

## Community Planning and Economic Development Planning Division Report

Expansion of a Legal Nonconforming Use and Variance

**BZZ - 2437**

**Date:** July 18, 2005

**Date Application Deemed Complete:** June 21, 2005

**End of 60 Day Decision Period:** August 19, 2005

**End of 120 Day Decision Period:** Not applicable at this time

**Applicant Waive 60 Day Requirement:** No

**Applicant:** Scott McQueen

**Address of Property:** 711 7<sup>th</sup> Avenue Southeast

**Contact Person and Phone:** Scott McQueen, 612-623-4938

**Planning Staff and Phone:** Lonnie Nichols, 612-673-5468

**Ward: 2**      **Neighborhood Organization:** Marcy Holmes

**Existing Zoning:** R-5 (multiple-family) district

**Proposed Zoning:** No change proposed, not applicable for this application

**Zoning Plate Number:** 15

**Legal Description:** Lot 10 of Block 2 of Pillsbury's 1<sup>st</sup> Division to Minneapolis

**Proposed Use:** Two-car, 486.82 square-foot detached garage in R5 district serving home located in the R2B (two-family) district

**Concurrent Review: Expansion of a Legal Nonconforming Use and Setback Variances:** Expansion of a nonconforming use to allow the exterior renovation and height increase of two (2) feet (to approximately 13'2") to an existing garage with established setbacks that require variances. The garage lot (971.25 sf) is located in the R5 district, and serves a home located in the R2B district.

**Appropriate Section(s) of the Zoning Code:** Chapter 521 Zoning Districts and Maps, Chapter 525 Administration and Enforcement, Chapter 531 Nonconforming Uses and Structures-note 531.50 expansion or alteration of nonconforming uses and structures, Chapter 535 Regulations of General Applicability, Chapter 546 Residential Districts.

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**Background:** The applicant has proposed an exterior renovation and two foot increase in height (vertical expansion) to an existing garage located at 711 7<sup>th</sup> Avenue South in the R5 (multiple-family) district serving the home located at 623 7<sup>th</sup> Street SE in the R2B (two-family) district. The increase in height to approximately 13' 2" tall with a maximum wall height not to exceed ten (10) feet from the floor to the top plate would be allowed by the code given the applicant has proposed to match the materials and roof pitch of the affiliated house. The home and the garage are located on separate parcels, thus making the garage the primary and nonconforming structure on a nonconforming lot, instead of an accessory structure to the home. According the applicant, the two lots and structures have always been linked together and act in combination as a residential lot separated by the alley, in the same fashion as other properties on the block that was platted with a double alley creating mid-block parcels called "barn lots". The zoning code allows off-site parking in the R5 to serve uses in the R2B district. The Marcy Holmes neighborhood submitted a letter of support for the project. Plan review staff for the City have indicated there would be building code requirements for the proposed renovation and vertical addition due to the structure's close proximity to the lot lines. Code requirements for fencing have also been listed in the variance report.

**NONCONFORMING USE EXPANION:**

**Findings as Required by the Minneapolis Zoning Code:**

**The Community Planning and Economic Development Planning Division has analyzed the application and makes the following findings:**

**The Planning Commission may approve an application if it meets the following standards and all other applicable regulations in the zoning ordinance (this section shall not authorize a use prohibited in the zoning district in which it is located to be expanded beyond the boundaries of its zoning lot):**

**(1) A rezoning of the property would be inappropriate.**

Rezoning the garage lot property from R5 to the R2B to match the existing house lot would not change the existing circumstances of several properties in the area having a residential structure on a separate lot in different zoning classification than the garage serving it. Table 541-3 of the zoning code allows off-site parking in the R5 to serve uses in the R2B district. The rezoning of the property is not necessary.

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

A two (2) foot increase in height to approximately 13' 2" tall with a maximum wall height not to exceed ten (10) feet from the floor to the top plate, the restoration of the existing walls with stucco to match the existing exterior finish and the new wall sections with cedar shakes to match the home, and the re-shingling of the roof in the existing pitch with shingles matching the house, and the painting of trim to match the house will be compatible with adjacent property and the neighborhood.

- (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 proposed garage renovation project will not result in significant increases of adverse, off-site impacts such as traffic, noise, dust, odors, and parking congestion.

- (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 renovation, to a garage in need of maintenance, will improve the appearance and stability of the neighborhood.

- (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 in the garage or to the home it serves.

- (6) The enlargement, expansion, relocation, structural alteration or intensification will not be located in the Floodway District.**

The site is not located in a Floodway District.

**VARIANCE:**

**Findings Required by the Minneapolis Zoning Code:**

- 1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

The existing garage is not proposed for demolition. Since the garage is the primary and only structure on this 971 sf lot, the required setback variances for the renovated structure would be 5 feet. The footprint and walls of the existing garage are currently placed on the same setbacks requested for this variance, from 5 feet to 8 inches on the East, 5 feet to 9 inches on the West, 5 feet to 2 inches on the North, to match the footprint of the existing structure. Strict adherence to the regulations of this zoning ordinance would cause undue hardship for this proposal to renovate the exterior materials and increase the height of an existing garage by two (2) feet to approximately 13' 2" tall with a maximum wall height not to exceed ten (10) feet from the floor to the top plate.

- 2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

The Hennepin County property tax information website indicates the building located at 711 7<sup>th</sup> Avenue SE was constructed in 1900. While the applicant is electing to increase the height of the garage as part of the renovation, the placement of the building on the lot and the circumstances of having a residential structure on a separate lot in a different zoning classification than the garage serving it were acquired upon purchase and have not been created by any persons presently having an interest in the property.

- 3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

The garage on the adjacent parcel has the same roof pitch and is built with the same setbacks as the subject garage. The footprint of the renovated garage would not be altered from the footprint of the existing garage. The exterior materials of the garage will match the exterior materials of the home, located at 623 7<sup>th</sup> Street SE, it serves. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.

- 4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

The proposed setback variances, that match those of the existing garage structure, will not substantially increase the congestion of the public streets or be detrimental to the public welfare or endanger the public safety. Section 535.420 of the code, however, would limit the height of the (corner side yard) fence (proposed as eight (8) feet in length) along the west lot line at the front of the garage to a maximum of three (3) feet, or four (4) feet provided the fence is constructed of open, decorative, ornamental fencing materials that are not less than sixty (60%) percent opaque. The zoning administrator has indicated, as per section 535.400(2) of the code, a maximum eight (8) foot length fence along the west lot line at the front of the garage would be allowed in order to maintain the required site triangle for the alley. In addition, planning staff requested that City plan review (building code) staff review the proposal for compliance. Plan review staff indicated that the applicant would be required to close the walk-through service door at the Southeast corner of the structure and provide 5/8 inch dry wall to the interior North and East walls of the structure for the existing stucco sections and the provision of 5/8 inch dry wall to the interior and exterior North and East walls of the structure for the new cedar shake sections to meet building code requirements for fire containment.

## **RECOMMENDATIONS:**

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**Recommendation of the Community Planning and Economic Development Planning Division for the Nonconforming Use Expansion:**

The Community Planning and Economic Development Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a nonconforming use expansion for a garage renovation located at 711 7<sup>th</sup> Avenue South, subject to the following condition:

1. The exterior materials and shingles of the garage will match the exterior materials and shingles of the residential structure at 623 7<sup>th</sup> Street SE.
2. The height of the garage to midpoint of roof shall not exceed fifteen (15) feet with a maximum wall height not to exceed ten (10) feet from the floor to the top plate.

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the setback variances:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance for setbacks, from 5 feet to 8 inches on the East, 5 feet to 9 inches on the West, 5 feet to 2 inches on the North, to match the footprint of the existing structure, for a garage renovation located at 711 7<sup>th</sup> Avenue South, subject to the following conditions:

1. The section of fencing proposed along the west lot line at the front of the garage shall be limited to eight (8) feet in length and four (4) feet in height to comply with sections 535.200(2) and 535.420(2) of the zoning code.
2. The applicant is hereby notified the renovation project will be required to comply with the applicable provisions of the building code.

**Attachments:**

1. Statement of Use and Nonconforming Use Findings
2. Statement of Use and Variance Findings
3. Email to Council Member and Neighborhood Organization
4. Correspondence – letter from Council Member and Neighborhood Organization
5. Zoning maps
6. The McQueen Garage Plans (AA-1, AA-2, AA-3, AA-4)
7. Photographs (home at 623 7<sup>th</sup> Ave SE and garage at 711 7<sup>th</sup> Ave SE)