

Department of Community Planning and Economic Development – Planning Division
Conditional Use Permit and Variance
BZZ-5856

Date: December 3, 2012

Applicant: Paul Miller, Install This Sign and Awning, Co.

Address of Property: 4831-35 Lyndale Avenue N

Project Name: Install This Sign and Awning, Co.

Contact Person and Phone: Max Roemhild, (612) 369-1106

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

Date Application Deemed Complete: November 8, 2012

End of 60-Day Decision Period: January 7, 2013

Ward: 4 **Neighborhood Organization:** Lind-Bohanon

Existing Zoning: C1, Neighborhood Commercial district

Proposed Zoning: N/A

Zoning Plate Number: 2

Lot area: 20,625 square feet

Legal Description: See attached.

Proposed Use: Contractor's office.

Concurrent Review:

- Conditional Use Permit to allow an expansion of a contractor's office in the C1, Neighborhood Commercial district.
- Variance to the enclosed building requirement.

Applicable zoning code provisions: Chapter 525: Article VII Conditional Use Permits and Chapter 530 Site Plan Review.

Background: The applicant is proposing to construct a 990 square foot addition to an existing contractor's office at 4831-35 Lyndale Avenue N. The addition is proposed on the west side of the building. A garage previously located on this side of the building has been demolished. The use, Install This Awning and Sign Company, was previously expanded in 2005 via BZZ-2450.

Contractor’s offices are a conditional use in the C1, Neighborhood Commercial district. Further expansion of the use at this time requires an amended conditional use permit. The site has a previously approved site plan from the 2005 application and is compliant with all aspects of that site plan, with the exception of some landscaping that has not been installed on the south side of the building. This landscaped area would be impacted by the proposed addition and therefore is not required to be addressed at this time.

This project also addresses a storage container that is currently located on the west side of the site. The existing storage container is prohibited in the zoning ordinance because it is considered outdoor storage and is not a permanent accessory structure. The applicant has requested a variance to the enclosed building requirement to allow the container to remain on the site. This matter is addressed in Section 537.110 and 548.180 of the zoning code, as follows:

548.180. Enclosed building requirement. (a) *In general.* All production, processing, storage, sales, display or other business activity shall be conducted within a completely enclosed building, except as otherwise provided in sections (b) and (c) below or elsewhere in this ordinance.

As of the writing of this staff report no correspondence had been received from the Lind-Bohanon Neighborhood. Any correspondence, if received, will be forwarded to the Commission for review.

CONDITIONAL USE PERMIT: to allow an expansion of a contractor’s office in the C1, Neighborhood Commercial district.

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 the establishment, maintenance, or operation of the proposed conditional use:

1. Will be detrimental to or endanger the public health, safety, comfort or general welfare.

Allowing a 990 square foot addition to the existing contractor’s office in this location would not be detrimental to the public health, safety or general welfare, provided the use complies with all licensing requirements, life safety ordinances and Public Works Department standards. The property includes two sites that have functioned as one zoning lot since at least 2005. Prior to that, the property at 4835 Lyndale Avenue N contained a minor automobile repair use that was constructed in approximately 1957. The property at 4831 Lyndale Avenue N historically contained an office use. The proposed addition is an attached garage to the building located on the property at 4831 Lyndale Avenue N. The addition is intended for vehicle storage and other materials.

2. Will be injurious to the use and enjoyment of other property in the vicinity and will impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.

The surrounding area is completely developed with a mix of commercial, light industrial and residential uses. The properties to the west, across the alley, contain single-family residential uses. The property to the north contains a duplex that was placed on the city's vacant building registry on August 11, 2011. The property to the south contains a parcel that is zoned C2 and appears to be used as a contractor's yard with outdoor storage. Given the historic use of the property, allowing the 990 square foot addition to the existing use would not be injurious to the use and enjoyment of other property in the vicinity. The proposed addition will allow for additional vehicle storage and reduce the amount of outdoor storage on site. Further, allowing the contractor's office use to be expanded on site should have no impact on the normal and orderly development of other property in the area. As stated above, the site has been used for non-residential purposes since the construction of the existing building in 1957. The property at 4835 Lyndale Avenue N, which is directly adjacent to the residential use to the north, historically contained a minor auto repair use.

3. Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.

The site is served by existing infrastructure and is accessed from the alley on the west side of the site. A modified Preliminary Development Review (PDR) is required. The applicant will be required to work closely with the Public Works Department, the Plan Review Section of the Inspections Department and the various utility companies during the duration of the development should the plan be approved. This would be required to ensure that all procedures are followed in order to comply with city and other applicable requirements.

4. Adequate measures have been or will be provided to minimize traffic congestion in the public streets.

The proposed 990 square foot addition is not expected to contribute to traffic congestion in the adjacent streets. The number of vehicles coming to and from the site will not be impacted by this addition, as it will simply allow for vehicle storage on site. The parking requirement for the use is one space per 500 square feet of gross floor area in excess of 4,000 square feet, or a minimum of four spaces. The gross floor area of the building, exclusive of parking areas, is 3,545 square feet. Therefore, the four space minimum applies. With the proposed addition there will be five enclosed parking spaces, satisfying the minimum parking requirement. Please note, site visits performed by staff have found that there are additional vehicles parked outside of the garage spaces. There are no approved parking spaces outside of the garage areas as these areas are needed for access.

5. Is consistent with the applicable policies of the comprehensive plan.

The Minneapolis Plan for Sustainable Growth identifies this site as Urban Neighborhood on the future land use map. The following Comprehensive Plan policies apply to this proposal:

Land Use Policy 1.1: Establish land use regulations to achieve the highest possible development standards, enhance the environment, protect public health, support a vital mix of land uses, and promote flexible approaches to carry out the comprehensive plan.

1.1.5 Ensure that land use regulations continue to promote development that is compatible with nearby properties, neighborhood character, and natural features; minimizes pedestrian and vehicular conflict; promotes street life and activity; reinforces public spaces; and visually enhances development.

Land Use Policy 1.2: Ensure appropriate transitions between uses with different size, scale, and intensity.

1.2.1 Promote quality design in new development, as well as building orientation, scale, massing, buffering, and setbacks that are appropriate with the context of the surrounding area.

Land Use Policy 1.6: Recognize that market conditions and neighborhood traditions significantly influence the viability of businesses in areas of the city not designated as commercial corridors and districts.

1.6.1 Allow for retention of existing commercial uses and zoning districts in designated Urban Neighborhood areas, to the extent they are consistent with other city goals and do not adversely impact surrounding areas.

Economic Development Policy 4.1: Support private sector growth to maintain a healthy, diverse economy.

Economic Development Policy 4.2: Promote business start-ups, retention and expansion to bolster the existing economic base.

4.2.5 Encourage small business opportunities, such as appropriate home occupations and business incubators, in order to promote individual entrepreneurs and business formation.

While the site is designated for urban neighborhood on the future land use map, it is zoned for commercial purposes. Allowing the applicant to invest in the property with a 990 square foot addition is consistent with the above policies of the comprehensive plan, as it would specifically allow for the retention of a commercial use in an area designated as Urban Neighborhood and promote the expansion of an existing business.

6. And, does in all other respects conform to the applicable regulations of the district in which it is located.

The proposed addition conforms to the applicable regulations of the C1 district. However, the applicant is proposing vinyl siding as an exterior material. The siding will be visible from the south, which faces an adjacent contractor's yard, and from the west, which faces residential uses. Vinyl siding is not considered a durable material and as a condition of approval, this material shall be replaced with cement board, brick, or another durable material that compliments the existing structure.

The applicant is requesting a variance to the enclosed building requirement to allow a portable storage container on site. In addition to the storage container, there is a significant amount of outdoor storage occurring on the property. Staff is recommending denial of the variance to the enclosed building requirement and as such, no outdoor storage would be allowed on the site.

There is currently a refuse storage container on the west side of the site that is not screened as required in Section 535.80 of the zoning code. The site plan shows a 6-foot cedar fence surrounding this storage container. As a condition of approval, the container shall be screened on all four sides by screening compatible with the principal structure not less than two feet higher than the refuse container or shall otherwise be effectively screened from adjacent residential uses.

VARIANCE: to the enclosed building requirement.

Findings Required by the Minneapolis Zoning Code:

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 subject use is a contractor's office in the C1, Neighborhood Commercial district and outdoor storage is not allowed. The enclosed building requirement in Section 548.180 of the zoning code states, "All production, processing, storage, sales, display or other business activity shall be conducted within a completely enclosed building, except as otherwise provided in sections (b) and (c) below or elsewhere in this ordinance." The applicant is requesting a variance to this provision to allow for a portable storage container that is already located on the site. In addition to this container there is other outdoor storage on site including trailers, empty pallets, sign parts, small equipment and the like.

Practical difficulties do not exist in complying with the ordinance due to circumstances unique to the property. The applicant is proposing a small addition at this time to allow for additional vehicle storage on site. The proposed addition is 990 square feet and the proposed storage container is 240 square feet. Constructing a slighter larger addition could allow for additional storage space and potentially negate the need for a portable storage container. Please note that

an addition greater than 1,000 square feet in area would require an application for Site Plan Review.

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.

Staff finds that the requested outdoor storage would not equate to using the property in a reasonable manner. The applicant is seeking a variance to the enclosed building requirement to allow a portable storage container on the site, which is considered outdoor storage. This type of container is portable and intended for temporary use. The intent of prohibiting outdoor storage is to promote the orderly development and use of the land, to protect and conserve the natural environment, to minimize conflicts among land uses and to protect the public health, safety, comfort and general welfare.

The site is adjacent to residential uses. Allowing outdoor storage on this commercially-zoned property would not be in keeping with the spirit and intent of the ordinance or the comprehensive plan. The site is designated as urban neighborhood on the comprehensive plan, meaning the long-term vision for this area is that it would transition to uses that are more compatible with the adjacent residential uses. Allowing outdoor storage on site is equivalent to a contractor's yard, not a contractor's office, and a contractor's yard is not a permitted use in the C1, Neighborhood Commercial district and would have a greater impact on the surrounding area. Further, the proposed location of the storage container appears as though it would conflict with turning movements for trucks that are maneuvering into the garage in the north half of the building. The adjacent single-family residences rely on the subject alley for access, and restricting maneuverability on-site would adversely impact the users of the alley. The amount of outdoor storage currently occurring on site also limits access in and out of the property.

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.

Allowing permanent outdoor storage on the site will alter the essential character of this area and particularly impact the surrounding residential uses. The site is currently cluttered with outdoor storage that has not been accommodated within the proposed storage container. Allowing outdoor storage would impact the livability of the area for nearby residents. Additionally, the proposed location of the storage container is problematic as it would not allow proper room for turning movements in and out of the north half of the building. While the storage container may reduce instances of theft from the site for the property owner, outdoor storage in general opens itself up to this type of criminal activity and staff encourages the applicant to pursue a more permanent solution for storage on site.

RECOMMENDATIONS:

**Recommendation of the Department of Community Planning and Economic Development
– Planning Division for the conditional use permit:**

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 a conditional use permit to allow an expansion of a contractor’s office for the property located at 4831-35 Lyndale Avenue N, subject to the following condition:

1. The conditional use permit shall be recorded with Hennepin County as required by Minn. Stat. 462.3595, subd. 4 before building permits may be issued or before the use or activity requiring a conditional use permit may commence. Unless extended by the zoning administrator, the conditional use permit shall expire if it is not recorded within one year of approval.
2. A trash enclosure consistent with Section 535.80 shall be required to screen the refuse storage container.
3. The vinyl siding proposed on the addition shall be replaced with cement board, brick or an alternate durable material that is consistent with the character of the existing building.

**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 **deny** the variance to the enclosed building requirement for the property at 4831-35 Lyndale Avenue N.

Attachments:

1. Statement of findings and project description
2. Correspondence
3. Zoning map
4. Site plan and floor plan
5. Photos