



**Request for City Council Committee Action
From the Department of Community Planning & Economic Development**

Date: August 25, 2005

To: Council Member Gary Schiff, Zoning and Planning Committee

Prepared by: Tanya Holmgren, City Planner

Presenter in Committee: Tanya Holmgren, City Planner

Approved by: Jason Wittenberg, Supervisor, CPED Planning-Development Services

Subject: Appeal of the decision of the Zoning Board of Adjustment by Kathleen and Chris Morton.

BZZ-2438 – 4849 Morgan Avenue South – Terence Hughes on behalf of Ron and Laurie Eibensteiner has filed a variance application to reduce the front yard setback established by the adjacent residential structure along Morgan Avenue South to 9 ft. to allow for the construction of a breeze-way and an attached garage on a reverse corner lot in the R1 District at 4849 Morgan Avenue South.

RECOMMENDATION: The Zoning Board of Adjustment adopted staff recommendation with an additional condition that the applicant must provide or contain storm water drainage on the premises/site and approved the variance application to reduce the front yard setback established by the adjacent residential structure along Morgan Avenue South to 9 ft. to allow for the construction of a breeze-way and an attached garage on a reverse corner lot in the R1 District at 4849 Morgan Avenue South.

Previous Directives: N/A

Financial Impact (Check those that apply)

No financial impact - or - Action is within current department budget.

Community Impact

Other: See attached.

Background/Supporting Information

Kathleen and Chris Morton have filed an appeal of the decision of the Zoning Board of Adjustment. The appeal is associated with the decision of the Zoning Board of Adjustment to approve the variance request to reduce the front yard setback established by the adjacent residential structure along Morgan Avenue South to 9 ft. to allow for the construction of a breeze-way and an attached garage on a reverse corner lot in the R1 District at 4849 Morgan Avenue South to the August 4, 2005, Zoning Board of Adjustment meeting.

According to the appellant, they feel they have not been acknowledged nor granted fair representation. The appellant submitted a request to have the item continued to the August 4, 2005, so they could attend the meeting and have their concerns addressed. The request for continuance was not granted. The appellant's complete statement of the reasons for the appeal is attached.

Planning Division staff recommended approval of the variance request to reduce the front yard setback established by the adjacent residential structure along Morgan Avenue South to 9 ft. to allow for the construction of a breeze-way and an attached garage because the property is on a reverse corner lot and would need a variance to construct any garage on the property.

At the July 21, 2005, Zoning Board of Adjustment meeting, eight (8) Zoning Board of Adjustment members were present. Seven (7) members voted to adopt the staff recommendation and approved the variance request to reduce the front yard setback established by the adjacent residential structure along Morgan Avenue South to 9 ft. to allow for the construction of a breeze-way and an attached garage on a reverse corner lot in the R1 District at 4849 Morgan Avenue South. The July 21, 2005, Board of Adjustment minutes and the Planning Division staff report are attached.

CPED Planning Division Report
BZZ-2438

Department of Community Planning and Economic Development – Planning Division

Variance Request
BZZ-2438

Date: July 21, 2005

Applicant: Ron and Laurie Eibensteiner

Address of Property: 4849 Morgan Avenue South

Contact Person and Phone: Terence Hughes, (952) 920-8301

Planning Staff and Phone: Tanya Holmgren, (612) 673-5887

Date Application Deemed Complete: June 22, 2005

End of 60 Day Decision Period: August 14, 2005

Ward: 13 **Neighborhood Organization:** Lynnhurst Neighborhood Association

Existing Zoning: R1A, Single-family Residential District

Proposed Use: A rear addition to an existing single-family dwelling.

Proposed Variance: A variance to reduce the required front yard setback along Morgan Avenue South from 25 ft. to 9 ft. to allow for the construction of a breeze-way and an attached garage to an existing single-family dwelling on a reverse corner lot in the R1 Single-family district located at 4849 Morgan Avenue South.

Zoning code section authorizing the requested variance: 525.520 (1)

Background: The subject property is approximately 7,865 sq. ft. and consists of an existing single-family dwelling and a detached garage. The property is located at the corner of Morgan Avenue South and 49th Street West and fronts 49th Street West. However, the adjacent property to the north fronts Morgan Avenue South, making the subject site a reverse corner lot. The applicant is requesting a variance to reduce the required front yard setback along Morgan Avenue South from 25 ft. to 9 ft. to allow for the construction of a one-story addition to the rear of an existing dwelling. The proposed rear addition would be 23 ft. at its widest point and 45 ft. long and consists of a breeze-way and an attached garage. Additionally, the applicant will be constructing a first floor addition below an existing second story of the existing single-family dwelling along the front of the dwelling along 49th Street West. The addition will be 5.4 ft. from the property line at its closest point, but the front of the subject dwelling is located behind the front of the adjacent dwelling and is no closer to the property

line the floor above the proposed addition. On corner properties, a principal entrance must face the street that is considered the front. The information submitted is not sufficient to determine if a door exists and will be removed. If a door exists along 49th Street West, a door must remain facing 49th Street West.

Findings Required by the Minneapolis Zoning Code:

- 1. The property cannot be put to a reasonable use under the conditions allowed by the official controls and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

Front yard setback: The applicant is seeking a variance to reduce the required front yard setback along Morgan Avenue South from 25 ft. to 9 ft. to allow for the construction of a one-story addition at the rear of an existing dwelling. The two 25 ft. front yard setbacks imposed on the single-family dwelling proves to be difficult for the property to provide as the property narrows to approximately 39 ft. at the alley. The majority of existing dwelling is behind the front setback, however approximately 1/3 of the existing garage is located in the front yard setback. Strict adherence to the regulations regarding the required front yard setback would not allow for the proposed addition to the existing single-family dwelling nor would it allow for the construction of any two-car garage other than to the exact size and location as the existing garage, including an attached garage without a breezeway connection.

- 2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

Front yard setback: The circumstances upon which the setback variance is requested are unique to the parcel of land due to the configuration of the properties in this area. As previously mentioned, the subject property is a reverse corner lot; therefore, a front yard setback is required along both Morgan Avenue South and 49th Street West. This is a circumstance that is unique to this parcel and not created by the applicant. The alternative to the variance would cause an undue hardship to the property owner, by not allowing the proposed rear addition. The location of the existing structures and the configuration of the lots are not circumstances created by the applicant.

- 3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

Front yard setback: Staff believes the rear addition will not substantially alter the essential character of the surrounding neighborhood, because other properties in the immediate area have attached garages. The rear addition could have some impact on the character of the adjacent

properties because the majority of the properties consist of single-family dwellings with detached garages. The proposed addition will maintain the required 6 ft. to the rear yard and a 6 ft. setback from the adjacent property to the east. Staff believes that the rear addition will likely not be injurious to the use or enjoyment of other property in the vicinity because an existing addition and detached garage are located in approximately the same location. Staff is concerned about the consistency of the structure with the area and the increased roof line, however the property does maintain more than the required amount of landscaping. Staff believes landscaping should be installed between the proposed garage and the alley in order to reduce the amount of runoff that is added to alley.

4. **The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

Front and side yard setback: Granting the front and side yard setback variances would likely have no impact on the congestion of area streets or fire safety, nor would the proposed addition to the existing dwelling be detrimental to the public welfare or endanger the public safety.

Recommendation of the Department of Community Planning and Economic Development - Planning Division:

The Department of Community Planning and Economic Development – Planning Division recommends that the Board of Adjustment adopt the findings above and **approve** the variance to reduce the required front yard setback along Morgan Avenue South from 25 ft. to 9 ft. to allow for the construction of a breeze-way and an attached garage to an existing single-family dwelling on a reverse corner lot in the R1 Single-family district located at 4849 Morgan Avenue South subject to the following conditions:

1. Review and approval of final site and elevation plans by the Planning Department.
2. That landscaping is installed between the new garage location and the alley with a maximum height of 3 ft.
3. That a principal entrance is not removed from the dwelling.