

city of saint paul
planning commission resolution
file number
date

WHEREAS, Edward Robinson, File # 21-263-294, has applied for a reestablishment of nonconforming use as a duplex with reduced parking under the provisions of § 62.109(e) of the Saint Paul Legislative Code on property located at 1648 Bush Avenue, Parcel Identification Number (PIN) 27.29.22.43.0051, legally described as Lot 3, J. N. Rogers 3rd Addition; and

WHEREAS, the Zoning Committee of the Planning Commission, on June 3, 2021, held a public hearing at which all persons present were given an opportunity to be heard pursuant to said application in accordance with the requirements of § 61.303 of the Saint Paul Legislative Code; and

WHEREAS, the Saint Paul Planning Commission, based on the evidence presented to its Zoning Committee at the public hearing as substantially reflected in the minutes, made the following findings of fact:

1. Following decades of legal nonconforming use as a duplex, the property was sold in 2009 by Bank of America to Shinbay Yang, based in part on a signed Residential Use Affidavit stating his intention to convert the property from a duplex to a single-family home. After the property was purchased, Mr. Yang decided he wanted to use the building as a duplex and applied to the Planning Commission in 2010 to do so. The application was denied. Though the illegal use has been noted in the years since, the property has continued to be used as a duplex. The current owner, Edward Robinson, is attempting to sell the property and is applying for the appropriate permit to sell it as a duplex. Due to the lack of an alley and 10' space between the house and the property line, off-street parking is nonconforming because it does not meet the minimum parking requirements.
2. Zoning Code section 62.109(e) states: *When a legal nonconforming use of a structure, or structure and land in combination, is discontinued or ceases to exist for a continuous period of more than one (1) year, the planning commission may permit the reestablishment of a nonconforming use if the commission makes the following findings:*
 - (1) *The structure, or structure and land in combination, cannot reasonably or economically be used for a conforming purpose.* This finding is met. The cost of converting the property to a single-family home would be very high and involve extensive interior renovation and utility work. The existing driveway is 10' wide and bounded on the west by the house and the east by the property line and therefore cannot be reasonably used to meet the minimum parking requirements. While there is alley right-of-way, there is no improved alley present due to topographical issues.
 - (2) *The proposed use is equally appropriate or more appropriate to the district than the*

moved by _____
seconded by _____
in favor _____
against _____

previous nonconforming use. This finding is met, as the proposed use is the same as the previous nonconforming duplex use with reduced parking, and records indicate the property's long history as a duplex.

- (3) *The proposed use will not be detrimental to the existing character of development in the immediate neighborhood or endanger the public health, safety, or general welfare.* This finding is met. The use as a duplex with reduced parking will serve to maintain the existing character of the immediate neighborhood since it has operated as such for decades. A curb cut was added since the 2009 application, improving access to the property.
- (4) *The proposed use is consistent with the comprehensive plan.* This finding is met. The proposed and existing duplex use with reduced parking is consistent with the future land use designation of Urban Neighborhood, which is characterized by a range of lower-density residential uses, where "single-family homes and duplexes are most common." The proposed and existing use is also consistent with policy LU-34, which calls for "smaller multi-family developments, compatible with the general scale of Urban Neighborhoods." The Greater East Side (District 2) Plan identifies a need for well-maintained housing of various types.
- (5) *A notarized petition of at least two-thirds of the owners of the described parcels of real estate within one hundred (100) feet of the property has been submitted stating their support for the use.* This finding is met. A petition was not required at the time of the application due to Emergency Executive Order 2020-29, "Suspending Certain Requirements of the Zoning Code Pertaining to Consent Petitions."

3. The Planning Commission has established guidelines for applications to establish legal nonconforming use status for duplexes. While not themselves requirements, these guidelines lay out additional more objective factors the Planning Commission wishes to consider in determining if the required findings for granting nonconforming use permits listed in § 62.109 of the Zoning Code can be made. The Planning Commission's Duplex Conversion Guidelines state that for applications for nonconforming use permits for duplexes in residential districts, staff will recommend denial unless the following guidelines are met:

- a) *Lot size of at least 5,000 square feet with a lot width or front footage of 40 feet.* This guideline is met. The lot size of 1648 Bush Avenue is 5,253 square feet, which includes half of the alley, and the lot is 40 feet wide.
- b) *Gross living area, after completion of duplex conversion, of at least 1,500 square feet. Neither unit shall be smaller than 500 square feet.* This guideline is met. According to the information submitted by the property owner, the gross living area is approximately 2,228 square feet, or approximately 1,114 square feet per unit.
- c) *Three off-street parking spaces (non-stacked) are preferred; two spaces are the required minimum.* This guideline is not met but is one of the requests in this application. A new curb cut, curb, and gutter was installed since the 2009 application. However, even with this improvement, the front paved driveway (40' deep by 10' wide) only provides adequate space for one non-stacked parking space. Per the applicant, two cars are usually parked in the driveway, one in front of the other. The application includes reestablishment of the legal nonconforming status of the parking provided for the duplex, which can be done under the provisions of Zoning Code § 62.109(e) noted in finding 2 above.
- d) *All remodeling work for the duplex is on the inside of the structure unless the plans for exterior changes are approved by the Board of Zoning Appeals as part of the variance. (The Planning Commission will approve these changes for the cases they handle.)*

This guideline is met. The majority of remodeling work required for code compliance would occur inside. Any exterior work would be minor not significantly alter the appearance of the building.

- e) *For the purpose of protecting the welfare and safety of the occupants of any structure that has been converted into a duplex without the necessary permits, a code compliance inspection shall be conducted and the necessary permits obtained to bring the entire structure into conformance with building and fire code standards; or the property owner must, as a condition of the approval, make the necessary improvements to obtain the necessary permits and bring the entire structure into building and fire code compliance within the time specified in the resolution. This guideline can be met if the necessary repairs identified in a Code Compliance Report are completed.*

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission, under the authority of the City's Legislative Code, that the application of Edward Robinson for a reestablishment of nonconforming use as a duplex with reduced parking at 1648 Bush Avenue is hereby approved subject to the following condition:

1. The applicant shall obtain a code compliance inspection and any necessary permits, and bring the entire structure into building and fire code compliance within six months.