

Department of Community Planning and Economic Development – Planning Division
Expansion of Non-Conforming Use, Variance
BZZ-5622

Date: August 13, 2012

Applicant: Matthew Buzzard

Addresses of Property: 3128 E 25th Street, Apt. 2

Contact Person and Phone: Matthew Buzzard, (612) 810-7703

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

Date Application Deemed Complete: June 19, 2012

End of 60-Day Decision Period: August 18, 2012

End of 120-Day Decision Period: On August 2, 2012 staff sent a letter to the applicant extending the City's decision period by 60 days, to October 17, 2012

Ward: 2 Neighborhood Organization: Seward

Existing Zoning: R1A, Single-family residential

Proposed Zoning: Not applicable for this application

Zoning Plate Number: 22

Legal Description: Not applicable for this application.

Existing Use: Duplex.

Concurrent Review:

Expansion of non-conforming use: to allow an existing duplex in the R1A, Single-family district to expand a dormer in the attic of the 2.5 story structure.

Variance: to reduce the required front yard along 32nd Avenue S from 20 feet to 12.2 feet to allow for a dormer addition to a duplex on a reverse corner lot.

Applicable zoning code provisions: Chapter 531, Nonconforming Uses and Structures.

Background: The owner is proposing to expand a dormer in the attic of an existing non-conforming duplex in the R1A district. The structure is a 2.5 story duplex with one unit on the first floor and one unit that comprises the second floor and half story. The additional finished space in the attic would be used as a living room. The attic currently contains a bedroom, bathroom and living room. The dormer

that is the subject of this application is located on the east side of the structure, facing 32nd Avenue S. When finished, the dormer will be approximately 100 square feet in area.

The current zoning of the property is R1A, which does not allow duplexes. The expansion of the dormer and additional living space is the trigger for the expansion of a legal non-conforming use application under Section 531.50(b) of the zoning code and therefore requires authorization from the City Planning Commission.

The adjacent property to the north is platted toward 32nd Avenue S and is located approximately 20 feet from the front property line. Due to the platting of the land, the subject parcel is a reverse corner lot with front yards along E 25th Street and along 32nd Avenue S. The existing structure is setback 12.2 feet from the front property line along 32nd Avenue S and is therefore non-conforming in terms of the front yard setback requirement. The applicant is proposing to expand a dormer in the attic of this 2.5 story structure. Due to the established setback of the existing structure, a variance is required to reduce the front yard setback from 20 feet to 12.2 feet.

Staff had not received any official correspondence from the Seward Neighborhood Group prior to the printing of this report. Correspondence received prior to the meeting shall be forwarded on to the Planning Commission for consideration.

EXPANSION OF NON-CONFORMING USE: to allow an existing duplex in the R1A, Single-family district to expand a dormer in the attic for additional living space.

Findings as Required by the Minneapolis Zoning Code:

The Community Planning and Economic Development Department – Planning Division has analyzed the application and from the findings above concludes that:

1. A rezoning of the property would be inappropriate.

The property is located in the R1A, Single-family District at the corner of E 25th Street and 32nd Avenue S. Nearly all surrounding properties within the vicinity are also zoned R1A. An area of R2B zoning begins one block to the west, at E 25th Street and 31st Avenue S. The R1A district does not allow two-family buildings. The subject lot is 5,360 square feet in area. In order to legalize the two dwelling units the property would need to be rezoned to R2B. There is currently a clear distinction between the single family zoning east of 31st Avenue S and the R2B zoning west of 31st Avenue S. The future land use map in *The Minneapolis Plan for Sustainable Growth* identifies the site as Urban Neighborhood, which would not generally support this higher density zoning without the presence of other land use features or contiguous R2B zoning. There are no such features in close proximity to the site and therefore rezoning would be inappropriate.

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

The expansion is compatible with adjacent properties and the neighborhood. The surrounding area contains a mix of residential uses that are primarily 1.5 to 2.5 stories in height. The majority of the

surrounding residential uses are single and two-family homes. However, there is a three-unit building at the southeast corner of the intersection of E 25th Street and 32nd Avenue S, a four-unit building on the same block as the subject site and a nine-unit building and four-unit building one half a block to the east. The applicant is not proposing to increase the number of dwelling units.

- 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.**

The expansion of the non-conforming use would not result in significant increases of adverse off-site impacts. There would be no increase in residential units and there is currently adequate off-street parking provided in a detached garage in the rear yard of the property, which is accessed from 32nd Avenue S. No additional traffic, noise, dust, odors or parking congestion would be expected with the proposed modifications.

- 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 proposed dormer will be a minimum of three feet from the end-of-house corner on the south side and will not exceed 50 percent of the width of the wall of the floor below, in compliance with the zoning code. The dormer will not extend beyond the wall below or interrupt the eave edge of the roof. Allowing the applicant to legally expand the attic space with a larger dormer and larger living room would likely increase the value of the property and contribute to the stability of the neighborhood. No adverse impacts are anticipated as a result of the proposal.

- 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.

VARIANCE: to reduce the required front yard along 32nd Avenue S from 20 feet to 12.2 feet to allow for a dormer addition to a duplex on a reverse corner lot.

Findings as Required by the Minneapolis Zoning Code for a Variance:

- 1. Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.**

The circumstances upon which the variance is requested are unique to the parcel of land due to the platting of the land and the location of the existing dwelling to the south. These circumstances have not been created by the applicant. The applicant is proposing to construct a dormer in the attic of a 2.5 story structure, within the existing footprint. The required yards, including side and rear yards, cover approximately 70 percent of the subject property. Due to the platting of the parcel and the location of the adjacent dwelling to the north, the existing structure is non-conforming in terms of the front yard setback requirement and any addition to the structure would require a variance.

- 2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.**

The applicant is proposing to expand a dormer in the attic of an existing duplex on a reverse corner lot. The purpose of required yards is to provide for orderly development and use of land and to minimize conflicts among land uses by providing adequate light, air, open space and separation of uses. The adjacent neighbor to the north is located approximately 90 feet from the proposed dormer addition and 28 feet from the shared property line. An alley separates these two parcels. The dormer addition would not impact the neighbor to the west as it would not be visible from the west side of the property. Staff believes that the applicant is proposing to use the property in a reasonable manner.

- 3. The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.**

Staff believes that the granting of these variances would not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. As previously mentioned, the proposed addition is within the existing footprint of the dwelling. Further, the applicant is proposing materials that are compatible with the existing dwelling. If granted, the proposed variance will not be detrimental to the health, safety or welfare of the public or those utilizing the property as long as it is constructed to current building codes.

RECOMMENDATIONS:

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 City Planning Commission adopt the above findings and **approve** the application for an expansion of a legal nonconforming use to the expansion of a dormer in a duplex located at 3128 E 25th Street.

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

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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 along 32nd Avenue to approximately 12.2 feet to allow for a dormer addition to an existing duplex on a reverse corner lot located at 3128 E 25th Street, subject to the following conditions:

1. The exterior materials used for the addition shall compliment and be similar to the exterior materials of the principal structure on the property.
2. Approval of the final site and elevation plans by the Department of Community Planning and Economic Development – Planning Division.

Attachments:

1. Statement of proposed use and description of project
2. Findings prepared by the applicant
3. Emails to Council Member Gordon and Seward Neighborhood Group
4. Zoning map
5. Line survey of front yard setback along 32nd Avenue S
6. Site plan and floor plans
7. Photos of property and existing structures