

**Department of Community Planning and Economic Development – Planning
Division**

Expansion of a Non-Conforming Use & Variance
(BZZ-1866)

Date: August 23, 2004

Applicant: Richard Scherber, Executive Director of Minnesota Teen Challenge, 1619
Portland Avenue South, Minneapolis, MN 55404-1598

Address of Property: 3231 1st Avenue & 3201 1st Avenue

Project Name: Minnesota Teen Challenge

Contact Person and Phone: Richard Scherber, Executive Director of Minnesota Teen
Challenge, 1619 Portland Avenue South, Minneapolis, MN 55404-1598, 612-373-3366

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

Date Application Deemed Complete: July 12, 2004

End of 60-Day Decision Period: September 9, 2004

End of 120-Day Decision Period: Not applicable

Ward: 8 – Robert Lilligren **Neighborhood Organization:** Lyndale Neighborhood
Association

Existing Zoning: R5 (Multiple family District)

Proposed Zoning: Not applicable

Zoning Plate Number: 25

Lot Area: 109,268 square feet or 2.5 acres

Legal Description: Not applicable for this application

Proposed Use: Expansion of a non-conforming use for supportive housing and a
variance of the maximum number of individuals permitted from 57 to 146.

Concurrent Review:

- Expansion of a non-conforming use for supportive housing in the R5 (Multiple-family) district.

- Variance of the specific development standards to increase the maximum number of persons served.

Applicable zoning code provisions: Section 531.50 Expansion or alteration of nonconforming uses and structures and Chapter 525 Article IX, Variances.

Background: The applicant, Richard Scherber, Executive Director of Minnesota Teen Challenge was approached by the Steven's Square Board about purchasing the vacant Stevens Square Nursing Home located at 3231 1st Avenue. The subject building is connected to the building located at 3201 1st Avenue which is currently occupied by Minnesota Teen Challenge. The applicant would like to expand operations into the adjacent facility. Minnesota Teen Challenge has used the 3201 1st Avenue facility for the past 10 years. That building is currently licensed through the city as a board and lodge facility which is used for housing chronic inebriates who are going through a year long program. Staff has determined that because the facility is a dry population, it is not technically defined as inebriate housing.

Over the past 10 years Minnesota Teen Challenge has invested in the 3201 1st Avenue facility by continually upgrading the building. Some of the upgrades include a new boiler and heating system, new plumbing, an updated electrical system, commercial kitchen, new laundry equipment, wall repair, paint, carpet, etc. In turn, the Steven's Square Board has allowed Minnesota Teen Challenge to utilize the facility free of charge. There are 14 years remaining on the lease.

The applicant had initially been operating a board and lodging facility for 28 units since 1993. In 1995 and 1999 conditional use permits were granted for a community residential facility however, the applicable licenses were never attained and the programs were not implemented. The site has continued to operate as a board and lodging facility licensed for 57 beds. No counseling, classes or programming has been or is being done on the 3201 1st Avenue site. Staff has determined that the facility is a non-conforming use as there is a spacing requirement of at least one-fourth (1/4) mile from all existing supportive housing, community correctional facilities, community residential facilities, inebriate housing, motels and overnight shelters. Minnesota Teen Challenge is located less than ¼ mile from the Harriet Tubman Center which is also a supportive housing facility. In order to expand the facility as proposed the applicant must apply for an expansion of a non-conforming use. The applicant is also required to attain a variance of the specific development standards to increase the maximum number of persons served. The specific development standards indicate that the maximum number of persons served shall not exceed thirty-two (32). Currently the facility is already over the allowable number of persons served at 57 (which the applicant is licensed for) and the applicant plans to add 89 additional beds to the facility.

The R5 district allows supportive housing as a conditional use permit which the applicant has already attained. The R5 district requires 750 square feet per rooming unit (the code requires a minimum of 350 square feet per efficiency unit regardless of the zoning

district). The lot size of the site is approximately 109,268 square feet. Based on the square footage, or density requirements alone under the existing R5 zoning the building would be permitted 146 units. However, as previously mentioned supportive housing is subject to several specific development standards one of which is the requirement to limit the facility to 32 persons. The applicant is requesting a variance to allow up to 146 residents.

There is a parking lot located along 1st Avenue South which contains 45 parking spaces. The applicant proposes to continue using this area for parking. The parking is adequate for the facility. It is likely that the majority of residents will utilize public transportation and other modes such as bikes.

The applicant is subject to the specific development standards for supportive housing. These standards include:

- (1) Supportive housing shall be located at least one-fourth (1/4) mile from all existing supportive housing and from all of the following uses, except in the B4H Overlay District:
 - a. Community correctional facility.
 - b. Community residential facility.
 - c. Inebriate housing.
 - d. Motel.
 - e. Overnight shelter.
- (2) The maximum number of persons served shall not exceed thirty-two (32), except in the B4H Overlay District.
- (3) On-site services shall be for residents of the facility only, except where part of a regimen of scheduled post-residential treatment.
- (4) To the extent practical, all new construction or additions to existing buildings shall be compatible with the scale and character of the surroundings, and exterior building materials shall be harmonious with other buildings in the neighborhood.
- (5) An appropriate transition area between the use and adjacent property shall be provided by landscaping, screening, and other site improvements consistent with the character of the neighborhood.
- (6) The operator shall submit a management plan for the facility and a floor plan showing sleeping areas, emergency exits and bathrooms.

Planning Staff has received a memo from the Lyndale Neighborhood Development Corporation (LNDC) stating that on July 15, 2004 the LNDC Board of Directors, after some discussion, approved the applicant's request. The request was also approved at the July 26, 2004 Neighborhood General Membership Meeting.

Findings as Required by the Minneapolis Zoning Code:

The Minneapolis City Planning Department 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.

Supportive housing is allowed in various zoning districts with a conditional use permit. The applicant currently possesses a conditional use permit for a community residential facility at the 3201 1st Avenue site. A rezoning would seem inappropriate as both applications, the expansion of a non-conforming use and the variance of the specific development standards would be required regardless of the underlying zoning designation. Additionally, the current zoning appears to be appropriate for the area.

(2) The enlargement, expansion, relocation, structural alteration or intensification will be compatible with adjacent property and the neighborhood.

The expansion of the non-conforming use would be into an existing, connected building. The applicant does not intend to alter the exterior of the building. The expansion into an existing building would be compatible with adjacent properties and the neighborhood. The specific development standards related to the maximum number of individuals as well as the spacing requirement have been put in place in order to eliminate concentration within an area. Even with the increased occupancy, Staff's opinion is that the expansion is compatible as it will expand into a vacant building.

(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 supportive housing into a building which is connected to the existing facility should not result in a significant increase of adverse off site impacts such as traffic, noise, dust, odors or parking congestion. The residents are not permitted to have vehicles at the residence while enrolled in the program. The existing parking 45 parking spaces are adequate for the proposed facility. There should be no additional increase in traffic or parking on the site.

(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 specific development standards have been established to prevent the undue concentration of these types of facilities. To allow such a high population, which is already non-conforming due to its proximity to another facility would prove inconsistent with the City's established policies. However, the expansion into the existing, attached building could improve the stability of the neighborhood as the building would be occupied as opposed to vacant.

(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.

Residential uses are allowed in the R5 district. The applicant is proposing the maximum number of dwelling units on the subject property as allowed by the regulations of the district in which the property is located. The lot size of the site is approximately 109,268 square feet. Based on the square footage, or density requirements alone under the existing R5 zoning the site would be permitted to have 146 units. The applicant is proposing 146 total units which is the maximum number allowed based on the regulations of the R5 district.

(6) The enlargement, expansion, relocation, structural alteration or intensification will not be located in the Floodway District.

The property is not located in the Floodway District.

(7) The enlargement, expansion, relocation, structural alteration or intensification is consistent with the policies of the comprehensive plan.

The *Minneapolis Plan* identifies these parcels as being located within one block of Nicollet Avenue which is a Community Corridor. In the Chapter 4, Marketplaces: Neighborhoods the plan states that "Minneapolis will reasonably accommodate the housing needs of all of its citizens". It also states that "Minneapolis will improve the availability of housing options for its residents." One of the implementation steps indicates "support the development of housing with supportive services that help households gain stability in areas such as employment, housing, retention, parenting, mental health and substance challenges. Further, the implementation steps indicate that "special housing shall be available as needed and appropriately dispersed throughout the city." The proposal is both in conformance and against the applicable policies of the Comprehensive Plan. This application would not result in an appropriate dispersal throughout the city, however based on the site specific circumstances, Staff's position is that the expansion would be appropriate for this site.

VARIANCE (to increase the maximum number of residents from 57 to 146)

Supportive housing requires a conditional use permit under the R5 (Multiple-family district) and is subject to specific development standards. The proposed facility can meet all of the development standards except for the requirement to limit the number of persons served to 32 and the spacing requirement which makes the use non-conforming. The applicant is requesting a variance to allow up to 146 residents.

Findings Required by the Minneapolis Zoning Code:

- 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 building is existing and was previously utilized as a nursing home. The applicant does not intend to renovate the building. The expansion is ultimately being proposed in a connected building. Staff recognizes that the specific development standards related to the maximum number of individuals permitted in supportive housing was put in place to prevent undue concentrations. The intent of the maximum permitted occupancy as well as the spacing requirement was imposed in order to keep the populations small and to better fit into residential settings. However, Staff recognizes that the applicant is attempting to adaptively reuse the vacant nursing home which is a reasonable use of the property under the site specific circumstances.

- 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 site contains two large institutional residential structures that are connected to one another. This condition is not typically applicable to other property in the R5 Districts.

- 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 difficulty is that the code requirement of a maximum of 32 persons does not recognize the situation in which an existing building is being converted to supportive housing. The existing use is also in close proximity to another supportive housing facility, the Harriet Tubman Center. Staff's position is that allowing additional residents in an existing vacant building should not have an adverse impact on the neighborhood character or the use and enjoyment of other property in the vicinity.

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.

The building was previously a nursing home. The individuals that may potentially occupy the housing may have different needs than the former occupants of the nursing home. However, it is Staff's position that the increase in the number of occupants should not be detrimental to the public welfare or endanger the public safety.

The police incidents from 1999 have been attached.

RECOMMENDATIONS:

Recommendation of the Community Planning and Economic Development Department – Planning Division for the expansion of a non-conforming use:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the expansion of a non-conforming use for supportive housing for the properties located at 3231 1st Avenue & 3201 1st Avenue.

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 the specific development standards for supportive housing to allow an increase in the maximum allowable persons from 57 to 146 for property located at 3231 1st Avenue & 3201 1st Avenue subject to the following conditions:

1. The use is subject to the specific development standards for supportive housing found in Section 536 of the Zoning Ordinance.
2. The facility shall not have more than 146 residents.
3. On-site services shall be for residents of the facility only, except where part of a regimen of scheduled post-residential treatment.

Attachments:

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