

Community Planning and Economic Development - Planning Division Report
Change of a Nonconforming Use
BZZ-4927

Date: September 20, 2010

Applicant: Augustine Sylvester

Address of Property: 4208 Fremont Avenue N

Contact Person and Phone: Augustine Sylvester (612) 282-8540

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

Date Application Deemed Complete: August 17, 2010

End of 60 Day Decision Period: October 16, 2010

Ward: 4 **Neighborhood Organization:** Webber-Camden

Existing Zoning: R4 Multiple Family District

Proposed Zoning: Not applicable for this application.

Zoning Plate Number: 2

Proposed Request:

- Change of nonconforming use from an office to a barber shop/beauty salon.

Concurrent Review:

- **Change of nonconforming use:** from an office to a barber shop/beauty salon.

Applicable Code Provisions: Chapter 531, Nonconforming Uses and Structures.

Background: Augustine Sylvester has submitted a change of a nonconforming use application for a commercial building at 4208 Fremont Avenue N. The previous legal nonconforming use was an office. The request at this time is for a change of nonconforming use to a barber shop/beauty salon. The building has 616 square feet of gross floor area that would be occupied entirely by the beauty salon. The property is zoned R4 and commercial uses are non-conforming in this district. The lot is also non-conforming in that it contains two principal structures; one commercial and one residential. The commercial building is located in the southwest corner of the lot, up to the street. The single family home is set back behind the commercial building, in the center of the lot.

The subject building was constructed in 1916 as a commercial building. Permit records from that year indicate that the initial use of the building was a barber shop. The property's first zoning classification, per the 1924 Zoning Ordinance, was commercial and the original barber shop was a

conforming use at that time. The 1934 land survey references a shop in the front of the lot with a residence in the back. In the 1963 Zoning Ordinance the property was zoned R4, and at that time any commercial uses within the building would have become non-conforming. The most recent use of the building was an office. Prior to that, the commercial building was occupied by a print shop that was established on the property in 1956.

Staff had not received any correspondence from the Webber-Camden neighborhood as of the writing of the staff report. Any correspondence, if received, will be forwarded to the Commission.

Findings As Required By The Minneapolis Zoning Code (change of nonconforming use from an office use to a barber shop/beauty salon):

The Community Planning and Economic Development Planning Division has analyzed the application and makes the following findings:

The Planning Commission may approve a proposed change in use if the use meets the following standards as specified in section 531.80 of the Zoning Code:

(1) The proposed use is compatible with adjacent property and the neighborhood.

The site is bordered by a commercial use to the south, specifically an auto repair use. There are single family homes to the east and west and a multiple family dwelling with five units to the north. Fremont Avenue is a community corridor in this location. The *Minneapolis Plan for Sustainable Growth* identifies community corridors as streets which are primarily residential with intermittent commercial uses clustered at intersections in nodes. Said commercial uses are generally small-scale retail sales and services. The intersection of Fremont Avenue and 42nd Avenue N, one parcel to the south, is a neighborhood commercial node. Therefore, a neighborhood serving use such as a beauty salon would be consistent with the land use policy for this area. The following policy of the Comprehensive Plan is also relevant:

Policy 1.9: Through attention to the mix and intensity of land uses and transit service, the City will support development along Community Corridors that enhances residential livability and pedestrian access.

1.9.1 Support the continued presence of existing small-scale retail sales and commercial services along Community Corridors.

The change of non-conforming use application would allow a neighborhood serving commercial use in an existing commercial building along a community corridor and directly adjacent to a neighborhood commercial node. Surrounding properties contain a mix of residential densities and commercial uses. The proposed use is compatible with adjacent property in the neighborhood and the character of the area.

(2) The proposed use is less intense than the existing, nonconforming use.

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(a) Hours of operation: The previous office use did not have regular hours in which it was open to the public. The hours of operation proposed for the barber shop/beauty salon are 9:00 a.m. to 6:00 p.m. Tuesday through Friday and 7:00 a.m. to 3:00 p.m. on Saturday. These hours are less intense than the hours of operation of the permitted in the R4 District and will not increase the intensity of the commercial space. The permitted hours in the R2B District are 7:00 a.m. to 10:00 p.m. Sunday through Thursday and 7:00 a.m. to 11:00 p.m. Friday and Saturday.

(b) Signage: There is currently no signage on the building. The print shop that was located in the building before the office use was established did have a wall sign that has since been removed. The materials submitted by the applicant state any future signage will be less than 16 square feet in area, within the parameters allowed for non-conforming uses. Chapter 543 of the Zoning Ordinance states the following regarding new signs for non-conforming uses:

Newly established signs located on nonconforming uses shall be limited to one non-illuminated, flat wall identification sign, not to exceed sixteen (16) square feet in area and fourteen (14) feet in height. In addition, on a corner lot, two (2) such signs per building, except as otherwise allowed in the manner provided for in Chapter 531, Nonconforming Uses and Structures, governing expansion or alteration of legal nonconforming uses and structures.

(c) Traffic generation and safety: The proposed barber shop/beauty salon is expected to generate more traffic than the previous office use. However, the amount of traffic generated is not expected to negatively impact the surrounding area. The building is less than 1,000 square feet and does not have a minimum parking requirement. On-street parking is available on Fremont Avenue and bus service is available throughout the day. The use will have a maximum of three employees, limiting the number of customers that may frequent the site. In that regard, the amount of traffic generated is not expected to have a negative impact on surrounding properties and staff has no concerns about safety.

(d) Off-street parking and loading: The commercial building is less than 1,000 square feet in area. Therefore it is exempt from a minimum parking requirement per Table 541-1 of the zoning code. A garage is located in the rear of the property, adjacent to the alley, to provide parking for the residential structure. This parking is separated from the commercial building with an existing fence. To offset any potential impact that the lack of off-street parking may have on the surrounding area, staff recommends that the applicant provide bicycle parking on-site. As a condition of approval, a minimum of three bicycle parking spaces shall be required.

(e) Nature of business operations: The subject building was most recently utilized as an office. This use did not have any regular customers or regular business hours. The barber shop/beauty salon is classified as “general retail sales and service.” While the proposed use is expected to generate more activity at the site, it is not expected to have a detrimental impact on the surrounding area.

(f) Number of employees: According to the applicant, the previous office use had one full-time, regular employee who is also the property owner. The proposed barber shop/beauty salon

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will have two to three employees. Specifically, the applicant is proposing two hairstylists and one manicurist. A business that employs three people is not expected to negatively affect the surrounding area and will have little impact on the intensity of the use.

(g) Building Bulk: The existing commercial building has approximately 616 square feet of gross floor area. The lot also contains a single family home with 874 square feet of gross floor area. The lot is 6,400 square feet in area and the combined floor area ratio of both buildings is .23. The maximum floor area ratio in the R4 District is 1.5. The building will not be expanded as part of the application and will continue to comply with the maximum FAR for the district. The intensity of the use, in terms of bulk, will not be increased by the establishment of a barber shop/beauty salon.

(h) Aesthetic impacts on surrounding property: The property owner remodeled the commercial building in 2008-2009. Improvements included new siding, doors and windows, insulation and a new basement floor. No additional changes are proposed to the building exterior or the site as part of this tenant change. As such, the change of use from an office to a barber shop/beauty salon will not have any aesthetic impacts on surrounding property.

(i) Noise, odor, heat, glare and vibration: The proposed use, as with the previous use, is not expected to generate noise, odor, heat, glare or vibration.

Based on the above analysis, the proposed barber shop/beauty salon should not be more intense than the previous office use.

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the change of nonconforming use from an office to a barber shop/beauty salon in the R4 Multiple Family Residence District for the property at 4208 Fremont Avenue N, subject to the following condition:

1. A minimum of three bicycle parking stalls shall be provided on-site. All bicycle parking shall meet the standards for short-term bike parking, per Section 541.180 of the zoning code.

Attachments:

1. Statement from applicant.
2. Zoning map.
3. Correspondence.
4. Site plans and floor plan.
5. Photos.