

3. Granting the application *will/will not* be detrimental or injurious to property or improvements in the vicinity of the development site, or to the public health, safety, or general welfare.

PICTURES



712 Lawrence Street



Rear of subject property

Recommended Action:

Eddie R. Gomez, petitioner for the owner, is requesting a variance to allow the property located at 712 Lawrence Street to be used as a residence for 6-10 months. The subject property is zoned CRC (Community Retail Commercial) as are the properties to the east, west and south. The properties to the north, across Lawrence Street, are zoned OI (Office Institutional) and contain a residence, a vacant lot, and a children's substance abuse center. Although the subject property contains a structure originally built as a residence, the business license and building permit history indicate that it has been used as a business in the past.

Section 706.02 allows the continuance of a nonconforming use as long as the use is not "*changed to another nonconforming use*" or "*reestablished after discontinuance for a continuous period of 6 months or 18 months during any 3 year period....*" At some point prior to 1989, the property was being used as a residence despite the property being zoned CRC. Beginning in 1989, city records show this location as housing an electrical contractor business. It is at this point in time that the property would no longer be considered grandfathered as a residence. However, the property owner is now requesting a variance to allow this property to be used temporarily as a residence.

Residential use of a building or property is typically less intensive than a commercial use. As a result, a temporary residential tenant should have little to no effect on any surrounding properties. However, it appears that the rear of the property is being used to store trucks, trailers, and other various commercial/industrial vehicles. Unless these are personal vehicles of the tenant, it is suggested that they be removed from the premises to prevent any question of whether this property is being used for commercial storage or as a residence. Further, any potential business operations at this location, other than a home office, should be halted while the tenant is using the property residentially. A home office, or Type A Home Occupation, allows residents to register a business license with this City using their home address, but does not allow clients, employees, exterior storage or outside operations at the property. Should the variance request be approved, it is suggested that the tenant be limited to a Type A Home Occupation permit, should he desire.

It should also be noted that, if the application is approved, a building permit will be required to ensure that the interior of the structure is adequately suited for residential use.

January 8, 2010 Update:

The Board of Zoning Appeals discussed this variance request on December 18, 2009. During that discussion, some issues were raised regarding the nonconforming status of this property. The commercial use of this property was established years ago when the property was rezoned from residential to commercial. At that time some regulations, including those regarding landscaping and tree requirements, and parking requirements, were less restrictive than today's regulations. If the residential use were to be re-established for a period of time



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and then reverted back to commercial use, current regulations for commercial properties would have to be met, which may involve expenses not previously considered by the applicant.

Further, the intent of Section 706, Nonconforming Uses, is not to allow the extension of a non-conformity, but to encourage their elimination. *In light of these new issues, staff recommends denial of this variance request.*