

Community Planning and Economic Development - Planning Division Report
Nonconforming Use Certificate
BZZ-2184

Date: March 3, 2005

Applicant: Cornerstone Lake LLC

Address of Property: 3714-3722 East Lake Street

Contact Person and Phone: Dan Kennedy 612-728-8080

Planning Staff and Phone: Jim Voll 612-673-3887

Date Application Deemed Complete: January 31, 2005

End of 60 Day Decision Period: April 1, 2005

Ward: 9 Neighborhood Organization: Longfellow Community Council

Existing Zoning: C1 Neighborhood Commercial District and C2 Neighborhood Corridor Commercial District.

Proposed Request: To establish legal nonconforming rights for a used car lot located in the C1 district.

Zoning code section authorizing the request: Chapter 531 Nonconforming Uses and Structures; Section 531.30.

Background: The applicant is seeking to establish legal nonconforming rights for a used car lot in the C1 District for property located at 3714 East Lake Street. This lot is adjacent to 3722 East Lake Street, where C&N Auto is located. C&N Auto is a legally nonconforming use at 3722 East Lake Street. In 1999 C&N Auto bought the lot next door at 3714 East Lake Street (now zoned C1) and demolished the single family home on the site and expanded the used car lot onto this site. While the used car lot covers both 3722 and 3714 East Lake Street, the nonconforming use certificate is to allow the used car lot to be located on 3714 East Lake Street only. It is allowed as a legally nonconforming use, subject to site plan review, at 3722 East Lake Street. While the applicant has received site plan approval for 3722 East Lake Street from the Planning Commission, he has not had the final plan approved by staff as required by ordinance.

Analysis: The applicant is requesting a nonconforming use certificate for a used car lot in the C1 district for property located at 3714 East Lake Street. The City Planning Commission at its meeting of November 8, 1999 approved a site plan review application (PR-504) and setback variances (V-4561) for the existing car sales lot at 3722 East Lake Street. However, the Planning Commission denied a variance from the required five parking spaces to zero spaces based on pedestrian oriented trade. In lieu of this the Commission granted a variance of one parking space (20% of required) based on hardship. The applicant

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then purchased the house to the west in November of 1999 and demolished it to expand the sales lot and to provide the required landscaping and parking. At this time the lot was zoned B3S under the 1963 zoning code. Used car lots (classified as motor vehicle sales) were permitted uses in the B3S District, subject to site plan review. The applicant claims that the City did not sign the required used car sales license and that the staff was directed not to sign the form by the zoning administrator (please see attached letter). Staff can not determine if this is true, but signature of a license form would not be enough to establish the use. The applicant was required to obtain site plan review approval before the use could be established at the site.

The current zoning code was adopted on November 22, 1999, replacing the 1963 code and rezoning the site from B3S to C1 as a part of the general remapping of the City with the adoption of the code. The C1 District does not allow used car lots. The applicant had stated that he purchased the lot before the new zoning ordinance and districts became effective on November 22, 1999. Before this date both the existing car lot at 3722 East Lake and the house at 3714 East Lake were zoned B3S-2, which allowed used car lots as a permitted use, subject to Section 530.10 of the 1963 code. Because the lot at 3714 East Lake (currently zoned C1) was not legally established for automobile sales before the new code became effective, it is not a legal non-conforming use and required a rezoning to the C4 district to be allowed. Staff informed the applicant of this in 1999.

C& N Auto then applied for a rezoning from C1 and C2 to C4 (P-1072), a conditional use permit for a used car lot (C-2047), variances from the required five foot north side setback to zero feet and from the required five parking spaces to four parking spaces (V-4594), and a site plan review (PR-576) for the existing car lot and for the additional lot at 3714 East Lake Street. The City Planning Commission denied this application on February 28, 2000. Mr. Norman Olson filed an appeal on March 8, 2000.

On March 28, 2000 the Zoning and Planning (Z&P) Committee of the City Council recommended approval of the rezoning and sent the other items back for review to the City Planning Commission. On April 7, 2000 the full City Council sent the rezoning back to the Z&P Committee that in turn also referred the item back to the City Planning Commission for findings.

The Planning Commission again recommended denial of the rezoning and the conditional use permit, but approved the variances and the site plan review with the condition that “if through other applications to the City or through proceedings in the court case the lot at 3714 is authorized the following variance and site plan review conditions are in effect.” The applicant made no other applications, the rezoning was denied by the City Council, and the court case was dismissed, so no use of 3714 for automobile sales was ever authorized.

Findings:

1. The property was bought in November of 1999.
2. The site was zoned B3S under the 1963 code and used car lots were allowed as a permitted use under the B3S zoning subject to site plan review.
3. Site plan review and approval was required to legally establish the use.

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4. The applicant did not apply for or complete site plan review for 3714 East Lake Street before the adoption of the 1999 code and remapping of the site to C1 on November 22, 1999.
5. The C1 zoning does not allow used car sales.
6. The use was not legally established before the site was rezoned to C1, which is a zoning district that does not allow automobile sales.

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

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the above findings and **deny** the nonconforming use certificate to establish legal nonconforming rights for a used car lot in the C1 District for property located at 3714 East Lake Street.