

1334-1346 Arcade

city of saint paul  
planning commission resolution  
file number 92-77  
date November 20, 1992

WHEREAS, LINDBECK AUTO BODY, file #92-112, has applied for a nonconforming use permit under the provisions of Section 62.102(e)(12) of the Saint Paul Legislative Code in order to allow two accessory additions--an existing paint spray booth to the north and a proposed garage to the south for storage of antique and classic cars--on property located at 1334 and 1346 ARCADE STREET, legally described as Lots 12, 13, & 14, Block 7, Lane's Phalen Grove Addition; and

WHEREAS, the Zoning Committee of the Planning Commission held a public hearing on November 9, 1992 at which all persons present were given an opportunity to be heard pursuant to said application in accordance with the requirements of Section 64.300 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:

FINDINGS: PROPOSED GARAGE ADDITION

1. The applicant proposes to erect a building measuring 50 feet by 38 feet in which he wants to store six or seven antique and classic cars and perhaps several other vehicles. A building of this size could accommodate up to ten vehicles depending on the size and arrangement of doors. The building would appear similar to the adjacent body shop; the exterior would be painted concrete block. The building would be approximately twelve feet high and have a flat roof and three garage doors opening onto the alley.

The building would extend on both sides of the line between the two properties. It would be attached to the southeast corner of the body shop but there would not be access between the two buildings. The body shop building is set back approximately seven to ten feet from the line separating the two properties. The new building would be set back approximately ten feet from the alley, as is the body shop, six feet from the house (minimum required by code), and three feet from the south property line of the 1334 parcel. The house, which measures 50 feet by 32 feet, has three windows and a door on the back side. Staff estimates

moved by Morton  
seconded by \_\_\_\_\_  
in favor Unanimous  
against \_\_\_\_\_

that there is only 35 to 37 feet between a 10 foot alley setback and a 6 foot setback from the house, i.e., the addition could not be 38 feet wide.

The rear yard of the house is currently occupied by a two car garage which houses two antique cars and by an unpaved parking area with six to eight cars, some of which are loaner cars for the body shop and which would be parked on the body shop property if the new building is approved. The applicant also has several antique cars stored elsewhere which would be stored in the new building.

The auto body shop consists of a front building with an office and two service bays, a large rear addition in which the floor is approximately four feet higher than in the front building, a spray booth addition to the north, and off-street parking in front of and to the north of the building. There are two driveways on Arcade and on Clear that are close to that intersection and do not meet current city standards.

2. Both properties are zoned B-3. The auto body shop is a legal nonconforming use. Auto body shops are first permitted in an I-1 zoning district.

Section 62.102(e)(7) of the zoning code states that "in any OS-1, B-1, B-2, B-3, I-1, or P-1 district, existing residential uses shall not be nonconforming as to use of structure and land and may be structurally enlarged, extended, reconstructed or altered provided no additional dwelling units are added on the lot, and provided that the minimum requirements of the R-4 district are met." The house, in the future, could be used as a single family home or as an office or place of business. The applicant has stated that he does not intend to sell the two parcels separately in the future.

3. The five required findings specified in Section 62.102(e)(12) for the expansion of a nonconforming use, and the ability of the proposed garage to conform to them, are as follows:

- a. *The expansion is accessory to the principal use and will not result in an expansion of the principal use.*

Storage of antique and classic cars is accessory to a body shop. The cars are restored in the shop. The proposed building would share a common wall with the body shop but would not otherwise be connected to it.

The zoning code defines accessory as "a use which is clearly incidental to, customarily found in connection with, and (except as provided in Section 62.104) located on the same zoning lot as, the principal use to which it is related." Section 62.104(3) states that "off-street parking for other than residential use shall be either on the same zoning lot, in a P-1 vehicular parking district, in a shared parking arrangement pursuant to Section 60.413(14), or within the same or a less restrictive zoning district as the principal use and within three hundred (300) feet of the building it is intended to serve."

The proposed garage would not result in an expansion of the principal use in that it provides storage space but does not increase the number of cars that can be worked on in the body shop.

- b. The expansion will allow the continuance and improvement of a use which is compatible with the adjacent property and neighborhood.*

The existing use and proposed expansion are compatible with the adjacent property and neighborhood. The expansion will not generate a significant amount of traffic. The residential property across the alley to the east has a concrete block garage along the alley and its rear yard is five to six feet higher in elevation. The house to the south has a garage and a large tree that would block and screen views of the addition. The addition would not be inappropriate in a B-3 district. There is no parking requirement for the proposed expansion.

- c. Off-street parking is provided for the principal use and expansion which meets requirements of Section 62.103 for new structures.*

The zoning code does not explicitly state a parking requirement for auto body shops. It requires two spaces per stall for auto service stations and one space per stall for car sales and service establishments. The policy of the Zoning Administrator is to apply the standard for service stations to body shops. The body shop in question has two bays in the front and five in the rear (though several more can be parked in the drive aisles), resulting in a parking requirement of 14 spaces. Staff estimates that there are 14 spaces on the site, though the applicant claims more can be accommodated by parking in drive lanes. The residential use of the south parcel requires one off-street space which can be accommodated in the proposed addition.

- d. A notarized petition signed by two-thirds of the property owners within one hundred (100) feet of the subject property has been obtained.*

The applicant has submitted a sufficient petition (13 parcels eligible, 9 parcels needed, 11 parcels signed).

- e. A rezoning would be inappropriate and result in a "spot" zoning.*

The properties would need to be rezoned to I-1 to otherwise permit the expansion of an auto body shop. Such a rezoning in this location would be inappropriate and would be a spot rezoning.

4. There are several single-family dwellings along this part of Arcade which are attractive, well maintained homes. They appear to coexist peacefully with their commercial neighbors.
5. If the applicant sells the two properties separately in the future, he would need to either erect a new wall in the addition at the property line or file for a lot split/adjustment of common boundary to move the rear part of the common side lot line approximately seven feet to the north so that the lot line is under the common wall shared by the body shop and the proposed addition. A lot split to separate the house from

the proposed addition would not be approved because the house would not have off-street parking. In addition, the south parcel must meet the R-4 minimum lot size of 5,000 square feet if the structure is used for a residential purpose.

The structures on the south parcel could be desirable for commercial, office, or residential use to someone who wants space for storage, a home occupation, or a studio, without having to do much yard work.

6. The land use chapter of the comprehensive plan (1980) states, in part, that "the city will encourage the development of compatible mixed uses along existing commercial strips by...modifying current land use regulatory provisions to permit appropriate flexibility in the reuse of land and structures." (policy 4.2-2, p. 27)

#### FINDINGS: SPRAY BOOTH

7. The records of the Building Inspection and Design Division contain numerous letters, notes of phone calls, and other information concerning the spray booth. Following is a time line summary of the spray booth issue based on those records:

6/83	City receives complaint about auto parts stored on roof of 1346 Arcade. Lindbeck says he plans to build storage addition on roof.
7/83	Contractor says addition will be completed by end of August.
9/83	Parts still on roof, no permit applied for an addition, City sends letter requiring building permit application within 10 days. Permit issued for storage addition on roof measuring 12' x 12'.
4/84	Parts still on roof.
5/84	Lindbeck says he forgot about putting up addition.
12/84	Car parts still on roof; tag issued and paid.
2/85	Zoning code amended to permit auto body shops in I-1 districts rather than in B-3 districts as previously allowed. Lindbeck's business becomes legally nonconforming.
4/26/85	City sends letter to Lindbeck ordering removal of spray booth (constructed 4/85 according to BZA resolution).
5/23/85	City receives application for appeal of Zoning Administrator's decision from Lindbeck without fee.
5/31/85	Lindbeck applies for site plan review for spray booth. Site plan is denied on 6/5/85 because inadequate maneuvering space on site requires illegal maneuvering in public right-of-way.
7/85	Car parts are removed from roof.
8/13/85	Board of Zoning Appeals denies Lindbeck's appeal of Zoning Administrator's order to remove spray booth.
11/5/85	City Council denies same appeal.
1/2/86	City sends letter to Lindbeck ordering removal of spray booth addition by 2/3/86.
1/31/86	Summons and Complaint served on City by Lindbeck's attorney alleging that Lindbeck was issued building permit for addition in 9/83, that footings for addition were in ground

by 9/84 and construction stopped during following winter, that Lindbeck applied for site plan review following 12/5/84 letter from City but did not hear anything until 4/26/85 letter from City ordering its removal, and that Lindbeck was not notified of change of auto body shops from B-3 to I-1 use, and asks for injunction preventing the City from requiring removal of addition.

2/14/86

Assistant City Attorney Segal sends answer to complaint.

3/31/86

Segal sends letter to Lindbeck's attorney about nonconforming use options.

8. The spray booth addition was constructed illegally and without building permits. The applicant was given numerous opportunities to comply with the law.

City staff forgot about enforcement and removal of the spray booth following the threatened lawsuit (which was never actually filed). A Certificate of Occupancy inspector new to the area assumed the spray booth was legally erected and ordered that a fire suppression system be installed on it. Permits were pulled for the fire suppression system in January of 1990 and the work was completed.

A 1985 inspection revealed that the addition is a previously used, metal-walled, spray booth to which a wood-framed roof had been added. It states that "the new roof is wood joist and conventional roofing, both of which are combustible and does not meet code requirements for paint spray booths."

9. The five required findings specified in Section 62.102(e)(12) for the expansion of a nonconforming use, and the ability of the spray booth addition to conform to them, are as follows:

- a. *The expansion is accessory to the principal use and will not result in an expansion of the principal use.*

It appears that the spray booth is accessory and will not result in an expansion of the principal use. The zoning code's definition of accessory use includes, as an example, "(8) Uses clearly incidental to a main use such as, but not limited to, offices of an industrial or commercial complex...; greenhouses located on the premises as incidental to a florist." The spray booth is similarly accessory or incidental. This interpretation was endorsed by the Planning Commission in 1990 in the case of Roger Bonfe. The commission, in that case, approved as an accessory expansion the addition of a wash bay, clean up bays, a parts storage area, and an estimating enclosure for an auto repair/auto body shop in a B-3 district. The spray booth, however, is considered a stall and does increase the off-street parking requirement of the principal use.

- b. *The expansion will allow the continuance and improvement of a use which is compatible with the adjacent property and neighborhood.*

This finding is affirmed. According to the applicant, only four cars per week are painted in this spray booth (there is another spray booth inside

the main building). Generally one car is painted each day, Monday through Thursday, and takes one day to dry in the booth.

Although cars need to maneuver over a sidewalk to enter and exit the spray booth, someone needs to hold open the folding doors and that person can alert pedestrians to a car that is backing out, according to the applicant. The applicant will need to get a variance from the Board of Zoning Appeals to allow maneuvering in the public right-of-way. This requirement is not a condition that is modifiable by the Planning Commission.

*c. Off-street parking is provided for the principal use and expansion which meets requirements of Section 62.103 for new structures.*

The body shop, without the subject spray booth, provides the 14 spaces it is required by code. The spray booth, which counts as a stall, increases the parking requirement by two spaces. It appears that the applicant will also require from the Board of Zoning Appeals a parking variance of two spaces.

*d. A notarized petition signed by two-thirds of the property owners within one hundred (100) feet of the subject property has been obtained.*

The applicant has submitted to the Planning Division a second petition for the spray booth (13 parcels eligible, 9 parcels needed and signed).

*e. A rezoning would be inappropriate and result in a "spot" zoning.*

This finding is affirmed.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Planning Commission that, under the authority of the City's Legislative Code, the application for a nonconforming use permit to allow the two proposed accessory additions at 1334 and 1346 ARCADE STREET is hereby approved subject to the following conditions:

1. No commercial auto body or auto repair work shall be conducted in the proposed garage addition.
2. Vehicles being serviced at Lindbeck Auto Body and loaner cars shall not be parked on the street.
3. Off-street parking requirements for current and future uses of 1334 Arcade must be met on that lot.
4. The applicant shall remove the Arcade Street driveway closest to Clear Avenue and replace it with curbing by the time of completion of the addition.
5. The applicant shall, prior to Planning Commission approval, consult with city site plan review staff who shall determine any other necessary site improvements such as street trees, boulevard sod, etc. Such required improvements shall be put in writing by city staff and shall be made by the time of completion of the addition.
6. The applicant shall apply for necessary variances for the spray booth within thirty days of Planning Commission approval of this application. If the variances are not approved, the applicant will need to rearrange the placement of the booth on the 1346 parcel so that the variances are

not needed, if that is possible, and so that the booth is not located substantially closer to any residential use, or it shall be removed within thirty days.

