

Department of Community Planning and Economic Development – Planning Division
Nonconforming Use Certificate
BZZ-4396

Date: June 11, 2009

Applicant: Jacob Gerber

Address of Property: 1519 Adams Street NE

Project Name: 1519 Adams Street NE

Contact Person and Phone: Jacob Gerber, (612) 518-3956

Planning Staff and Phone: Jake Steen, (612) 673-2264

Date Application Deemed Complete: April 27, 2009

End of 60-Day Decision Period: June 26, 2009

Ward: 1 **Neighborhood Organization:** Logan Park Neighborhood Association

Existing Zoning: R2B Two Family District

Zoning Plate Number: 9

Legal Description: Not applicable for this application

Proposed Use: Three family dwelling

Nonconforming Use Certificate: The applicant is requesting a certificate of nonconforming use to establish legal nonconforming rights for a three family dwelling in the R2B District for property located at 1519 Adams Street Northeast.

Applicable Zoning Code Provision: Chapter 531 Nonconforming Uses and Structures; Section 531.30

531.30. Establishment of nonconforming rights; certificate of nonconforming use. Any person having a legal or equitable interest in a nonconforming property may apply for a certificate of nonconforming use by complying with the procedure set forth in this section. Upon issuance, a certificate of nonconforming use shall be evidence that the use or structure designated therein is a legal nonconforming use or structure at that time.

Background & Analysis: The subject property, 1519 Adams Street NE, is a 2.5 story structure with approximately 3,000 square feet of finished floor area. Per the submitted floor plans, the structure is to be divided into three dwelling units; two two-bedroom units on the first and second floors, and a one-

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bedroom unit in the attic. The basement floor plans indicate a shared laundry and storage, although a building permit will be required to comply with housing orders to remove an illegal basement unit.

From 1924 to 1963 the subject property was zoned "Residence" zoning district, 2 ½ Story height limit, and C Density. The property was zoned R3 Multiple-Family District from 1963 to 1991 at which time it was downzoned to R2B Two-Family District as apart of the R3 Rezoning Study. Since 1991 the zoning of the property has remained R2B Two-Family District.

City records indicate that the structure was constructed as a single family dwelling in 1897 and was legally converted to a two family dwelling in 1949. The applicant claims that the duplex was converted to a triplex in the early 1960's, but staff can find no record of a building permit showing a lawful conversion. Numerous permits were issued for minor work at this address between 1949 and 2008. However, there are no records that would indicate a building permit was issued for the legal conversion to a three family dwelling.

Prior to 1963, when the property was zoned "Residence" district under the City's 1924 zoning ordinance, a three family dwelling was not a permitted use. From 1963 to 1991 the property was zoned R3 Multiple Family District, which would have required a minimum lot width of 42 feet and a minimum lot area of 2,500 square feet per dwelling unit or 7,500 square feet total. The subject parcel is 40 feet wide and has a lot area of 5,164 square feet and would have required a variance of both lot area and lot width at that time. The City has no record of a variance for either of these minimum standards.

If the applicant was able to illustrate that the property had been established legally as a three family dwelling, the status of nonconforming rights would still need to be addressed. The City of Minneapolis zoning ordinance 541.40 specifies that if a nonconforming use or structure is discontinued for a continuous period of more than one year, it shall be deemed to be abandoned and may not thereafter be reestablished or resumed. A three-family dwelling has been a non-permitted use at this property since 1924 and would have to have been used as such continuously, without a discontinuance of use for a period of a year or more since that time.

This property has been issued housing orders on two occasions (October, 2002; December, 2007) for being an illegal four unit building. In both instances the housing inspector issued orders to remove the illegal attic and basement units and revert the structure back to a two family dwelling.

Based on the evidence in City records, staff can find no convincing evidence that shows the legal conversion from a two family dwelling to three family dwelling at 1519 Adams Street Northeast.

As of writing this staff report, staff has not received any correspondence from the Logan Park Neighborhood Association. Staff will forward comments, if any are received, at the Board of Adjustment meeting.

Findings:

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1. A building permit was issued for the construction of a framed dwelling in 1897 (B 36683).
2. The subject property's zoning from 1924 to 1963 allowed for a two family dwelling, but not a three family dwelling.
3. A building permit was issued for the conversion of a single family dwelling to a two family dwelling in 1949 (B 307293).
4. The site was zoned R3 in 1963, which would have required multiple variances to allow for a three family dwelling.
5. There is no record of a variance being granted to allow for a three family dwelling.
6. There are no city records and the applicant has not provided any evidence that a building permit was obtained to convert the duplex into a triplex.
7. In 1991 the subject property was rezoned to the R2B Two-family District which prohibits triplexes.

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 above findings and **deny** the nonconforming use certificate to legally establish a three family dwelling at 1519 Adams Street Northeast in the R2B Two Family District.

Attachments:

- 1) Written descriptions and findings submitted by the applicant
- 2) Correspondence from neighbors, neighborhood associations, etc.
- 3) Copy of e-mail sent to neighborhood organizations and CM
- 4) Zoning map
- 5) Site plan
- 6) Floor plans
- 7) Photographs
- 8) Oblique aerials
- 9) City documents