

**Department of Community Planning and Economic Development – Planning Division**  
Expansion of a Nonconforming Use  
BZZ – 1978

**Date:** October 25, 2004

**Applicant:** Brian Spilley, 3010 Hennepin Avenue South, Apartment #117, Minneapolis, MN 55408

**Address of Property:** 421 6<sup>th</sup> Street SE

**Project Name:** N/A

**Contact Person and Phone:** Patrick C. Burns, Attorney at Law, 5775 Wayzata Boulevard, Suite 700, Minneapolis, MN 55416, (952) 582-2990

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

**Date Application Deemed Complete:** August 31, 2004

**End of 60-Day Decision Period:** October 29, 2004

**Ward: 5 Neighborhood Organization:** Marcy-Holmes Neighborhood Association

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

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

**Zoning Plate Number:** 15

**Lot Area:** 10,890 square feet or .25 acres

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

**Proposed Use:** Expansion of a non-conforming use to construct an external dormer on the third level of the existing 7 unit apartment building in the R2B (Two-family) district.

**Concurrent Review:**

- Expansion of a non-conforming use to construct an external dormer on the third level of the existing 7 unit apartment building in the R2B (Two-family) district. The dormer is required in order to provide adequate headroom clearance for the stairs going up to the third level.

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

**Background:** The applicant's seven-unit residential building is nonconforming in the existing R2B District. The property is currently licensed as a seven dwelling unit building. Construction of an external dormer constitutes an expansion of the nonconforming use under section 531.50 of the zoning code.

The necessity for this application arises from an inspection conducted by the Minneapolis Housing Inspections Division dated October 7, 2003. During the inspection the inspector found a violation with respect to the lack of headroom available for the stairs leading to the third floor. The applicant is proposing to construct a new shed dormer on the western side of the property that would increase the headroom clearance for stairs going up to the third floor. The need for this dormer is based on the safety concerns and code violations raised by the City's Housing Inspections Division.

The new dormer is designed to have windows, shingles and siding which match into the existing structure. The home was originally constructed in 1900 and the stairs leading from the second to the third floor are presumably the original stairs built with the property.

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 the majority of 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 construction of an external dormer and the enlargement of the headroom in the stairway leading up to the third floor would be compatible with adjacent property and the neighborhood.

- (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 expansion of the non-conforming use will not result in significant increases of adverse off-site impacts. There will be no increase in residential units and there is currently adequate off-street parking provided for the property. No additional traffic, noise, dust, odors or parking congestion would be expected with the construction of an external dormer.

- (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 construction of an external dormer and the enlargement of the headroom in the stairway leading up to the third floor will likely not improve the appearance of the structure, as the external dormer although intended to match into the existing structure will be clearly visible off of 6<sup>th</sup> Street SE. However, the stability of the neighborhood in regard to safety would improve as the structure would meet the applicable housing code requirements.

- (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.

## **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 an external dormer on the third level of an existing seven-family residential building in the R2B District at 421 6<sup>th</sup> Street SE, 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 new external dormer must be composed of windows, shingles and siding which match into the existing structure.

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**Attachments:**

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