

Community Planning and Economic Development Planning Division Report
Expansion of a Legal Nonconforming Use
BZZ-2914

Date: April 24, 2006

Applicant: Rodney Billman, Billmans Rentals

Address of Property: 941 17th Avenue Southeast

Contact Person and Phone: Dan Kersey, (651) 633-0536

Planning Staff and Phone: Janelle Widmeier, (612) 673-3156

Date Application Deemed Complete: March 22, 2006

End of 60 Day Decision Period: May 21, 2006

Ward: 2 **Neighborhood Organization:** Southeast Como Improvement Association

Existing Zoning: R2B, Two-Family District

Proposed Zoning: Not applicable for this application

Zoning Plate Number: 16

Legal Description: Not applicable for this application

Existing Use: Multi-family dwelling with nine units

Concurrent Review:

Expansion of a nonconforming use: to allow an egress window well for each unit in a 9-unit dwelling located at 941 17th Avenue Southeast.

Applicable Zoning Code Provisions: Chapter 531, Section 531.50(b).

Background: The applicant is proposing an egress window well to allow more habitable area in the basement level of each unit in a 9-unit dwelling located at the property of 941 17th Avenue Southeast. The property is located in a residential area one block South of Como Avenue and one block east of Van Cleve Park. The current zoning is R2B, which does not allow 9-unit dwellings. A multi-family dwelling with 9 dwellings has existed on the property since 1972 when the property was zoned R4. The use is legally nonconforming. The units are for-rent and are primarily occupied by students attending the University of Minnesota. Each unit has three bedrooms, except for one. The floor plans indicate a unit exists with four bedrooms. At this time, there is an ordinance violation flagged for this

**CPED Planning Division Report
BZZ-2914**

property regarding fire safety issues, including smoke detectors were not properly installed. A past violation found that tenants inhabited the basement level for unlawful sleeping rooms.

Installing egress window wells would make the basement level habitable. Creating habitable space in a basement level for a nonconforming use is an expansion of a nonconforming use under Section 531.50(b) of the zoning code and therefore requires authorization from the City Planning Commission.

As of writing this staff report, staff has not received any correspondence from the neighborhood group. Staff will forward comments, if any are received, at the City Planning Commission meeting.

EXPANSION OF A NONCONFORMING USE:

Findings as Required by the Minneapolis Zoning Code for the Expansion of a Legal Nonconforming Use:

(1) A rezoning of the property would be inappropriate.

The block the property is located on is zoned R2B. The properties across the street are zoned R1A. Although several other nonconforming multi-family residences exist on the block, most of the residences are one- or two-family dwellings. To the East, most of the residences are single-family dwellings. In 1987, the property was down-zoned from R4 to R2B as part of a 40-acre study of the Como area. Higher density development has not occurred in the immediate area since the rezoning study. A rezoning of the property would not be appropriate.

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

The applicant is not changing the footprint of the existing structure or adding building bulk. Four egress windows would be located at the North side of the property adjacent to another property owned by the applicant. Five egress windows would be located on the South side of the property adjacent to a single-family dwelling. The windows should have little impact on the adjacent properties.

(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 expansion of the non-conforming use could result in increases of adverse off-site impacts. The expansion would likely have an affect on traffic and parking congestion. Although there would be no increase in residential units, the area of habitable space would increase. The Minneapolis Building Plan Review office, which enforces the building code, would not require an egress window in a basement of an existing building unless a bedroom is proposed. A bedroom basement would also require ceilings at least 7 feet in height, installation of a smoke detectors and a proper stairway leading to the basement. The units each have the proper ceiling height and stair access. Therefore, the request for an egress window in each unit indicates that

**CPED Planning Division Report
BZZ-2914**

an additional bedroom would be established in each of those units. This could result in more inhabitants occupying the property. Each inhabitant could own a car if they are of legal driving age. The site plan provided by the applicant indicates that nine parking spaces exist on-site. Site conditions show that vehicles park perpendicular to the alley. Some are parked tandem to other cars, which indicate more than nine vehicles are parked on the property on a regular basis. If parking cannot be provided on-site, more vehicles will park in the streets. Parking congestion is already a problem in this area because of proximity to the University.

- (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 changes to the use are only internal to the structure and would not likely affect the appearance of the neighborhood. The Como Area 40-acre rezoning study conducted in 1987 down-zoned the property to prohibit the establishment of additional multi-family dwelling and thus stabilize the area for primarily single- or two-family dwellings. Increasing the habitable area could increase the number of inhabitants occupying the property. This change could have an impact on the lower density intended in the R1A and R2B districts in the area.

- (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 property is not located in the Floodway District.

RECOMMENDATION:

Recommendation of the Community Planning and Economic Development Planning Division:

The Community Planning and Economic Development Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the application for an expansion of a legal nonconforming use to allow an egress window well for each unit in a 9-unit dwelling located at the property of 941 17th Avenue Southeast.

Attachments:

- 1) Statement of use/Findings

**CPED Planning Division Report
BZZ-2914**

- 2) Zoning map
- 3) Orthophoto
- 4) Plans
- 5) Photos