

**Department of Community Planning and Economic Development**  
Nonconforming Use Certificate  
BZZ 5983

**Date:** May 2, 2013

**Applicant:** Kathy and Aaron Hanson

**Address of Property:** 2516 Humboldt Avenue South

**Contact Person and Phone:** Kathy and Aaron Hanson, (952) 451-0658

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

**Date Application Deemed Complete:** March 13, 2013

**End of 60-Day Decision Period:** May 12, 2013

**End of 120-Day Decision Period:** July 11, 2013 (*Staff sent an extension letter April 16, 2013*)

**Ward:** 10      **Neighborhood Organization:** East Isles Residents Association

**Existing Zoning:** R2B Two-Family District

**Existing Overlay District:** SH Shoreland Overlay District

**Zoning Plate Number:** 18

**Proposed Use:** Three-unit, multiple family residence

**Nonconforming Use Certificate:** to establish legal nonconforming rights to a three-unit, multiple family residence

**Applicable Zoning Code Provision:** Chapter 531 Nonconforming Uses and Structures; Specifically Section 531.30 and Chapter 546 Residence Districts

**Background and Analysis:** The subject property is approximately 50 feet by 155 feet (7,500 square feet) and the use of the property is a three-unit multiple family residence with a four-car detached garage. The City of Minneapolis records indicate that the existing use is a two-family residence.

From 1924, the first year the City of Minneapolis had a codified zoning ordinance, to 1963, the property was zoned Multiple Family with E-Density, which would have had a lot area requirement of one dwelling per 600 square feet of lot area. A three-unit, multiple-family residence was a permitted use from 1924 to 1963. The property was rezoned to R2 Two-Family District with the adoption a new zoning code in 1963. A three-unit, multiple family residence was a prohibited use in the R2 Two-Family District. In 1977, the Calhoun-Isles Rezoning Study rezoned the subject parcel to R2B Two-Family

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District and it has been zoned R2B since. A three-unit, multiple family residence was a prohibited use in the R2 Two-Family District.

City records indicate that the legal use of the property is a two-family residence. The applicant is applying for a certificate of nonconforming use to legally establish nonconforming rights to a three-unit, multiple-family residence in an existing structure located in the R2B Two-Family District, per 531.30 of the zoning code:

**531.30. Establishment of nonconforming rights; certificate of nonconforming use.** Any person having a legal or equitable interest in a nonconforming property may apply for a certificate of nonconforming use by complying with the procedure set forth in this section. Upon issuance, a certificate of nonconforming use shall be evidence that the use or structure designated therein is a legal nonconforming use or structure at that time.

(4) *Determination by board of adjustment.* Following the public hearing, the board of adjustment shall determine whether the use or structure is a legal nonconforming use or structure. The burden of proof shall be on the applicant to establish the lawful nonconforming status of the use or structure and the lack of abandonment, change of use or loss under section 531.40. If the applicant does not establish the required facts, no certificate shall be issued. If the board of adjustment determines that the use or structure is a legal nonconforming use or structure, it shall direct the zoning administrator to issue a certificate of nonconforming use. The certificate shall state with particularity the type and intensity of specific use which is found to be legal. The decision of the board of adjustment may be appealed by any affected person as specified in Chapter 525, Administration and Enforcement.

Staff finds that the evidence submitted by the applicant meets the standards of Minneapolis Zoning Code provision 531.30(4), under which the applicant must bear the burden of proof to illustrate clear and convincing evidence that the use of the property was legally established as a three-unit, multiple family residence prior to 1963. The applicant has provided a statement describing the relevant facts and reason for the request, floor plans, historical permits, and affidavits from previous occupants indicating that the legal use of the property is a three-unit, multiple-family residence.

As of writing this staff report, staff has not received any correspondence from the East Isles Residents Association. Staff will forward comments, if any are received, at the Board of Adjustment meeting.

**Findings:**

- 1) The principal structure on the subject property was constructed in 1905 as a frame dwelling with a building permit (B62233).
- 2) The zoning classification from 1924 to 1963 was Multiple Family with E-Density. A three-unit, multiple-family residence was a permitted use from 1924 to 1963.
- 3) A building permit was issued March 26, 1928, (B209237) to allow for an addition and alterations to the existing building and allow the conversion of the structure to a duplex.
- 4) Polk Directory records indicate three to four residences in 1932, 1935 and 1936.

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- 5) Plumbing and electrical permits were issued in multiples of three in 1928.
- 6) The property owners from 1955 through 2007 were Thomas and Martha Collins. Their son, Gerald Collins, has provided an affidavit (attached) stating that during his parents' ownership of the property, the house was designed and continuously occupied as a three-unit building.
- 7) Building and plumbing permits were issued for remodeling in 1961, including a remodel of a kitchen in the dwelling.
- 8) The subject property was rezoned in 1963 to R2 Two-Family District; a three-unit, multiple family residence was a prohibited use.
- 9) The subject property was rezoned to R2B Two-Family District in 1977 in response to the Calhoun-Isles 40 Acre Study. The present zoning classification is R2B Two-Family District. A three-unit, multiple-family residence is a prohibited use.
- 10) The applicant has presented clear and convincing evidence that the use of the property is a legal nonconforming three-unit, multiple-family residence in an existing structure located at 2516 Humboldt Avenue South in the R2B Two-Family District.

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

The Department of Community Planning and Economic Development recommends that the Board of Adjustment adopt staff findings and **approve** the certificate of nonconforming use to establish legal nonconforming rights to a three-unit, multiple-family residence in an existing structure located at 2516 Humboldt Avenue South in the R2B Two-Family District.

**Attachments:**

1. Written descriptions and evidence submitted by the applicant
2. Letters to Council Member Tuthill and East Isles Residents Association
3. Zoning map
4. Site plan
5. Floor plans
6. Building permit records
7. Photos