

Community Planning and Economic Development Planning Division Report
Expansion of a Legal Nonconforming Use, Variance
BZZ-4532

Date: September 14, 2009

Applicant: Mark Cummings

Address of Property: 901-03 Weeks Avenue SE

Contact Person and Phone: John Anderson, (612) 332-4525

Planning Staff and Phone: Kimberly Holien, (612) 673-2402

Date Application Deemed Complete: August 18, 2009

End of 60 Day Decision Period: October 17, 2009

Ward: 2 **Neighborhood Organization:** Southeast Como Improvement Association

Existing Zoning: R1A, Single-Family District

Proposed Zoning: Not applicable for this application

Zoning Plate Number: 16

Legal Description: Not applicable for this application

Existing Use: Duplex

Concurrent Review:

Expansion of a nonconforming use: to allow for basement bedrooms with egress window wells for each unit in a two-family dwelling located at 901-03 Weeks Avenue Southeast.

Variance: To reduce the required number of vehicle parking stalls.

Variance: To reduce the required number of bicycle parking stalls.

Applicable Zoning Code Provisions: Chapter 531, Section 531.50(b); Chapter 541, Off-Street Parking and Loading; Chapter 551, University Area Overlay District

Background: John Anderson, on behalf of Mark Cummings, has applied for an expansion of non-conforming use and parking variances to allow four additional bedrooms in the basement of a legally non-conforming duplex. Specifically, two bedrooms are proposed in the basement of the units at 901 Weeks Avenue SE and two bedrooms are proposed in the basement of the unit at 903 Weeks Avenue SE. All bedrooms are proposed to have egress window wells. The property is zoned R1A, which does

not allow two-family dwellings. The property is also located within the boundaries of the University Area Overlay District.

The structure was constructed as a duplex in 1957. The property was rezoned from R2B to R1A as part of the Como Forty-Acre Study in 1987 and the use became legally nonconforming. Each unit currently has one bedroom. The expansion would increase the total number of bedrooms in the structure to six; three in each unit. Installing egress window wells would make the basement level habitable. Creating habitable space in a basement level for a nonconforming use is an expansion of a nonconforming use under Section 531.50(b) of the zoning code and therefore requires authorization from the City Planning Commission.

The University Area Overlay District was established per Council action on August 14, 2009. This overlay district changes the parking requirement for residential uses from 1 space per unit to 0.5 spaces per bedroom, along with establishing requirements and restrictions related to bike/scooter parking, site paving, landscaping and screening. With the new parking requirements for this district, an increase to the number of bedrooms increases the parking requirement. Two additional parking spaces are required for the property accordingly. The property currently does not have any off-street parking available and a variance to the minimum vehicle parking requirement has been requested. The University Area Overlay District also requires residential uses to provide at least one bicycle or motorized scooter parking space per bedroom, or four spaces in this case. The property has non-conforming rights to two bicycle parking spaces for the existing bedrooms. No bicycle or scooter parking is provided and an additional variance has been requested accordingly.

Continuance: Staff has been made aware that some property owners within 350 feet of the subject site may not have received proper notice of the public hearing. Staff is recommending that this application be continued one cycle, to September 28, 2009, to allow time for additional public hearing notices to be mailed.

RECOMMENDATION:

Recommendation of the Community Planning and Economic Development Planning Division:

The Community Planning and Economic Development Planning Division recommends that the City Planning Commission adopt the above findings and **continue** the application for an expansion of a legal nonconforming use to allow basement bedrooms with egress window wells for each unit of an existing duplex located at the property of 901-03 Weeks Avenue SE.

Recommendation of the Community Planning and Economic Development Planning Division:

The Community Planning and Economic Development Planning Division recommends that the City Planning Commission adopt the above findings and **continue** the application for variance to the minimum off-street vehicle parking requirement and bicycle parking requirement for an existing duplex located at the property of 901-03 Weeks Avenue SE.

Attachments:

1. Zoning map

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