South, subject to the following conditions:

1. 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.
2. The materials and roof pitch must be modified to match the existing residential building. The garage exterior must be composed of stucco and the roof pitch on the proposed garage must be flat.
3. Staff will require that a minimum 6 foot separation be maintained between any decking and the proposed garage.

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 835 square feet for an detached four car garage for the property located at 3112 Bryant Avenue South.

Attachments:

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