

Department of Community Planning and Economic Development – Planning Division
Expansion or Alteration of a Nonconforming Use
BZZ-3691

Date: September 17, 2007

Applicant: Marlyn and Lorna Dynneson

Address of Property: 3342 Minnehaha Avenue

Project Name: 3342 Minnehaha Avenue

Contact Person and Phone: Marlyn and Lorna Dynneson, (612) 724-8819

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

Date Application Deemed Complete: July 20, 2007

End of 60-Day Decision Period: September 18, 2007

End of 120-Day Decision Period: Staff sent a letter to the applicant on August 17, 2007, extending the decision period to no later than November 17, 2007

Ward: 9 **Neighborhood Organization:** Longfellow Community Council

Existing Zoning: C1 Neighborhood Commercial District

Zoning Plate Number: 27

Proposed Use: Addition to an existing residential building containing one dwelling unit and rooming units.

Concurrent Review:

Expansion of a non-conforming use to allow for the construction of an addition to an existing single-family dwelling with 5 rooming units for the property located at 3342 Minnehaha Avenue in the C1 Neighborhood Commercial District.

Applicable zoning code provisions: Chapter 531 Nonconforming Uses and Structures

Background: Staff previously recommended continuance from the August 13 and 27, 2007, Planning Commission meetings, to allow for additional time to address issues of nonconforming rights with the applicant.

The subject property contains a principal residential structure with one dwelling unit on the first floor and five rooming units on the second floor. The structure was constructed in 1906 as a single family home. The structure was converted to one dwelling unit and office on the first floor and five rooming units on the second floor with an addition in 1963. According to the applicant, the office was actually constructed and used as a bedroom on the first floor as part of the dwelling unit. When the permit was issued in 1963, the maximum number of rooming units permitted in the B3S-1 Community Service District was five. The present Zoning Ordinance prohibits the use of rooming units in all zoning districts in the City of Minneapolis. Therefore, the existence and continuous use of the dwelling unit and rooming units deem the structure to be nonconforming. Structures containing one (1) or more legal nonconforming uses shall not be moved to a new location on the zoning lot, expanded, enlarged in any way, nor shall such use be intensified, except by granting of an application for expansion of nonconforming use.

The applicant is proposing to construct a new 8 ft. by 10 ft. second story addition atop of an existing porch to the rear of the principal structure. The applicant initially was proposing to add an additional rooming unit on the second floor; however, the required findings of fact for an expansion of a nonconforming use prohibit additional rooming units. The applicant argued that there was an additional rooming unit on the first floor. However, after further discussion, the applicant stated that this particular bedroom was occupied by the owners, as part of the first floor dwelling unit, and therefore could not be relocated as a new rooming unit on the second floor. The applicant has instead submitted an application for an expansion of a nonconforming use to construct a game room and TV room.

According to the submitted floor plan, the attic is a finished space with two bedrooms and a bathroom. The permit history does not show any record of a finished space on this floor. The applicant has stated that there is no one living these two rooms at this time. The lodging license history of the property is consistent over the past seven years showing five rooming units. However, the applicant has provided a copy of a license from 1994 showing 6 rooming units and a request for payment for a license up to seven rooming units; any use of more than 5 rooming units, however, is an illegal use of the property. The property has had a number of housing violations, ranging from complaints of water leaking into the bedrooms to lawn maintenance over the years; however, there are no outstanding orders at this time.

EXPANSION OF A LEGAL NONCONFORMING USE - to allow for the construction of an addition to an existing single-family dwelling with 5 rooming units for the property located at 3342 Minnehaha Avenue in the C1 Neighborhood Commercial District.

Findings as Required by the Minneapolis Zoning Code:

1. A rezoning of the property would be inappropriate.

The use of the property is a single family dwelling unit on the first floor with five rooming units on the second floor. The Zoning Ordinance prohibits rooming units/houses in all of the zoning districts. Therefore, there is not a zoning district that the property can be rezoned to in order to allow the existing use.

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

The applicant is proposing to construct an 8 ft. by 10 ft. addition to the rear of the existing structure, in order to increase the area of an existing non-sleeping room located on the second floor. Staff believes that the intention of the proposed addition is to allow for an additional sleeping room/rooming unit on the second floor, which is prohibited and therefore not compatible with adjacent property and the neighborhood. In addition, the applicant is proposing to use white vinyl siding on the addition. The existing principal structure is stucco with brown wood paneled siding. Planning staff believes the selected material for the proposed addition is not consistent with the existing structure and is not compatible with adjacent property and the neighborhood. The adjacent uses on the block are a predominately single and two-family residential and one apartment building.

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.

Although there is an updated lodging license and current inspections of the property, staff believes the proposed addition could potentially lead to an illegal rooming unit and result in an increase of adverse and off-site impacts. Specifically, the proposed addition may result in an increase of traffic and parking congestion given the number of existing rooming units and the higher intensity use that already exist on the property.

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 applicant is proposing to use white vinyl siding on the addition. The existing principal structure is stucco with brown wood paneled siding. Planning staff believes the selected material for the proposed addition is not consistent with the existing structure. Additionally, the potential for an illegal rooming unit does not further the stability in 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 or rooming units on the subject property than is allowed by the regulations of the district in which the property is located.

No additional rooming units are proposed, however, staff believes that the possibility would exist to utilize the proposed room for a sleeping room. As previously mentioned, two additional bedrooms exist on the third floor which are not currently occupied.

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.

RECOMMENDATIONS:

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

The Department of Community Planning and Economic Development—Planning Division recommends that the City Planning Commission and the City Council accept the above findings and **deny** the application an expansion of a non-conforming use to allow for the construction of an addition to an existing single-family dwelling with 5 rooming units for the property located at 3342 Minnehaha Avenue in the C1 Neighborhood Commercial District.

Attachments:

1. Statement of use and Findings
2. Copy of an letter sent June 22, 2007, to CM Schiff and Longfellow Community Council
3. Zoning map
4. Site Plan and Floor Plans
5. Photos
6. Building Permit Index Cards
7. Building Permit from 1963
8. Copies of licenses
9. Eviction letter from applicant to previous tenant