

Community Planning and Economic Development Planning Division Report

Expansion of a Legal Nonconforming Use

BZZ - 1959

Date: September 27, 2004

Applicant: Grant Bernardy

Address of Property: 3900 Harriet Avenue South and 509 39th Street West

Project Name: Harriet Flats

Contact Person and Phone: Scot Pekarek, 612/207-6176

Planning Staff and Phone: Fred Neet, 612/673-3242

Date Application Deemed Complete: August 24, 2004

End of 60 Day Decision Period: October 23, 2004

End of 120 Day Decision Period: December 22, 2004

Ward: 10 **Neighborhood Organization:** King Field Neighborhood Association

Existing Zoning: R2B

Proposed Use: remodel an existing, legally nonconforming basement apartment and replace a 4-car garage with a 6-car garage

Appropriate Section(s) of the Zoning Code: Chapter 531: Nonconforming Uses and Structures; Section 525.520 [1] [14]: Authorized Variances.

Background

Two residential structures are on the 10,508 square foot zoning lot, a 5-unit apartment building and a duplex. The parcel is zoned R2B which permits up to 4 units. All 7 units are legally nonconforming. The applicant proposes to remodel the basement unit in the apartment building, and to replace an existing 4-car garage with a 6-car garage. Both proposals require approval as expansions of a nonconforming use. The six-car garage then needs four variances: increase garage size from 1051 square feet to 1250; decrease the drive aisle width to 10 feet; decrease rear and side yard width to 1 foot; and decrease the separation between the garage and the apartment building from 6 feet to 5 feet.

The Community Corridors of Lyndale Avenue, 38th Street, and Nicollet Avenue are, respectively, 1½ blocks west, 1 block north, and 5 blocks east.

A. NONCONFORMING USE EXPANSIONS

Findings 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 site is completely surrounded by the R2B district. Grand Avenue zoned R5 is one block east.

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

Expansion of a basement apartment from 1- to 2-bedrooms will cause no physical change to existing conditions. Replacement of a 4-car garage by a 6-car garage will reduce the property's parking nonconformity. However, the new garage would be only one foot from the south property line and adjacent to the rear 25 feet of the neighboring house.

- (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.**

Apartment expansion will be entirely internal. Garage expansion will reduce street congestion.

- (4) **The enlargement, expansion, relocation, structural alteration or intensification, because of improvements to the property, will improve the appearance or stability of the neighborhood.**

A deteriorating garage will be replaced by a new structure which should be an improvement over existing conditions.

- (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.**

The number of dwellings will remain the same.

- (6) **The enlargement, expansion, relocation, structural alteration or intensification are not located in the Floodway District.**

VARIANCES

Findings Required by the Minneapolis Zoning Code:

B. increase garage size from 1051 square feet to 1250

- 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.**

Provision of 6 structured parking spaces for 7 dwelling units is reasonable. Site constraints dictate both the location of and accesses to the proposed garage.

- 2. The circumstances are unique to the parcel of land for which the variances are 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.**

New owners are proposing the improvements. As noted, the site constraints of two residential structures on one zoning lot dictate both the location of and accesses to the proposed garage.

- 3. The granting of the variances 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.**

Property improvements, provision of open space, and off-street parking are encouraged by the zoning code. The character of the locality should be preserved or enhanced. However, the south neighbor has a 6-foot north side yard, which means that the rear of the new garage would be 7 feet from the rear 25 feet of the neighbor's house, not the 10 feet which is standard, which could be injurious to that property.

- 4. The proposed variances 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.**

Street congestion will be reduced. Fire danger is minimized because the 5-foot separation of garage and dwelling is at a point, not linear, and the dwelling is brick veneer. Public welfare and safety should otherwise not be affected.

C. decrease the drive aisle width to 10 feet.

- 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.**

A 10-foot wide access to a 6-car garage from the alley is reasonable. The entire driveway will be one-way, and the garage is angled to ease access. Strict adherence would deny structured parking to residents and would significantly reduce useable back yard space.

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Street congestion will be reduced. Fire, welfare, and safety considerations are not involved.

D. decrease rear and side yard widths to 1 foot

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E. decrease the separation between the garage and the apartment building from 6 feet to 5 feet

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4. The proposed variances 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.

Street congestion will be reduced. Fire danger is minimized because the 5-foot separation of garage and dwelling is at a point, not linear, and the dwelling is brick veneer. Public welfare and safety should otherwise not be affected.

Recommendations of the Community Planning and Economic Development Planning Division:

A. Expansion of Nonconforming Uses: The Community Planning and Economic Development Planning Division recommends that the City Planning Commission adopt the above findings and approve the application for expansion of a nonconforming certificate to remodel the basement apartment and to replace a four-car garage with a six-car garage at 3900 Harriet Avenue South and 509 39th Street West.

Variances

B. The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance to increase garage size from 1051 square feet to 1250 at 3900 Harriet Avenue South and 509 39th Street West.

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C. The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance to decrease the drive aisle width to 10 feet at 3900 Harriet Avenue South and 509 39th Street West on condition that the drive aisle and driveway be designated one-way from alley to street.

D. The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance to decrease rear and side yard widths to 1 foot at 3900 Harriet Avenue South and 509 39th Street West.

E. The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance to decrease the separation between the garage and the apartment building from 6 feet to 5 feet at 3900 Harriet Avenue South and 509 39th Street West.

attachments: statement of use
zoning map
site plan
floor plans
elevations
photographs
aerial photograph