

Department of Community Planning and Economic Development - Planning Division Report

Appeal of the Decision of The Zoning Administrator
BZZ-4227

Date: October 30, 2008

Applicant: Carolyn Moore

Address of Property: 4839 Bryant Avenue South

Contact Person and Phone: Caroline Moore, 612-968-9454

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

Date Application Deemed Complete: September 30, 2008

Publication Date: October 24, 2008

Public Hearing: October 30, 2008

Appeal Period Expiration: November 10, 2008

End of 60 Day Decision Period: December 1, 2008

Ward: 13 **Neighborhood Organization:** Lynnhurst Neighborhood Association

Existing Zoning: R1 Single-Family District

Appeal of the decision of the Zoning Administrator: Carolyn Moore has filed an appeal of the decision of the Zoning Administrator that property at 4839 Bryant Avenue South is in violation of the Minneapolis Zoning Ordinances Chapter 546 Table 1, as it has been determined by the Zoning Administrator that the current use of the property is substantially similar to a hotel/motel or bed and breakfast, which is prohibited in the R1 zoning district and not a single family dwelling as the appellant asserts.

Zoning Code Section Authorizing the Request: Chapter 525 Administration and Enforcement; Section 525.170.

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

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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.

Background and Analysis: The applicant is appealing the decision of the Zoning Administrator that the property at 4839 Bryant Avenue South is in violation of the Minneapolis Zoning Ordinances Chapter 546 Table 1 (Appendix E), as it has been determined by the Zoning Administrator that the current use of the property is substantially similar to a hotel/motel or bed and breakfast.

The subject property is a single-family dwelling on an 8,052 square foot lot zone R1 Single-Family District. The property owner received an administrative citation on September 10, 2008 for failure to discontinue the use of the property as an illegal hotel/motel or bed and breakfast. The current Zoning Ordinance does not permit either a hotel/motel or bed and breakfast in the R1 Single-Family District.

A *Bed and breakfast home* as defined by the Minneapolis Zoning Ordinance (520.160) is an establishment in a private dwelling that provides temporary accommodations to overnight guests for compensation.

A *Hotel* as defined by the Minneapolis Zoning Ordinance (520.160) is an establishment containing rooming units providing temporary lodging accommodations to the general public, with rooms having access to the outside through an interior hallway connected to the main lobby of the building, and which may provide additional services such as restaurants, meeting rooms, entertainment, and recreational facilities. A hotel shall not include any use which could be defined as a motel.

A *Motel* as defined by the Minneapolis Zoning Ordinance (520.160) is an establishment containing rooming units designed primarily for providing sleeping accommodations for transient lodgers, with rooms having a separate entrance providing direct access to the outside, and providing automobile parking located adjacent to or near sleeping rooms.

A *Hotel, licensed* is defined by the Minneapolis Housing Ordinance (244.40) as any dwelling wherein sleeping or rooming accommodations are offered or furnished to the general public for a shorter period of time than one week, with or without meals. It shall not include rooming houses or lodging establishments.

The use of the property was verified by both Staff in the Housing Division of Regulatory Services and Zoning Enforcement following numerous inspections. A complaint for this address originated from a Council Member's Office, which prompted Housing and Zoning Staff to perform an inspection on the subject property. Staff observed the property to be operating as a use substantially similar to a hotel/motel or bed and breakfast (Appendices C & D). The applicant has not provided any evidence to the contrary or provided any information stating how the property is being used other than the following statement:

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“My property located at 4839 Bryant Avenue South, Minneapolis, Minnesota is not being used as a hotel, motel or bed & breakfast and therefore I am not violating the Minneapolis Ordinance Code 546.30. There is nothing in this code that disallows short-term rental to families visiting Minneapolis” (Appendix A).

According to the historical building records, the structure was built as a single family dwelling in 1951. Licensing indicates that this the property has historically functioned as an owner-occupied single family dwelling until July 1, 2008 at which time the property owner received a rental license.

Findings:

1. The property was built as a single family dwelling in 1951.
2. The Zoning Administrator has made a determination that the property is currently being operated as a use that is substantially similar to a Hotel, Motel, or Bed and Breakfast.
3. A Hotel, Motel, or Bed and Breakfast is not a permitted use in the R1 Single-Family District.

Recommendation of the CPED Department Planning Division:

The Department of Community Planning and Economic Development Planning Division recommends **denial** of the appeal of the decision of the Zoning Administrator.

- Appendix A: Application (per applicant)
- Appendix B: Area Map
- Appendix C: Housing Inspections Summary
- Appendix D: Zoning Inspections Summary
- Appendix E: Residential Districts Use Table
- Appendix F: Additional Documentation
- Appendix G: Correspondence from concerned parties