

Department of Community Planning and Economic Development
Rezoning and Variance
BZZ-6081

Date: November 12, 2013

Applicant: Paul Halvorson

Address of Property: 2535 Aldrich Avenue S

Project Name: N/A

Contact Person and Phone: Paul Halvorson, (612) 296-7407

CPED Staff and Phone: Kimberly Holien, (612) 673-2402

Date Application Deemed Complete: October 10, 2013

End of 60-Day Decision Period: December 9, 2013

End of 120-Day Decision Period: On November 1, 2013 staff sent a letter to the applicant extending the 60-day decision period to February 7, 2014.

Ward: 10 **Neighborhood Organization:** Lowry Hill East Neighborhood Association

Existing Zoning: R2B, Two-family district

Proposed Zoning: R3, Multiple-family Residence district

Zoning Plate Number: 24

Lot area: 4,756 square feet

Legal Description: Lot 6, Block 6 Twenty-Fifth Street Addition to Minneapolis, Hennepin County, Minnesota.

Proposed Use: Legally establish an illegal third unit in the attic.

Concurrent Review:

- Rezoning from the R2B, Two-family district to the R3, Multiple-family Residence district in order to legally establish an existing third dwelling unit.
- Variance to reduce the minimum lot area from 5,000 square feet to 4,756 square feet.

Applicable zoning code provisions: Chapter 525, Article VI Zoning Amendments; Chapter 525, Article IX Variances, specifically Section 525.520 (2) “to vary the lot area or lot width requirements up to 30 percent...”

Background: The applicant proposes to rezone the property located at 2535 Aldrich Avenue S from the R2B (Two-family) District to the R3 (Multiple-family) District to legalize an existing third dwelling unit in the attic. The subject property is approximately 4,756 square feet in size and the existing 2 ½ story building located on the property was originally constructed as a duplex in 1908. The property contains a four-stall detached garage facing the alley to accommodate off-street parking.

Three sleeping rooms and a bath were originally added to the attic space in 1946. In 1996, the current property owner pulled a building permit to remodel this third floor space and provide a new stair connecting the second and third floors. This permit specifically states that the third floor space was to be part of the second floor dwelling unit and the use of the property was to remain as a duplex. Sometime thereafter, the third floor space was converted to an illegal dwelling unit. On March 25, 2011, it was first noted by Zoning Administration staff that the third floor attic space had been illegally converted to a dwelling unit. The property owner did not take any action to legalize the dwelling unit at that time. An inspection was conducted by the Housing Maintenance Section of the Inspections Division on September 20, 2013, during which an illegal dwelling unit in the attic was again noted. Orders were issued by the Housing Inspector for the illegal dwelling unit to be removed or legally established by October 20, 2013.

The minimum lot area requirement for a multiple-family dwelling in the R3 district is 5,000 square feet or 1,500 square feet of lot area per dwelling unit, whichever is greater. In this case the 5,000 square foot requirement prevails. The existing lot is 4,756 square feet in area. A variance to reduce the minimum lot area from 5,000 square feet to 4,756 square feet has been requested in conjunction with the rezoning.

Staff has not received any correspondence from the neighborhood group as of the writing of this report. Any correspondence, if received, will be forwarded to the Commission for review.

REZONING: (from the R2B, Two-family district to the R3, Multiple-family Residence district in order to legally establish an existing third dwelling unit.)

Findings as required by the Minneapolis Zoning Code:

1) Whether the amendment is consistent with the applicable policies of the comprehensive plan.

The site is identified as Urban Neighborhood on the future land use map in *The Minneapolis Plan for Sustainable Growth*. Urban neighborhoods are a “predominantly residential area with a range of densities, with highest densities generally to be concentrated around identified nodes and corridors. They may include undesignated nodes and some other small-scale uses, including neighborhood-serving commercial and institutional and semi-public uses (for example, schools, community centers, religious institutions, public safety facilities, etc.)

scattered throughout. More intensive non-residential uses may be located in neighborhoods closer to Downtown and around Growth Centers.” Areas designated as urban neighborhoods are not generally intended to accommodate significant new growth, other than replacement of existing buildings with those of similar density. The following policies of the comprehensive plan apply:

Land Use Policy 1.1: Establish land use regulations to achieve the highest possible development standards, enhance the environment, protect public health, support a vital mix of land uses, and promote flexible approaches to carry out the comprehensive plan.

1.1.4 Support context-sensitive regulations for development and land use, such as overlay districts, in order to promote additional land use objectives.

1.1.5 Ensure that land use regulations continue to promote development that is compatible with nearby properties, neighborhood character, and natural features; minimizes pedestrian and vehicular conflict; promotes street life and activity; reinforces public spaces; and visually enhances development.

Land Use Policy 1.8: Preserve the stability and diversity of the city's neighborhoods while allowing for increased density in order to attract and retain long-term residents and businesses.

1.8.1 Promote a range of housing types and residential densities, with highest density development concentrated in and along appropriate land use features.

The existing R2B zoning district accommodates low density residential in the form of one and two-unit dwellings. The R3 district is considered a medium density district. While the site is one-half block from Lyndale Avenue, a designated commercial corridor, it is mid-block in an area identified as urban neighborhood. As such, the proposed rezoning is not consistent with the applicable policies of the comprehensive plan.

2) Whether the amendment is in the public interest and is not solely for the interest of a single property owner.

A rezoning to the R3 District would be solely in the interest of the property owner as it would allow the existing building on the site to be converted into a triplex to legally establish an existing third dwelling unit. The proposed rezoning is not supported by any broader policies that would make it beneficial to the public interest.

3) Whether the existing uses of property and the zoning classification of property within the general area of the property in question are compatible with the proposed zoning classification, where the amendment is to change the zoning classification of particular property.

The surrounding area contains a mix of residential densities with higher densities concentrated at the corners. The subject site is located midblock and the properties directly north and south of the site are two-family dwellings. There is a 24-unit building east of the site. However, that building fronts on Lyndale Avenue, which is a designated commercial corridor in this location. While a rezoning of the property could be considered as part of a comprehensive rezoning study, increasing the allowed density on an individual parcel near the middle of the block could be considered incompatible with the zoning of other nearby properties.

4) Whether there are reasonable uses of the property in question permitted under the existing zoning classification, where the amendment is to change the zoning classification of particular property.

There are reasonable uses allowed under the existing R2B zoning classification, including the legal use of the structure as a duplex. Staff has included an attachment to the staff report which further details regarding the differences between the existing and proposed zoning classifications for the property.

5) Whether there has been a change in the character or trend of development in the general area of the property in question, which has taken place since such property was placed in its present zoning classification, where the amendment is to change the zoning classification of particular property.

Under the 1963 Zoning Code, the subject property was zoned R6. In 1976 the parcel and a number of other parcels on this block were rezoned to R2B as part of the Model Cities rezoning study. The character of the area has remained largely unchanged since that time and the general area has not seen much in the way of development. In 2010, staff evaluated this parcel as part of the Midtown Greenway Rezoning Study. The determination at that time was that the existing R2B zoning does not conflict with adopted policy and no changes were proposed.

VARIANCE: (to reduce the minimum lot area from 5,000 square feet to 4,756 square feet.)

Findings as Required by the Minneapolis Zoning Code for the Variance:

- 1) Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.**

The minimum lot area requirement for a multiple-family dwelling in the R3 district is 5,000 square feet or 1,500 square feet of lot area per dwelling unit, whichever is greater. In this case the 5,000 square foot requirement prevails. The existing lot is 4,756 square feet in area.

A variance to reduce the minimum lot area from 5,000 square feet to 4,756 square feet has been requested in conjunction with the rezoning.

Staff finds that no practical difficulties exist in complying with the ordinance. The existing structure can continue to be used as a duplex that is legally non-conforming as to lot area. Further, the circumstances necessitating the lot area variance have been created by the property owner. The applicant has illegally converted the attic into a third unit and is now submitting the necessary land use applications to legalize this unit. The property owner's action to convert the attic space to a dwelling unit has resulted in the need for the lot area variance.

- 2) The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.**

The request to allow a reduction in the required lot area is not reasonable for this particular property, as it is necessitated by the establishment of an illegal third dwelling unit. Further, granting this variance would not be in keeping with the spirit and intent of the ordinance and comprehensive plan. The property is designated as Urban Neighborhood on the future land use map and a rezoning to R3 is required to legally establish the dwelling unit. As evaluated in the findings above, increasing the allowed density on an individual parcel near the middle of the block could be considered incompatible with the zoning of other nearby properties. Thus, a lot area variance to allow increase density on the site is not consistent with the policies of the comprehensive plan.

- 3) The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.**

The surrounding area contains a mix of residential densities with higher densities concentrated at the corners. The subject site is located midblock and the properties directly north and south of the site are two-family dwellings. There is a 24-unit building east of the site. However, that building fronts on Lyndale Avenue, which is a designated commercial corridor in this location. Allowing a lot area variance to accommodate an additional dwelling unit in the middle of this block would alter the essential character of the locality. However, it is not expected to be injurious to the use or enjoyment of other property in the vicinity or be detrimental to the public health, safety, comfort or general welfare provided the additional unit were to comply with all building code and life safety ordinances.

RECOMMENDATIONS:

Recommendation of the Department of Community Planning and Economic Development for the rezoning from the R2B (Two-family) District to the R3 (Multiple-family) District:

The Department of Community Planning and Economic Development recommends that the City Planning Commission and City Council adopt the above findings and **deny** the application for Rezoning from the R2B (Two-family) District to the R3 (Multiple-family) District for the property at 2535 Aldrich Avenue S.

Recommendation of the Department of Community Planning and Economic Development for the variance to reduce the minimum lot area requirement from 5,000 square feet to 4,756 square feet:

The Department of Community Planning and Economic Development recommends that the City Planning Commission adopt the above findings and **deny** the application for the variance to reduce the minimum lot area requirement from 5,000 square feet to 4,756 square feet for the property at 2535 Aldrich Avenue S.

Attachments:

1. Statement of findings and project description
2. Correspondence
3. Zoning Map
4. Rezoning matrix
5. Site plan, floor plans and elevations
6. Photos