

Department of Community Planning and Economic Development – Planning Division
Expansion of a Nonconforming Use and Variances
BZZ – 1996

Date: November 22, 2004

Applicant: Rea-Hal Partners, Laurence Reardon, 3080 North Shore Drive, Wayzata, MN 55391

Address of Property: 3112 Bryant Avenue South

Project Name: N/A

Contact Person and Phone: Curt Gunsbury, 2711 W. 47th Street, Minneapolis, MN 55410,
(612) 598-9416

Planning Staff and Phone: Becca Farrar, 612-673-3594

Date Application Deemed Complete: September 23, 2004

End of 60-Day Decision Period: November 21, 2004

End of 120-Day Decision Period: January 20, 2005. The applicant has voluntarily extended the timeframe to no later than February 15, 2004.

Ward: 10 **Neighborhood Organization:** Calhoun Area Residents Action Group (Carag)

Existing Zoning: R2B (Two-family) district

Proposed Zoning: Not applicable for this application

Zoning Plate Number: 24

Lot Area: 5,836 square feet or .13 acres

Legal Description: Not applicable for this application

Proposed Use: Four-car, 835 square foot (40 feet 7 inches x 20 feet 7 inches) detached garage accessory to an existing non-conforming four-unit building in an R2B District.

Concurrent Review:

- Expansion of a non-conforming use to permit a detached garage accessory to a four unit residential building in the R2B (Two-family) district.
- Variance to allow an increase in the allowable accessory structure size from 676 square feet to 835 square feet for a detached four car garage.

- Variance to allow a decrease in the minimum 6 foot separation required between the proposed detached garage and the decking attached to the residential structure.

Applicable zoning code provisions: Expansion or alteration of nonconforming uses and structures 531.50 and Article IX Variances.

Background: The applicant's four-unit residential building is nonconforming in the existing R2B District. Construction of a garage constitutes an expansion of the nonconforming use under section 531.50 of the zoning code. A four-car garage with 835 square feet of area is proposed and would replace surface parking. In addition to the expansion of the non-conforming use, two variances are also being applied for which would allow an increase in accessory structure size from 676 square feet to the proposed 835 square feet as well as allow a decrease in the minimum spacing requirement between the proposed decking attached to the residential structure and the proposed detached garage.

There are other garages within the general vicinity of the subject property that are of similar size. The applicant's intention is to provide one enclosed parking space for each residential unit in the building. The applicant believes that the garage will improve the appearance and stability of the neighborhood by providing safety for the existing residents and their possessions as well as an easily maintained alternative to the current uncovered parking lot. The applicant proposes to utilize cementitious siding on the exterior of the proposed garage. Staff will require that the garage exterior be composed of stucco to match the existing residential structure on site. Additionally, staff will require that the garage roof pitch be modified to a flat roof which will match the existing roof line of the residential structure.

Staff has received a response from Calhoun Area Residents Action Group (Carag), the neighborhood association which has been attached for reference.

EXPANSION OF A LEGAL NONCONFORMING USE -

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.

The property is located on a block and within an area where all residential properties are zoned R2B. Rezoning the property to a higher zoning classification would not be appropriate for this property within the context of the surrounding area.

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

The placement of the detached garage at approximately 5 feet 1 inch from the public alley, would be compatible and relatively consistent with the placement of other detached garages in the vicinity.

- (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 would accommodate four vehicles; one enclosed parking space per unit. The garage would allow for convenient enclosed parking instead of the surface parking which currently exists. The expansion of the non-conforming use will not result in significant increases of adverse off-site impacts.

- (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 garage, as noted, would replace surface parking on site. The applicant proposes the garage exterior be composed of cementitious siding. Planning staff will require that the garage exterior be composed of stucco to match the existing residential structure on site. Additionally, the garage roof pitch must be modified to a flat roof to match the principal structure as well. To ensure compatibility with the property and surrounding area, all areas not covered by the driveway or walkways include turf or landscaping. The proposed driveway must be paved with asphalt, concrete, brick, cement pavers or similar material as required by section 541.300 of the zoning code.

- (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 site is not located in a Floodway District.

Findings Required by the Minneapolis Zoning Code for the Proposed Variances:

- 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.**

To increase accessory structure size from 676 square feet to 835 square feet: The site could be put to a reasonable use because the site as it currently exists with only surface parking is a reasonable use of the property. However, it would not be possible to provide covered parking for all four units located on site with strict adherence to the regulations of the zoning ordinance. It is not uncommon for Staff to allow garages that permit one enclosed parking space per unit. Having covered parking is also a reasonable use of the property.

To allow a decrease in the minimum 6 foot separation required between the proposed detached garage and the decking attached to the residential structure: The site could be put to a reasonable use without the granting of the variance. However, the existing stairway and decking is already located closer than 6 feet to the proposed detached garage. It does not seem unreasonable to allow the construction of some additional decking in order to provide a walkway to the proposed garage.

- 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.**

To increase accessory structure size from 676 square feet to 835 square feet: The circumstances are unique to this parcel of land as four units are established on a relatively small parcel. In order to provide enclosed parking for each unit a variance of the accessory structure size must be provided.

To allow a decrease in the minimum 6 foot separation required between the proposed detached garage and the decking attached to the residential structure: The circumstances are somewhat unique to the parcel of land as there is an existing stairway and decking already located closer than 6 feet to the proposed detached garage. The applicant is proposing additional decking in order to provide a walkway to the proposed garage.

- 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.**

To increase accessory structure size from 676 square feet to 835 square feet: The granting of the variance will not alter the essential character or be injurious to the use or enjoyment of other property in the vicinity. There are similarly sized and designed garages in close proximity to the site.

To allow a decrease in the minimum 6 foot separation required between the proposed detached garage and the decking attached to the residential structure: The granting of the variance will not alter the essential character 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.**

To increase accessory structure size from 676 square feet to 835 square feet: Staff does not believe that the granting of a variance to increase the allowable accessory structure size shall impact or affect public safety in any way provided that all building code requirements are met.

To allow a decrease in the minimum 6 foot separation required between the proposed detached garage and the decking attached to the residential structure: Staff does not believe that the granting of a variance to reduce the spacing requirement between the decking and the proposed detached garage will impact or affect public safety in any way provided that all building code requirements are met.

RECOMMENDATIONS

Recommendation of the Community Planning and Economic Development Department – Planning Division for the Expansion of a Nonconforming Use:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for an expansion of a nonconforming use to allow a new detached garage accessory to an existing four-family building in the R2B District at 3112 Bryant Avenue South, subject to the following conditions:

1. All areas not covered by the driveway or walkways include turf or landscaping. The proposed driveway must be paved with asphalt, concrete, brick, cement pavers or similar material as required by section 541.300 of the zoning code.
2. The materials and roof pitch must be modified to match the existing residential building. The garage exterior must be composed of stucco and the roof pitch on the proposed garage must be flat.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the variance:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the variance to allow an increase in the allowable accessory structure size from 676 square feet to 835 square feet for a detached four car garage for the property located at 3112 Bryant Avenue South.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the variance:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the findings above and **approve** the variance to allow a decrease in the minimum 6 foot separation required between the proposed detached garage and the decking attached to the residential structure for the property located at 3112 Bryant Avenue South.

1. The decking must not attach to the detached garage.

Attachments:

1. Statement of use
2. Findings
3. Correspondence
4. Zoning map
5. Plans
6. Photos