

Department of Community Planning and Economic Development – Planning Division Report**Variance Request
BZZ-1967****Date:** October 21, 2004**Applicant:** David Keller**Address of Property:** 3757 Harriet Avenue South**Date Application Deemed Complete:** September 17, 2004**End of 60 Day Decision Period:** November 16, 04**End of 120 Day Decision Period:** January 15, 05**Appeal Period Expiration:** November 1, 2004**Contact Person and Phone:** David Keller, 612-716-7368**Planning Staff and Phone:** Carrie Flack, 612-673-3239**Ward:** 10 **Neighborhood Organization:** Kingfield**Existing Zoning:** R5, Multiple-family District**Proposed Use:** Eight dwelling unit apartment building**Proposed Variance:** A variance to reduce the required corner side yard setback from 12 ft. to 0 ft. to allow for a third floor dormer expansion and a variance to reduce the required lot area from 7,200 sq. ft. to 5,240 sq. ft. (27%) to maintain an 8 dwelling unit apartment building.**Zoning code section authorizing the requested variance:** (2) (1)**Background:** The subject site is 40 ft. x 131 ft. (5,240 sq. ft.). The property consists of an 8 dwelling unit apartment building with 3 parking spaces located at the rear of the building. The applicant is proposing to expand an existing dormer on the south side of the building. The existing dormer is 12 ft. long with a 4/12 roof pitch that matches other roof pitches on the building. The new dormer will be 36 ft. long and will have a shed roof with almost no pitch that is inconsistent with the roof pitches of the existing building. The materials proposed for the new dormer are vinyl siding which is also inconsistent with the stucco material of the existing building. The building has a 0 ft. corner side yard setback and a variance is necessary for the dormer expansion.

In addition, the property is currently legally nonconforming as to the required lot area for the existing 8 dwelling units. The applicant has also applied for a lot area variance to bring the property into compliance.

Findings Required by the Minneapolis Zoning Code:

- 1. The property cannot be put to a reasonable use under the conditions allowed by the official controls and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

Corner side yard setback: The applicant is seeking a variance to reduce the required corner side yard setback from 12 ft. to 0 ft to allow for a third floor dormer expansion. The applicant has stated that the third floor unit does not consist of enough headroom and living space for residents. Strict adherence to the regulations would not allow for the proposed dormer expansion. Based on the submitted information staff believes that expanding the dormer seems reasonable.

Lot area: The applicant is seeking variance to reduce the required lot area from 7,200 sq. ft. to 5,240 sq. ft. (27%) to maintain 8 dwelling units in an existing apartment building. The applicant has stated that the building was originally constructed with 8 dwelling units on the subject property. City records indicate that the building is a legally nonconforming use. Strict adherence to the regulations would not allow for 8 dwelling units on the subject property. Based on the submitted information staff believes that maintaining the existing 8 unit apartment building seems reasonable.

- 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.**

Corner side yard setback: The circumstances upon which the setback variance is requested are unique to the parcel of property and have not been created by the applicant. The current building is located with a 0 ft. corner side yard setback. Any modification to the south side of the building will require a variance. The location of the building was not a circumstance created by the applicant.

Lot area: The circumstances upon which the lot area variance is requested are unique to the parcel of property and have not been created by the applicant. The building was originally constructed as an 8 unit apartment building. City records indicate that the property is a legal nonconforming use. The construction of 8 dwelling units on property with less than the current required lot area in the R5 District is not a circumstance created by the applicant.

- 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.**

Corner side yard setback: Granting the variance will not be in keeping with the spirit and intent of the ordinance and will alter the essential character of the area or be injurious to the use or enjoyment of other property in the vicinity. While the expansion of the dormer is reasonable, staff believes that the proposed shed roof with almost no pitch and not matching materials to the existing building will alter the architectural character of the building. The building is located on a corner and thus is a highly visible structure. The proposed dormer expansion will be visible from both Harriet Avenue South and 38th Street. The applicant has stated that the modified roof pitch is necessary to gain headroom in the unit. Staff believes that headroom adjacent to the windows will still not fully exist however the proposed expansion of the dormer from 12 ft. in length to 36 ft. in length will provide additional floor space that does not currently exist, providing a net benefit to the unit. Staff believes that altering the roof pitch of a structure that is symmetrical and visible from the public sidewalk will have a negative impact on the building itself as well as the street wall and neighborhood character.

Lot area: Granting the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the area or be injurious to the use or enjoyment of other property in the vicinity. The property has consisted of 8 units since the original construction of the building. Staff believes maintaining the architectural character of the building as well as the original floor plan layout provides and maintains the original fabric of the neighborhood.

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.

Corner side yard setback: Granting the variance would likely have no impact on the congestion of area streets, increase fire safety or be detrimental to the public welfare or endanger the public safety.

Lot area: Granting the variance would likely have no impact on the congestion of area streets, increase fire safety or be detrimental to the public welfare or endanger the public safety.

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 **approve** the variance to reduce the required corner side yard setback from 12 ft. to 0 ft. to allow for a third floor dormer expansion and **approve** the variance to reduce the required lot area from 7,200 sq. ft. to 5,240 sq. ft. (27%) to maintain an 8 dwelling unit apartment building subject to the following conditions:

1. That the Planning Division review and approve final site, landscaping, floor, and elevation plans.
2. That the plans be revised to provide a dormer with a roof pitch that matches the roof pitch of the existing building and that the materials of the dormer match the materials of the building.

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