

Community Planning and Economic Development Planning Division Report
Expansion of a Legal Nonconforming Use & Variances
BZZ-4794

Date: July 19, 2010

Applicant: Joyce United Methodist Church

Address of Property: 1222 31st Street West

Project Name: Joyce Uptown Food Shelf

Contact Person and Phone: Jim Ladwig, (612) 920-1245

Planning Staff and Phone: Janelle Widmeier, (612) 673-3156

Date Application Deemed Complete: June 24, 2010

End of 60 Day Decision Period: August 23, 2010

Ward: 10 **Neighborhood Organization:** CARAG

Existing Zoning: R2B Two-Family Residential District

Proposed Zoning: Not applicable for this application

Zoning Plate Number: 24

Legal Description: Not applicable for this application

Existing Use: Food shelf (mission) and a dwelling

Concurrent Review:

Expansion of a nonconforming use to allow a detached garage accessory to a food shelf.

Variance to reduce the required interior side yards from 5 feet to 1.9 feet to allow the garage.

Variance to reduce the required front yard adjacent to Fremont Avenue South to allow a parking space in the driveway.

Applicable Zoning Code Provisions: Chapter 525, Article IX Variances, Section 525.520(15) “To vary the yard requirements, including permitting obstructions into required yards not allowed by the applicable regulations.” and Chapter 531 Nonconforming Uses and Structures, Section 531.50(b).

CPED Planning Division Report
BZZ-4794

Background: The applicant is proposing to replace a detached garage at the property of 1222 31st Street West. The principal structure is occupied by a food shelf and a dwelling. The garage would be used to store donated items for the food shelf.

A food shelf, referred to as a mission in the zoning code, is only allowed when accessory to a religious institution place of assembly. While the food shelf is operated by the Joyce United Methodist Church (located across the street from the food shelf at the property of 1219 31st Street West), it is not located on the same zoning lot as the place of assembly and is a principal use. The use was established before these regulations were in effect; therefore it is a legal nonconforming use. Constructing an accessory structure for a nonconforming use is an expansion of a nonconforming use under Section 531.50(b) of the zoning code and requires authorization from the City Planning Commission.

The applicant is proposing to demolish the existing detached garage, which was originally used as the required parking for the existing dwelling. Parking for vehicles in the new garage will not be available because the proposed garage will only be used for storage of items for the food shelf. To address the parking deficiency, the applicant is proposing to provide a parking space in the driveway adjacent to Fremont Avenue. The site is a reverse corner lot with required front yards adjacent to 31st Street and Fremont Avenue. A parking area is not a permitted obstruction in a required front yard and a variance is required.

Interior side yards are also required adjacent to the east and north property lines. The minimum interior side yard requirement is five feet. The applicant is proposing to provide a 1.9 foot wide side yard on both the east and north sides of the garage. A variance of both interior side yards is required.

The photos attached to this report show that refuse storage containers are located in the interior side yard. Refuse storage containers are not permitted obstructions in any front or interior side yards. Regardless of the actions affecting the expansion of nonconforming use and variance applications, the containers will need to be moved to a location that complies with the yard requirements of section 546.400 of the zoning code.

As of writing this staff report, staff has not received any correspondence from the neighborhood group. Staff will forward comments, if any are received, at the City Planning Commission meeting.

EXPANSION OF NONCONFORMING USE: to allow a detached garage accessory to a food shelf.

Findings as Required by the Minneapolis Zoning Code:

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 future land use map in *The Minneapolis Plan for Sustainable Growth* classifies the use of the site as urban neighborhood. The site is not located in or directly adjacent to any designated land use features. It is located within the boundaries of the *Uptown Small Area Plan*. The small area

plan indicates that low density housing is appropriate at this property and surrounding properties. The existing zoning of the site is R2B, which is a low-density residential district. A mission is only allowed as a principal use in the C4 General Commercial District, B4C Downtown Commercial District, and the industrial districts. A mission is only allowed in the residence districts when accessory to a religious institution place of assembly. A place of assembly is a permitted use in residence districts; however, the minimum lot area requirement for a place of assembly is 10,000 square feet or greater. The subject site is approximately 4,148 square feet in area. A variance to reduce the minimum lot area requirement by more than 30 percent cannot be authorized. Because a place of assembly cannot be established at this site, there is not a way to make the mission conforming by rezoning that is consistent with the policies of the comprehensive plan.

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

The proposed detached, two-stall garage would replace an existing garage. The proposed garage floor area would only increase by 38 square feet. The proposed primary exterior material is aluminum lap siding. Detached, two-stall garages of similar size and height are common in the immediate area. The walls of the existing garage are set back eight inches from the east lot line and one foot three inches from the north property line. The eave overhangs extend close to the side lot lines as well. These setbacks do not comply with the current building code requirements. The setbacks for the proposed garage would comply with the building code requirements. Although utilizing the garage for food shelf storage would displace the required parking space for the dwelling unit, the required space, if needed, could be accommodated in the existing driveway. For the reasons discussed in the variance findings below, the proposed location of the garage and parking space should have little effect on the surrounding properties if the staff recommendation is adopted. The expansion would be compatible.

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.

When a mission is a principal or an accessory use, specific standards apply. These standards generally minimize any adverse, off-site impacts associated with the use.

A mission is subject to the following development standards in Chapter 536 of the zoning code when it is a principal use:

- (1) The use shall be located at least one thousand (1,000) feet from all existing missions, secondhand goods stores, currency exchanges and pawnshops.
- (2) The use shall conspicuously post legible signs at the public entrance(s) advising patrons of the hours of operation of the facility and its meal service, if applicable.
- (3) A waiting area for clients shall be provided which shall be available to clients one (1) hour prior to the posted opening of the use and shall include toilet facilities.

CPED Planning Division Report
BZZ-4794

- (4) Trash receptacles shall be located at the public entrance(s), and the premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for purposes of removing any litter found thereon.
- (5) An appointment or set hours for the acceptance of donated merchandise shall be required.
- (6) All receipt, sorting and processing of goods shall occur within a completely enclosed building.

A mission is subject to the following standards in Chapter 537 of the zoning code when it is an accessory use:

- (1) Mission clients shall be provided with an enclosed waiting area one (1) hour prior to opening, except when the mission serves clients by appointment only.
- (2) The operator shall submit a management plan for the facility and a floor plan.
- (3) The premises, all adjacent streets, sidewalks and alleys, and all sidewalks and alleys within one hundred (100) feet shall be inspected regularly for purposes of removing any litter found thereon.
- (4) An appointment or set hours for the acceptance of merchandise shall be required.
- (5) All receipt, sorting and processing of goods shall occur within a completely enclosed building.

The site is located within 1,000 feet of two secondhand good stores and a currency exchange, but is not within 1,000 feet of another mission. At the entrance, hours of operation are posted and a sign directs contributors to not leave donations outside of these hours. The applicant indicates that no meals are served on-site, a waiting area is provided and is available 30 minutes before the food shelf opens, toilet facilities are available, the site is inspected and litter is removed regularly, and all handling of donations occurs within the building. The garage would provide additional enclosed storage space to accommodate occasional opportunities where larger volumes of food are available. Pallets cannot be stored outside even on a temporary basis. The garage should provide adequate space for both food and pallet storage without creating additional traffic, noise, dust, odors or parking 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.

The new garage would comply with building code requirements relating to setbacks from adjacent properties. The applicant has indicated that the existing garage is significantly deteriorated. With the construction of the new garage, a rusty metal shed would be removed from the property. The height and floor area of the garage complies with the size requirements for a detached accessory structure. Allowing the garage will likely increase the value of the property and contribute to the stability of the neighborhood.

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 property is not located in the Floodway District.

VARIANCES: 1) to reduce the required interior side yards from 5 feet to 1.9 feet to allow the garage and 2) to reduce the required front yard adjacent to Fremont Avenue South to allow a parking space in the driveway.

Findings Required by the Minneapolis Zoning Code:

1. The property cannot be put to a reasonable use under the conditions allowed by the official controls and strict adherence to the regulations of this zoning ordinance would cause undue hardship.

The applicant is seeking a variance to reduce the north and east interior side yards from five feet to 1.9 feet to allow a detached garage. The proposed garage (19 feet by 20 feet) would replace an existing garage (18.5 feet by 18.5 feet). The applicant is also requesting a variance to reduce the required front yard adjacent to Fremont Avenue to allow a parking space in the existing driveway. The lot is a reverse corner lot with two front yards. In the R2B district, the minimum front yard requirement is 20 feet or the front yard setback established by the adjacent residential building, whichever is greater. Both adjacent residences are set back less than 20 feet; however, the area covered by the required front yards exceeds 50 percent of the total lot area leaving only the northeast corner of the site available as buildable area. There is not a reasonable alternative to the variances and strict adherence to the regulations would not allow use of the property that is afforded to other properties in the immediate area.

If the proposed garage were shifted to the west to comply with the east side yard requirement, the garage would encroach into the front yard adjacent to Fremont Avenue. Although the applicant intends to use the garage for storage of food shelf items, it could eventually be used to park vehicles. Reducing the depth of the garage would not allow adequate room for an average sized vehicle. Detached structures accessory to dwellings are allowed to be located closer to interior side lot lines than the district side yard requirement when located in the rear 40 feet or 20 percent of the lot, whichever is greater, because there is typically little effect on an adjacent property. The dwelling to the east is located approximately 39 feet from the rear property line; however, the neighbor's garage is located closer to the neighbor's dwelling than the proposed garage.

The site is not adjacent to an alley; therefore the only option for access to a garage is from Fremont Avenue. The proposed garage would replace the existing garage in the same vicinity and would reuse the existing driveway and curb cut. If the garage were shifted to the south to comply with the

CPED Planning Division Report
BZZ-4794

side yard requirement, the driveway would have to be widened and a portion of it would have to be removed to prevent increasing the amount of impervious surface on the site and creating the need for an additional variance to allow more impervious surface than is allowed by the district. The applicant is proposing to increase the setback from the north property line to the garage by approximately eight inches to align it with the set back of the garage to the east. At the closest point, the dwelling to the north is set back nine feet from the shared lot line.

The zoning code requires a minimum of one space per dwelling unit. The existing garage could accommodate one vehicle and therefore had satisfied the minimum parking requirement for the existing dwelling. The food shelf was established under regulations that did not require parking, therefore parking requirements for the use are grandfathered. Using the garage solely as storage for the food shelf requires that a parking space for the dwelling be provided elsewhere on-site or that a variance be obtained to reduce the parking requirement to zero. A parking space can't be provided between the garage and the dwelling because it would not be located at least six feet from the dwelling as required by the zoning code and adding a parking pad would increase the amount of impervious surface beyond what is allowed. The principal structure on the subject site is set back two feet and the principal structure on the property to the north is set back approximately 10 feet from the lot line adjacent to Fremont Avenue. The proposed garage would be set back just over 20 feet from the west lot line allowing sufficient room to park a vehicle. The parking space would be located approximately 15 feet from the adjacent residence as well.

- 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 lot is a reverse corner lot with two front yards. The area covered by the required front yards exceeds 50 percent of the total lot area leaving only the northeast corner of the site available as buildable area. The site is not adjacent to an alley, leaving only Fremont Avenue vehicle access as an option. The food shelf is an existing legal nonconforming use. The existing uses were established before minimum parking requirements were adopted for these uses. These circumstances are unique to the site and were not created by the applicant.

- 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.**

In general, yard controls are established to provide for the orderly development and use of land and to minimize conflicts among land uses by regulating the dimension and use of yards in order to provide adequate light, air, open space and separation of uses.

The proposed garage (19 feet by 20 feet) would replace an existing garage (18.5 feet by 18.5 feet). The existing garage is built closer to the side lot lines than currently allowed by the building code. The new garage would be built to meet all current building code requirements. The location of the garage would be shifted slightly to increase the set back from the east lot line by approximately one foot four inches and to increase the set back from the north lot line by approximately eight

CPED Planning Division Report
BZZ-4794

inches. Detached structures accessory to dwellings are allowed to be located closer to interior side lot lines than the district side yard requirement when located in the rear 40 feet or 20 percent of the lot, whichever is greater, because there is typically little effect on an adjacent property. The dwelling to the east is located approximately 39 feet from the rear property line; however, the neighbor's garage is located closer to the neighbor's dwelling than the proposed garage. The applicant is proposing to increase the set back from the north property line to the garage to align it with the setback of the garage to the east. At the closest point, the dwelling to the north is set back nine feet from the shared lot line. Reducing the interior side yards to allow the garage meets the intent of the ordinance and should have little effect on surrounding property.

The proposed parking location would be adjacent to a property with a single-family dwelling. The parking space would be located approximately 15 feet from the adjacent residence. The principal structure on the subject site is set back two feet and the principal structure on the property to the north is set back approximately 10 feet from the lot line adjacent to Fremont Avenue. On the site plan, the applicant has shown that a fence and scrub brush on the north side of the driveway will be removed and replaced by a garden. Noise, fumes, and headlights of a vehicle parking in the driveway could have a negative impact on the adjacent property. Landscaping at least three feet in height and not less than 60 percent opaque located between the driveway and adjacent property could act as a buffer to mitigate these effects. Granting of the variance to allow a parking space, with the implementation of the condition to install landscaping between the driveway and the adjacent property, would not likely be injurious to the use or 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 new garage would replace the existing garage that does not comply with building code requirements pertaining to set backs. Allowing a parking space in the driveway would maintain off-street parking for the dwelling. Granting the variances would likely have no impact on the congestion of area streets, fire safety, the public welfare or safety.

RECOMMENDATIONS:

Recommendation of the Community Planning and Economic Development Planning Division for the Expansion of Nonconforming Use:

The Community Planning and Economic Development Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for an expansion of a legal nonconforming use to allow a detached garage accessory a food shelf/mission located at 1222 31st Street West, subject to the following condition:

- 1) All processing and storage, including storage of empty pallets, shall occur within an enclosed building as required by sections 535.40 and 546.180 of the zoning code.

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the Variance:

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 reduce the required interior side yards adjacent to the north and east property lines from 5 feet to 1.9 feet to allow a garage located at the property of 1222 31st Street West.

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the Variance:

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 reduce the required front yard adjacent to Fremont Avenue South to allow a parking space in the driveway located at the property of 1222 31st Street West, subject to the following conditions:

- 1) Landscaping at least three feet in height and not less than 60 percent opaque shall be provided between the driveway and the north lot line.
- 2) Community Planning and Economic Development Department – Planning Division staff review and approval of the final site and landscape plans.
- 3) Site improvements required by the City Planning Commission shall be completed by July 19, 2011, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

Attachments:

- 1) Applicant findings
- 2) Zoning map
- 3) Plans
- 4) Photos