

Department of Community Planning and Economic Development – Planning Division
Expansion/Alteration of a Nonconforming Use
BZZ-4231

Date: November 17, 2008

Applicant: Anthony and Jennifer Kriha

Addresses of Property: 2024 Queen Avenue South

Project Name: Anthony and Jennifer Kriha Residence

Contact Person and Phone: Anthony Kriha, (612) 377-5830

Planning Staff and Phone: Jessica Thesing, (612) 673-5887

Date Application Deemed Complete: October 21, 2008

End of 60-Day Decision Period: December 20, 2008

End of 120-Day Decision Period: Not applicable for this application

Ward: 7 **Neighborhood Organization:** Kenwood Isles Area Association

Existing Zoning: R1 Single-Family District

Proposed Zoning: Not applicable for this application.

Zoning Plate Number: 17

Legal Description: Not applicable for this application

Existing and Proposed Use: Duplex

Application:

- **Expansion/Alteration of a nonconforming use**

Applicable zoning code provisions: Chapter 531, Nonconforming Uses and Structures

Background: The property located at 2024 Queen Ave S is currently a 2½ story legal nonconforming duplex located in an R1 Single Family District. The building footprint is approximately 62 feet x 34 feet and the lot area is approximately 11,700 square feet. The finished square footage on each the first floor and the second floor is approximately 1,746 square feet and the finished square footage in the 3rd floor (1/2 story) attic space is approximately 867 square feet which is smaller than half of the floor area below and therefore it is considered a ½ story instead of a third floor.

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The subject property was constructed as a single family dwelling in 1898; the basement was finished with a permit in 1906, and was legally converted to a duplex in 1944. Through this legal conversion in 1944, permit history (see Appendix A) indicates that dwelling unit #1 occupied the first floor and dwelling unit #2 occupied the 2nd floor; in addition, the permit clearly states, “no 3rd floor occupancy”. In 1972, the building index card (see Appendix B) identified three registered (licensed) dwelling units; however records indicate that permits were never issued to legally convert the duplex to a triplex. Because permits were not issued for this conversion, the building had been at some point illegally converted to the triplex and therefore, should not have been issued a license to operate as such.

A recent rental licensing inspection identified two units in the building however the units had been altered. Unit # 1 now occupies the first and second floor and unit #2 now occupies the 3rd floor (1/2 story) attic space. Permits were never issued to finish off the attic space therefore permits are required at this time for legal occupancy. The current owner indicates that he recently removed the dwelling unit on the second floor and combined the first and second floor to create one unit and now occupies it with his family; the 3rd floor attic space is now used for the second unit, thereby returning the use to a duplex. Currently, unit # 1 has 4 bedrooms and three bathrooms and unit #2 has 2 bedrooms and 1 bathroom.

The property is zoned R1 Single Family District and is a legal nonconforming duplex however the configuration of units within the building has changed since it was lawfully converted and therefore an application for expansion/alteration of a nonconforming use is required at this time. The applicant has been diligently working with the Minneapolis Plan Review department in order to identify all the necessary permits that will be required to retroactively pull permits for the reconfiguration of units within the building.

EXPANSION/ALTERATION OF A LEGAL NONCONFORMING USE - To allow for the reconfiguration of two units within an existing nonconforming duplex in order for unit one to occupy the existing first and second floor and unit two to occupy the third floor at 2024 Queen Ave S.

Notification and Correspondence: City staff sent notices for this project on September 26th, 2008. The applicant also sent an email to both Council Member Goodman and the Kenwood Isles Area Association dated October 2nd, 2008.

Staff received a letter from the neighbors at 2018 Queen Ave S dated October 2nd, 2008 and two letters from the neighbors at 2011 Kenwood Parkway dated October 3rd, 2008 and November 6th, 2008; all of the letters received to date indicate support of this project. In addition, a signed petition from neighbors located at 2012, 2015, 2018, 2021, 2029, & 2030 Queen Ave S and 2011, 2015, & 2019 Kenwood Parkway dated October 5th, 2008 was also sent in support of this project.

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 consists of an existing nonconforming duplex within a single family district. Although the properties directly across the street are zoned R2B-Two Family District, the block bound by Queen Ave S, Kenwood Parkway, and 21st Street W that contains the subject property is zoned in entirety R1-Single Family District and contains primarily single family dwellings. Therefore, rezoning the property would be inappropriate (see table-1).

Table-1

Address	Zoning	Building Use	Address	Zoning	Building Use
2006 QUEEN AVE S	R1	SFD	2001 KENWOOD PKWY	R1	SFD
2012 QUEEN AVE S	R1	SFD	1918 QUEEN AVE S	R1	SFD
2016 QUEEN AVE S	R1	Duplex	1912 QUEEN AVE S	R1	SFD
2035 KENWOOD PKWY	R1	Duplex	1977 KENWOOD PKWY	R1	SFD
2027 KENWOOD PKWY	R1	Duplex	1971 KENWOOD PKWY	R1	SFD
2025 KENWOOD PKWY	R1	SFD	1967 KENWOOD PKWY	R1	Duplex
2019 KENWOOD PKWY	R1	SFD	1961 KENWOOD PKWY	R1	SFD
2015 KENWOOD PKWY	R1	SFD	2024 QUEEN AVE S Subject Property	R1	Duplex
2011 KENWOOD PKWY	R1	SFD	2030 QUEEN AVE S	R1	SFD
2007 KENWOOD PKWY	R1	SFD	2036 QUEEN AVE S	R1	SFD

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

The current use of the subject property is an owner occupied duplex however the units within the building have been reconfigured in such a way where unit #1 now occupies the combined first and second floor instead of the first floor and unit #2 now occupies the third floor instead of the second floor. The current property owner has removed the illegal 3rd unit and therefore, the use will actually be less intense. However, per section 531.50(b) of the Minneapolis Zoning Code, the reconfiguration is relocating the uses as well as expanding them into an area of the structure that was never legally permitted. This alteration and expansion if approved however will likely have little to no effect on property 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 legal unit count within the subject property is not changing and therefore will not likely affect off-site impacts such as traffic, noise, dust, or odors; and, the subject property has a two stall garage and therefore, meets the parking requirement of one space per dwelling unit per Table 541-1 of the Minneapolis Zoning Code. In addition, because this structure has been used as an illegal triplex, reducing the unit count will likely decrease off-site impacts if there's to be any impact at all.

- 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 not altering the exterior of the property however has significantly improved the interior. The expansion and alteration is internal and has resulted into a larger owner occupied unit and smaller rental unit. The owners would like to stay in this house however due to a growing family, they have decided to expand unit #1 in lieu of moving.

In addition, the applicant has indicated that all impacts of this occupancy will be positive to the city and the neighborhood; in addition, they have always registered and obtained a rental license with the city of Minneapolis. The applicants also indicate that the property has been owned by their family since 1966 and to their knowledge has been rented as a 3 unit building for the entirety of their ownership. Staff believes that now that the 3rd unit has been removed, legalizing occupancy in the 3rd floor and allowing a larger unit for the family on the first and second floor will decrease the intensity because the actual unit count is moving towards conformity, and this could improve the 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.**

The existing duplex had an illegal third unit however this unit has been removed. The applicant is proposing legalize the 2nd unit occupying the 3rd floor attic space only. The duplex is a legal nonconforming duplex however the interior has been reconfigured. With the removal of the illegal 3rd unit and approval of this alteration/expansion of a nonconforming use application, this existing legal nonconforming duplex will maintain its legal nonconforming duplex status. The applicants indicate that they would like to retain the property as a duplex and have the 3rd floor of the residence be a separate dwelling unit for rent. They have explained that no additional dwelling units other than what currently exists are being requested.

- 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 adopt the above findings and **approve** the alteration/expansion of a nonconforming use to allow for the reconfiguration of two units within an existing nonconforming duplex in order for unit one to occupy the existing first and second floor and unit two to occupy the third floor at 2024 Queen Ave S.

Attachments:

1. Appendix A
2. Appendix B
3. Statement of use
4. Expansion/Alteration of nonconforming use findings
5. October 2, 2008, e-mail to Council Member Goodman
6. October 2, 2008, e-mail from to Kenwood Isles Area Association (KIAA)
7. October 7, 2008, e-mail from KIAA
8. Letters from neighbors and other correspondence
9. Zoning map
10. Site plan and
11. Floor plans
12. Photos of the site