

**Department of Community Planning and Economic Development – Planning Division**  
Expansion of a Legal Nonconforming Use  
BZZ-4107

**Date:** August 4, 2008

**Applicant:** Paul Halvorson

**Address of Property:** 730 Upton Avenue N

**Contact Person and Phone:** Paul Halvorson (612) 332-1311

**Planning Staff and Phone:** Kimberly Holien (612) 673-2402

**Date Application Deemed Complete:** July 9, 2008

**End of 60 Day Decision Period:** September 7, 2008

**Ward: 5          Neighborhood Organization:** Northside Residents Redevelopment Council

**Existing Zoning:** R1A Single-family Residential

**Proposed Zoning:** Not applicable for this application.

**Zoning Plate Number:** 12

**Legal Description:** Not applicable for this application.

**Existing Use:** An existing legally nonconforming duplex.

**Concurrent Review:** Expansion of a Legal Nonconforming Use to allow a two-story addition and a greenhouse addition for an existing, legal, nonconforming duplex.

**Appropriate Section(s) of the Zoning Code:** Section 531.50 Expansion or alteration of nonconforming uses and structures.

**Background:** The site is zoned R1A, which allows single-family homes. The duplex is legally nonconforming. An addition or an expansion to a nonconforming use requires the approval of the City Planning Commission. However, the addition otherwise conforms to all of the applicable standards of the zoning code.

The applicant is proposing an expansion that consists of a 168 square foot (8' x 21') greenhouse addition on the south side of the house, a 673 square foot (18.5' x 25.5') two-story addition on the east side of the house, a new 35 square foot open porch on the west side of the house, facing Upton Avenue N, and a new 480 square foot garage in the rear yard of the property. The addition to the east side of the house will include a living room, dining room and open porch on the first floor, a living/dining room

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and future deck on the second floor, and a future playroom in the basement. Section 531.60 of the Zoning Ordinance exempts detached accessory structures, such as the proposed garage, from the provisions regarding expansions or alternations of non-conforming uses. The proposed open porch is exempt from these provisions as well, due to the fact that it is less than 100 square feet.

The applicant is also proposing to demolish an existing 267 square foot non-conforming addition on the west side of the house and a 214 square foot addition on the east side of the house as part of the project. An existing 491 square foot garage will also be demolished. The existing curb cut off 8<sup>th</sup> Avenue N will be shifted approximately 4.5 feet to the east and reduced from 18.5 feet in width to 17 feet. This curb cut has been approved by Public Works, as noted in the attached form.

After the proposed additions, the house will exceed the window requirements for all four elevations. The north elevation, facing 8<sup>th</sup> Street N, contains 20 percent windows in the addition on the first floor and 19.3 percent windows in the addition on the second floor. The east elevation will result in approximately 33 percent window coverage on the first floor and 13.4 percent on the second floor. The west elevation will have approximately 28.8 percent window coverage on the first floor and 15.5 on the second floor. The south elevation will contain approximately 58 percent windows on the first floor and 21.2 percent on the second floor.

**EXPANSION OF A LEGAL NONCONFORMING USE**

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

**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 original building was constructed in 1914 and converted to a duplex in 1924. The site has been zoned R1A at least since 1963, and this zoning designation was retained with the adoption of the 1999 zoning ordinance. The site has over 10,000 square feet of lot area, meeting the minimum requirement of 5,000 square feet per dwelling unit. The principal structure and garage meet all required setbacks under the current zoning designation.

While the property to the north (across 8<sup>th</sup> Avenue N) is zoned R2B, the subject site has been zoned R1A for over 40 years and there has not been a change in city policies or development in the area that would indicate a change is necessary. Therefore, rezoning of this site to R2 or R2B may not be appropriate.

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

The building has existed on the site as a duplex since 1924 and the proposed additions are relatively small. The additions will result in 360 square feet of additional net floor area and the building footprint

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will be expanded by 353 square feet, allowing it to remain compatible with the character of the surrounding area. A second two-family dwelling is located on the same street, at 715 Upton Avenue N.

The additions will be constructed of materials compatible with the existing structure and property in the area. The largest addition, on the east side of the home, will be surfaced with fiber-cement lap siding. This material will be complementary, but not duplicate the existing. The materials of the proposed garage will also be compatible with the principal structure.

**3. The enlargement, expansion, relocation, or intensification will not result in significant increases of adverse off-site impacts such as traffic, noise, dust, odors, and parking congestion.**

There should not be a significant increase in off-site impacts such as odor, dust, noise, or congestion in the streets, because it will be a relatively small increase in gross floor area. The required parking is provided on site and access to the site will remain in the same general location, with a slight shift in the curb cut.

**4. The enlargement, expansion, relocation, or intensification, because of improvements to the property, will improve the appearance or stability of the neighborhood.**

The plan is designed to improve the vacant principal structure, garage and parking areas. The applicant is proposing to demolish the existing garage and reconstruct a new garage; also making improvements to the driveway, private sidewalk and proposing a patio. An existing concrete sidewalk will be removed. Removing the existing addition from the west side of the structure will eliminate a non-conforming situation, as the addition currently encroaches into the required front yard setback. The proposed additions to the house will increase the total glass coverage of the existing structure and utilize materials consistent with the existing. The expansion, with staff recommended conditions of approval, should not be a detriment to the neighborhood.

The applicant is proposing a decorative trellis adjacent to the existing sidewalk along 8<sup>th</sup> Avenue N. However, this trellis is proposed in the right-of-way. As a condition of approval, the trellis shall be shifted south onto the applicant's property.

**5. In districts in which residential uses are allowed, the enlargement, expansion, relocation, 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.**

The existing structure contains two dwelling units, each with three bedrooms. The proposed expansion will not add any additional dwelling units or bedrooms.

**6. The enlargement, expansion, relocation, or intensification will not be located in the Floodway District.**

The property is not located in the Floodway District.

**RECOMMENDATION**

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

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application to expand a legal nonconforming two-family dwelling for property located at 730 Upton Avenue N subject to the following condition:

- 1) The proposed trellis shall not be permitted in the right-of-way adjacent to 8<sup>th</sup> Avenue N.

**Attachments:**

1. Letter from the applicant
2. Public Works Plan Approval
3. Site Plan
4. Zoning map.
5. Elevations.
6. Photos.