

**Department of Community Planning and Economic Development – Planning Division**  
Rezoning and Variances  
BZZ-5849

**Date:** December 3, 2012

**Applicant:** Alioune Thiam

**Address of Property:** 3605 4<sup>th</sup> Avenue South

**Project Name:** 3605 4<sup>th</sup> Avenue South Rezoning

**Contact Person and Phone:** Alioune Thiam, (651) 653-0240

**Planning Staff and Phone:** Shanna Sether, (612) 673-2307

**Date Application Deemed Complete:** November 9, 2012

**End of 60-Day Decision Period:** January 8, 2013

**End of 120-Day Decision Period:** March 9, 2013 (*Staff sent an extension letter on November 26, 2012*)

**Ward:** 8      **Neighborhood Organization:** Central Area Neighborhood Development Organization

**Existing Zoning:** R1A Single-Family Residence District and R2B Two-Family Residence District

**Proposed Zoning:** R3 Multiple Family District

**Zoning Plate Number:** 25

**Legal Description:** Lots 13 and 14, Block 2, VINTON PARK ADDITION TO MINNEAPOLIS, Hennepin County, MN.

**Proposed Use:** Parcel A (northerly parcel) will be 5,250 square feet and will allow for the future construction of a two-family dwelling and Parcel B (southerly parcel) will be 5,254 square feet and contains an existing three-unit, multiple-family dwelling.

**Concurrent Review:**

- Rezoning petition to change the zoning classification for the subject property from R1A Single-Family District and R2B Two-Family District to R3 Multiple Family District.
- Variance to reduce the minimum north interior side yard setback for an existing multiple-family dwelling with three units from 7 feet to approximately 4.3 feet to allow for the existing structure.
- Variance to reduce the minimum front yard setback along 36th Street East from 20 feet to 8 feet to allow for the construction of a new two-family dwelling on a reverse corner lot.

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**Applicable zoning code provisions:** Chapter 525, Article VI, Zoning Amendments, Chapter 525, Article IX Variances, Specifically Section 525.520(1) “to vary the yard requirements, including permitted obstructions into required yards not allowed by the applicable regulations” and Chapter 546 Residence Districts

**Background and Analysis:** The subject property is approximately 80 feet by 131.25 feet (10,504 square feet) and consists of two platted lots, Lots 13 and 14. Lot 14 is presently vacant but was previously occupied by a storefront building that existed on the property from 1910 to 1990. The vacant lot was later combined with the adjacent property (Lot 13) to the south at 3605 4<sup>th</sup> Avenue South. The applicant is proposing to divide the existing parcel again to allow for the future development on the vacant half of the lot. Parcel A (Lot 14), the north lot, is proposed to be a new two-family dwelling. Parcel B (Lot 13), the south lot, will continue to be occupied by the existing three-unit, multiple-family dwelling.

The property has split zoning; Lot 14 is zoned R2B Two-Family District and Lot 13 is zoned R1A Single-Family District. The existing three-unit, multiple family dwelling is a nonconforming use in the R1A Single-Family District. The proposed parcel split would reduce the existing lot area of the triplex and the zoning code prohibits this increase in the degree of nonconformity per 531.40(2)(b). In addition, Parcel A does not have sufficient lot area to allow for a new two-family dwelling in the R2B District, even with the maximum variance of 30%. Therefore, the applicant has submitted a petition to rezone the entire property from the R1A Single-Family District and the R2B Two-Family District to the R3 Multiple Family District.

The existing three-unit, multiple-family dwelling is located 4.3 feet from the platted boundary between Lots 13 and 14. The applicant is proposing to divide the lots along the platted boundary and the existing structure would be located 4.3 feet from the new property line. The minimum interior side yard setback for a two-story multiple-family dwelling in the R3 District is 7 feet. Therefore, the applicant is requesting a variance to reduce the north interior side yard setback from 7 feet to approximately 4.3 feet to allow for the existing structure.

The subject property is also a reverse corner lot, located at the southeast corner of 4<sup>th</sup> Avenue South and 36<sup>th</sup> Street East. The adjacent property to the east has frontage along 36<sup>th</sup> Street East and is located approximately 15 feet from the front property line. The adjacent structure to the south has frontage along 4<sup>th</sup> Avenue South and is setback over 10 feet from the front property line. Due to the platting of the land, there is a minimum 20-foot front yard setback along 36<sup>th</sup> Street East. The applicant is proposing to construct a new two-family dwelling 8 feet from the north property line. Due to the platting of the block and the location of the new two-family dwelling a variance is required to reduce the front yard setback along 36<sup>th</sup> Street East from 20 feet to approximately 8 feet.

**Compliance with Other R3 District Code Requirements**

<b>Requirement</b>	<b>Allowed</b>	<b>Proposed</b>
Minimum Lot Area	5,000 square feet or 1,500 square feet of lot area per dwelling, whichever is greater	Parcel A - 5,250 square feet Parcel B - 5,254 square feet
Minimum Lot Width	40 feet	Both lots - 40 feet

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Maximum Building Height <sup>1</sup>	Parcel A – 2.5 stories or 30 feet, whichever is less Parcel B – 2.5 stories or 35 feet, whichever is less	Parcel A – 2.5 stories; 24 feet 6 inches Parcel B – 2.5 stories, approximately 27 feet
Maximum Lot Coverage	50%	Parcel A – 27.3% Parcel B – 43%
Maximum Impervious Surface	65%	Parcel A – 34% Parcel B – 52%
Maximum Floor Area Ratio	Parcel A - .5 Parcel B – 1.0	Parcel A – .39 Parcel B – .61
Minimum Front Yard (4 <sup>th</sup> Avenue South)	Parcel A – 20 feet for dwelling	Parcel A – 24 feet 4 inches
Minimum Front Yard (36 <sup>th</sup> Street East)	Parcel A – 20 feet	Parcel A – 8 feet
Minimum Interior Side Yard (North)	Parcel B – 7 feet for dwelling	Parcel B – 4.3 feet
Minimum Interior Side Yard (South)	Parcel A – 5 feet for dwelling	Parcel A – 5 feet
Minimum Rear Yard	Parcel A – 5 feet for dwelling	Parcel A – 63 feet

The future development of a two-family dwelling will also be subject to the conditions of the design standards outlined in section 530.280 in the zoning ordinance.

**530.280. Design standards.** New single and two-family dwellings and multiple-family dwellings having three (3) or four (4) dwelling units shall comply with the applicable regulations of this zoning ordinance, including but not limited to the standards of Chapter 535, Regulations of General Applicability, related to front entrance, window area, and walkway requirements, and limitations on attached garages facing the front lot line. In addition, the zoning administrator shall ensure that such uses obtain a minimum of fifteen (15) points from Table 530-2, Single and two-family dwellings and multiple-family dwellings having three or four dwelling units. Standards used to meet the minimum requirement must remain in place for a period of not less than fifteen (15) years from the date of approval.

Preliminary review indicates that the design with a slight modification to the proposed windows on the south elevation would receive 17 points for the following: providing a basement, detached garage, Hardiplank lap siding exterior, a roof pitch of at least 6/12 and having an open front porch of at least 50

<sup>1</sup> As defined in section 520.160 of the zoning code, height is the vertical distance from the natural grade measured either at the curb level or at a point ten (10) feet away from the front center of the structure or building, whichever is closer, to the average distance between the eave edge and the ridge level for gable, hip and gambrel roofs.

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square feet. If the rezoning and variances are approved, the applicant will be required to submit an application for Administrative Site Plan Review for a new two-family dwelling.

Staff has received a letter supporting the project from the Central Area Neighborhood Development Organization; a copy is attached to the staff report. Staff will distribute additional written comments to the City Planning Commission, if any are received, at the public hearing.

## **REZONING**

### **Findings As Required By The Minneapolis Zoning Code:**

#### **1. Whether the amendment is consistent with the applicable policies of the comprehensive plan.**

The subject property's existing land use classification is low-density housing, which is primarily single family and two-family residential, with less than 20 dwelling units/acre. The proposed use of a two-family dwelling is consistent at sixteen dwelling units per acre. The property is designated *Urban Neighborhood* on the future land use map of the comprehensive plan. The urban neighborhood classification is predominately a residential area with a range of densities, with highest densities generally to be concentrated around identified nodes and corridors.

According to the principles and polices outlined in *The Minneapolis Plan for Sustainable Growth*, the following policies are relevant to the rezoning:

#### **Land Use Policy 1.8: Preserve the stability and diversity of the city's neighborhoods while allowing for increased density in order to attract and retain long-term residents and businesses.**

1.8.1 Promote a range of housing types and residential densities, with highest density development concentrated in and along appropriate land use features.

1.8.2 Advance land use regulations that retain and strengthen neighborhood character, including direction for neighborhood serving commercial uses, open space and parks, and campus and institutional uses.

1.8.3 Direct uses that serve as neighborhood focal points, such as libraries, schools, and cultural institutions, to designated land use features.

#### **Housing Policy 3.6: Foster complete communities by preserving and increasing high quality housing opportunities suitable for all ages and household types.**

3.6.4 Provide and maintain moderate and high-density residential areas, as well as areas that are predominantly developed with single and two family structures.

**Heritage Preservation Policy 8.8: Preserve neighborhood character by preserving the quality of the built environment.**

8.8.1 Preserve and maintain the character and quality of residential neighborhoods with regulatory tools such as the zoning code and housing maintenance code.

*Staff comment:* The surrounding area includes a mix of low to high residential uses, institutional uses and industrial uses. The proposed rezoning will allow for the existing, nonconforming three-unit building to remain and will allow for the development of a new two-family structure on a vacant lot. The previous use of the vacant lot was a storefront commercial building. The applicant is not intending to demolish, remodel or add on to the existing multiple-family structure. The proposed rezoning is consistent with these goals of *The Minneapolis Plan for Sustainable Growth*.

**2. Whether the amendment is in the public interest and is not solely for the interest of a single property owner.**

The amendment is primarily in the interest of the property owner. However, the surrounding area includes a mix of low to high residential uses, institutional uses and industrial uses. The proposed use will allow for the continued use of the three-unit multiple-family dwelling and allow for the development of an existing vacant lot on the corner of the block.

**3. Whether the existing uses of property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification, where the amendment is to change the zoning classification of particular property.**

The nearest multiple-family zoning is approximately one block to the east. The zoning along 36<sup>th</sup> Street East is R1A Single-Family District, R2B Two-Family District, R4 Multiple Family District and I1 Light Industrial District. There is a library across 36<sup>th</sup> Street East, an existing townhouse development one block to the north, high density residential to the east and a mixed use industrial and residential building to the northeast, along 36<sup>th</sup> Street East. Given the surrounding uses and zoning classifications, the amendment of this zoning classification to R3 is compatible with the immediate area.

**4. Whether there are reasonable uses of the property in question permitted under the existing zoning classification, where the amendment is to change the zoning classification of particular property.**

The property has split zoning; Lot 14 is zoned R2B Two-Family District and Lot 13 is zoned R1A Single-Family District. The existing three-unit, multiple family dwelling is a nonconforming use in the R1A Single-Family District. The parcel cannot be divided because the use is nonconforming. Further, any expansion or alteration of the existing structure would require additional approvals by the City Planning Commission. A nonconforming use may continue, as long as it remains lawful and not abandoned for more than one year. Staff finds that there is reasonable use of this property as either an existing, nonconforming or a conforming multiple-family dwelling permitted by the proposed zoning classification.

**5. Whether there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its present zoning classification, where the amendment is to change the zoning classification of particular property.**

From 1924, the first year the City of Minneapolis had a codified zoning ordinance, to 1963, the property was zoned Residence District. A two-family dwelling was a permitted use at the time of the building's construction in 1922 through 1963. In 1962 Lot 14 was rezoned to B2-1 Neighborhood Retail District and Lot 13 was zoned to R3 Multiple Family District. Lot 13 was downzoned with the R3 Rezoning Study in 1991 from R3 Multiple Family District to R1A Single-Family District. With the adoption of the 1999 zoning code, Lot 14 was zoned R2B Two-Family District and Lot 13 retained the R1A Single-Family District classification.

The surrounding area includes a mix of low to high residential uses, institutional uses and industrial uses. There is a library across 36<sup>th</sup> Street East, an existing townhouse development one block to the north, high density residential to the east and a mixed use industrial and residential building to the northeast, along 36<sup>th</sup> Street East. The character or trend in development of the area has not changed significantly. The proposed rezoning will allow for the continued use of the three-unit building and allow for the development of the existing vacant lot. Staff believes that the proposed amendment will be in character and consistent with the surrounding area.

**VARIANCE** to reduce the minimum south interior side yard setback from the required 7 feet to 4 feet 3 inches to allow for an existing multiple-family dwelling with three units

**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 setback variance is requested are unique to the parcel of land due to the location of the house, which was built in 1915. The applicant is proposing to re-establish the existing platted lots to allow for the existing structure on Parcel B and a new two-family dwelling on Parcel A. A new two-family dwelling located on the vacant lot would have to maintain a minimum interior side yard of 5 feet; therefore, the two structures would not be located closer than 9 feet 3 inches to each other. Staff finds that these circumstances have created practical difficulties in complying with the ordinance.

**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 seeking a variance to reduce the north interior side yard setback from the required 7 feet to 4 feet 3 inches, for the existing three-unit building. The existing structure was constructed in 1915 in this location. The purpose of yard requirements is to provide for orderly development and use of land and to minimize conflicts among land uses by governing the location of accessory uses and structures. A new two-family dwelling located on the vacant lot would have to maintain a

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minimum interior side yard of 5 feet; therefore, the two structures would not be located closer than 9 feet 3 inches to each other. 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 this variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. The applicant is seeking a variance to reduce the north interior side yard setback from the required 7 feet to 4 feet 3 inches. A new two-family dwelling located on the vacant lot would have to maintain a minimum interior side yard of 5 feet; therefore, the two structures would not be located closer than 9 feet 3 inches to each other. Further, granting of the variance will not increase the danger of fire safety or be detrimental to the public welfare or endanger the public safety.

**VARIANCE:** to reduce the minimum front yard setback along 36th Street East from 20 feet to 8 feet to allow for the construction of a new two-family dwelling 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 east. The applicant is proposing to construct a new two-family dwelling on a vacant lot that was previously a storefront commercial building. Due to the platting of the parcel a minimum 20-foot setback is required along the north property line. The proposed parcel would be 40 feet wide and could not be developed upon while adhering to the minimum setbacks and the required minimum width of a dwelling. These circumstances have not been created by the applicant.

- 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 construct a new two-family dwelling 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 west is located approximately 15 feet from the front property line along 36<sup>th</sup> Street East. The adjacent neighbor to the east would be located almost 90 feet from the proposed two-family dwelling. The proposed dwelling would be located 8 feet from the front property line along 36<sup>th</sup> Street East, which is what would be consistent with a corner side yard setback. 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. The proposed two-family dwelling located 8 feet from the north property line will have the consistent setback of a dwelling located on a corner lot. 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 for the rezoning:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the rezoning petition to change the zoning classification for 3605 4<sup>th</sup> Avenue South from R1A Single-Family District and R2B Two-Family District to R3 Multiple Family District.

#### **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 minimum north interior side yard setback for an existing multiple-family dwelling with three units from 7 feet to approximately 4.3 feet to allow for the existing structure located at 3605 4<sup>th</sup> Avenue South (Parcel B), subject to the following conditions:

1. Approval of the final site and elevation plans by the Department of Community Planning and Economic Development – Planning Division.
2. All site improvements shall be completed by December 3, 2014, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

#### **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 minimum front yard setback along 36th Street East from 20 feet to 8 feet to allow for the construction of a new two-family dwelling on a reverse corner lot located at 3605 4<sup>th</sup> Avenue South (Parcel A), subject to the following conditions:

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1. Approval of the final site and elevation plans by the Department of Community Planning and Economic Development – Planning Division.
2. All site improvements shall be completed by December 3, 2014, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

**Attachments:**

- 1) Written descriptions and findings submitted by the applicant
- 2) Copies of letters sent to the neighborhood organization and council office
- 3) Correspondence from Central Area Neighborhood Development Organization
- 4) Zoning map
- 5) Existing Land Use map
- 6) Future Land Use map
- 7) Rezoning matrix
- 8) Site plan
- 9) Floor plan
- 10) Elevation plans
- 11) Photos