



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

Date: October 27, 2005

To: Council Member Gary Schiff, Zoning and Planning Committee

Prepared by: Molly McCartney, City Planner

Presenter in Committee: Molly McCartney, City Planner

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

Subject: Appeal of the decision of the Zoning Board of Adjustment by Michael Raeker, on behalf of Denise Bryn.

BZZ-2618 – 500 Main Street Northeast – Michael Raeker, on behalf of Denise Bryn, has applied for a variance to reduce the front yard setback along Marshall Street Northeast from 15 ft to 3 ft. on a through lot and a variance to reduce the side yard setback from 5 ft. to 1 ft. on a through lot to allow for a detached garage for a single-family dwelling at 500 Main Street NE in the R5 Multiple-family District and the MR Mississippi River Critical River Overlay District.

RECOMMENDATION: The Zoning Board of Adjustment adopted the staff recommendation and denied the variance for a front yard setback along Marshall Street Northeast and approved the variance to reduce the side yard setback.

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.

End of 60/120 Day Decision Period: On October 17, 2005, staff sent a letter to the applicant extending the 60 day decision period to no later than January 11, 2006.

Background/Supporting Information

Michael Raeker has 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 denying the requested variance to reduce the required front yard setback along Marshall Street Northeast to allow for the construction of a detached garage on the property located at 500 Main Street Northeast.

The appellant has stated the decision of the Zoning Board of Adjustment is being appealed because a hardship exists in that the unique configuration of the property and the zoning classification of a through lot creates two front yard setbacks and results in a limited area where a detached garage can be located. The applicant also states that the detached garage would not have a negative impact on the surrounding area because there are inconsistent front yard setbacks along Marshall Street Northeast due to a mix of single-family residential, multiple-family residential and commercial land uses fronting Marshall. In addition, the applicant identifies other through lots in Northeast Minneapolis in which detached garages were built without variances.

At the October 6th, 2005, Zoning Board of Adjustment meeting, eight (8) Zoning Board of Adjustment members were present. Six (6) members voted to adopt the staff recommendation and denied the variance to reduce the front yard setback along Marshall Street Northeast. The original staff report and the actions from the October 6, 2005 Board of Adjustment meeting are attached.

Board of Adjustment

HEARING ACTIONS/MINUTES

Thursday, October 6, 2005
2:00 p.m., Room 317 City Hall

Board Membership: Ms. Debra Bloom, Mr. Matt Ditzler, Mr. David Fields, Mr. John Finlayson, Mr. Daniel Flo, Mr. Paul Gates, Ms. Marissa Lasky, Mr. Matt Perry, Mr. Peter Rand

The Board of Adjustment of the City of Minneapolis will meet to consider requests for the following:

8. 500 Main Street Northeast (BZZ-2618, Ward 3)

Michael Raeker, on behalf of Denise Bryn, has applied for a variance to reduce the front yard setback from 15 ft to 3 ft. on a through lot and a variance to reduce the side yard setback from 5 ft. to 1 ft. on a through lot to allow for a detached garage for a single-family dwelling at 500 Main Street NE in the R5 Multiple-family and the MR Mississippi River Critical River Overlay District.

CPED Department Planning Division Recommendation by Ms. McCartney:

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the findings above and deny the variance to reduce the front yard setback along Marshall Street Northeast from 15 ft to 3 ft. on a through lot and approve the variance to reduce the north side yard setback from 5 ft. to 1 ft. on a through lot to allow for a detached garage for a single-family dwelling at 500 Main Street NE in the R5 Multiple-family and the MR Mississippi River Critical River Overlay District.

1. That the Planning Division review and approve the final site and elevation plans that measure to an architectural or engineering scale.

TESTIMONY

Staff presented their report and recommendation to the Board of Adjustment.

Finlayson: Questions for staff? I see none at this point. Is the applicant present? Name and address for the record, please.

Hi, my name is Denise Bryn, owner of the address at 500 Main Street Northeast and the reason we even started talking about a garage is because the current garage is only 6 feet, 6 inches with the door and the height of the garage is 6 feet, 5 inches and it also contains a furnace, that we did

CPED Planning Division Report
BZZ-2618

not add, it was part of an addition, because the house originally had a deck, behind the garage. So, we can not fit any of our vehicles in there, we can not fit our boat in there, snow blower, anything in there, so the only use for the current garage is storage. So, our proposal was to save as much green space in the yard and back in off of Marshall. Due to the fact that we have cars parked up and down on both sides, Monday through Friday, including delivery trucks. It is a really bad street for accidents, there have been fatalities, etc. So, if you can see on this, this right here would meet the setback, this is 28 feet, so the only part that would not meet the setback is this little corner right here, so we felt by asking for a variance we would keep the most green space and have the most benefit for us. There is absolutely no, no one is next to us and the house here faces the other direction. The essential character of the neighborhood, the character of St. Anthony West is not all attached garages. This addition was done, this little part of the city was done in 1973, when they tore down all the existing historic structures. Across the street from me are all detached garages, and a predominant number of houses in the neighborhood are detached garages and now the new upscale condominiums. It does not obstruct the essential character of the neighborhood, I don't really know what you call the essential character of the neighborhood. And now, he will speak on the actual structure.

I am **Mike Raeker** and I am also from 500 Main Street. Probably to start off, one of the things that weren't mentioned was where the old Marshall Street went. If you are looking on this map, 5th Street went all the way through here to Marshall Street over here, so this land was rectangular. And a lot of that property, approximately 1200 square feet was taken away. Question I have is it even a through-lot? The lot next to it, there is a statue on it, I am not sure if many of you are familiar with that area, that is not habitable space and the road does intersect it and a through-lot can't have a road intersecting it and that is Main Street right there intersecting it on a property next to it that you can never build on. Then everything in here when I read all this stuff, you read the four findings here, everything here staff believes that constructing a garage meets the setback, everything meets this, meets that, and all of a sudden you get to the three foot part and this neighborhood, it doesn't meet the neighborhood for a detached garage. Where do you come up with some of this stuff? You are okay with the garage, 3 feet is not okay, 15 feet is fine – it is calling it two front yards. You mentioned the neighbors house, you are refer to her back yard, well that's her front yard to. Zoning you are contradicting yourself with calling them, you say, even right up here on page two, you are talking about it that it is in the rear of the property. It's the rear of the property, it is the rear of the property. Let's see.

Denise Bryn: I wanted to add that I have spoken to my neighbor. I only have one neighbor directly, and she has no problem with the garage at all, in fact she supported it. The neighborhood didn't even want to meet with me, they support the garage. And the other thing is if we put the garage where the 15 foot setback, for one if we put it diagonal you can't back in, you couldn't pull out, because you would be like at an angle. I couldn't pull my boat out. The angle would be too weird. If you sit the like this, a 15 foot setback, that is why we put it like this so we can actually pull in and out of our garage by backing in. The other thing is we would remove more of the concrete and we would increase our green space. We only need one side to drive in and back out, so that would be another thing that would be omitted here. We would actually increase the green space more. The other thing, if we have to put a 15 foot setback on this corner, the garage would be in the middle of the property. That would look weird. Who puts a garage in the middle of their property? Talking about essential character that would look

CPED Planning Division Report
BZZ-2618

extremely strange to me, to put your garage in the middle of your back yard, because that is where it would sit if we put it 15 feet back from this corner here. 15 feet starts here and the garage would be here then. I think that would look weird architecturally.

Mike Raeker: I would also like to add that every handout that Zoning, Building gives you about building a detached garage, it says that building garages must be located entirely to the rear of the principal residential structure or the rear 20%. We are trying to put it as far back as we can. So 15 feet is not even calling it, having a rear yard. Okay, I would just like to add, because I have access to city records, there was a detached garage built at 2635 Brighton Avenue Northeast, which is pretty much the exact same thing, except a little bit smaller lot, done by the same people that reviewed this plan on August 22, 2005 with no mention of a through-lot and it is definitely a through-lot, I have a map of it if you want. It is just a dwelling to Brighton Avenue, and so this lot is considered to have a rear yard, which faces Brighton Avenue and Cleveland and that is like a month ago.

Denise Bryn: It was built 5 feet from the property line, and 5 feet from the sidewalk and they didn't have to get a variance. We are asking for the same thing and we were told that we could not do it. And we have photos of it and exactly where it is right next to the sidewalk, do you guys want to look at it?

Molly McCartney (staff): I can elaborate on that as well. On a through-lot, when all the houses on the street face the same way and they have all rear are on the opposite street, the staff interpretation has been to consider that a true rear lot and to allow for the reduced setback. In this case, as Marshall does have houses facing, this lot does have the back on Marshall and there are houses facing Marshall that is the reason for the variance. It is a little confusing.

Denise Bryn: I would also like to speak that on Marshall, yes, there are some houses that face front and there are also some houses that face the side. So, on the opposite side they are facing the 6th, 7th and 8th, their garages are on the side. So, it is not like you have two front yards facing Marshall and it is this quaint little neighborhood, you have front yards and then sides of garage on the other side. Any questions?

Lasky: My concerns are the hard surfaces leading up to the existing house, existing garage, which is going to be living space – correct?

Denise Bryn: It is going to be actually storage space. The existing garage is going to become, well we are going to put new windows on it and take the garage doors out. But we have no storage rooms in our house. How they built the houses in the 70's with no storage rooms, it is all bedrooms or, like I said we are going to remove that part of the driveway.

Lasky: My concern if I was going to be approving this is, is that I would eliminate a lot of driveway.

Michael Raeker: We are going to take ½ of the driveway away. One stall.

CPED Planning Division Report
BZZ-2618

Lasky: No – I am not talking about that. No you certainly have that problem with Marshall. In terms of up to the house would not be hard surface – correct?

Denise Bryn: Oh no, this is what we would do. We have to pull a boat and back it in. This part would be removed, right here.

Lasky: I am going to tell you that I am not going to approve that, because I don't think that a boat is a hardship. From my point of view because I can not speak for anybody else, is that I would wan to eliminate all the hard surface along the house and as far as it needs to be to pull a car in and out of the driveway, because a boat is not a hardship.

Michael Raeker: It is if you are trying to back it in and you have traffic jams and there have been fatalities.

Lasky: I understand what you are saying, but I personally, this Board may vote differently, but personally I would like to grant this, but I would like to get rid of a lot of hard surface in exchange for this.

Denise Bryn: Yes – I am a gardener I would like as much surface. But the problem is, we can't pull, we can back in whatever a car length is would be here, whatever you would measure a car length, like after the entrance of the garage.

Michael Raeker: I drive a pick-up truck and I need a certain amount of spot, I don't back up onto Marshall – that is crazy and I need enough space to go in.

Lasky: I don't have an answer. It might have to go back to staff.

Michael Raeker: I would like to add to that since I have started this I have had a lot of different things told to me. I do work for the city, I am an Inspector. I have worked in housing, building and it shouldn't matter that I am from the city. It seems that I am treated even a little strict for whatever reason. I mean not from you, from whatever so they don't show any favoritism to certain city employees, which for whatever reason, I don't know that is.

Bloom: Are we to Board comment yet.

Finlayson: No. Does anyone have any further questions? None at this time. Thank you! Anyone else to speak in favor of this? Anyone to speak against? We will close the public portion of this item. Ms. Bloom?

Bloom: My biggest concern with this is the fact that this is a through-lot. It is what it is first of all. There are some front yards two houses away. And this garage will stick out in front of them.

Denise Bryn: No they won't.

Bloom: Excuse me. Thank you. I can see an argument for some hardship, based on the fact that it is a through-lot, but on the flip side it is Marshall Street and you do not want to back into it. If

CPED Planning Division Report
BZZ-2618

the garage was recessed further into the yard that would address some of this concern. If there was a longer driveway, we would have the ability to turn around or be able to do something more with it. Putting it closer to the right-of-way is not necessarily going to resolve the issue of safety, being able to back-up from a busy street into your garage. I don't think that that is a good situation, in any way, shape or form. So, I think that there is a hardship for a setback along this street, but I am going to move staff recommendations at this point.

Finlayson: Is there a second.

Fields: Second.

Finlayson: Further discussion? I see none, please call the roll.

Roll Call Vote:

Yeas: Bloom, Ditzler, Fields, Finlayson, Gates, Perry

Nays: Lasky, Rand

Recused: None

Absent: Flo

Motion Carries

CPED Planning Division Report
BZZ-2618

Department of Community Planning and Economic Development – Planning Division Report

Variance Request
BZZ-2618

Date: October 6, 2005

Applicant: Michael Raeker, on behalf of Denise Bryn

Address of Property: 500 Main Street Northeast

Date Application Deemed Complete: September 13, 2005

End of 60 Day Decision Period: November 12, 2005

Appeal Period Expiration: October 17, 2005

Contact Person and Phone: Michael Raeker, 612-673-2624

Planning Staff and Phone: Molly McCartney, 612-673-5811

Ward: 3 **Neighborhood Organization:** St. Anthony West Neighborhood Organization

Existing Zoning: R5 Multiple-family and the MR Mississippi River Critical River Overlay District

Proposed Use: Construction of a detached garage

Proposed Variance: A variance to reduce the front yard setback along Marshall Street Northeast from 15 ft to 3 ft. on a through lot and a variance to reduce the north side yard setback from 5 ft. to 1 ft. on a through lot to allow for a detached garage for a single-family dwelling at 500 Main Street Northeast in the R5 Multiple-family and the MR Mississippi River Critical River Overlay District.

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

Background: The subject site is a through lot that faces both Main Street Northeast and Marshall Street Northeast with a lot size of 9,900 sq. ft. and consists of a two story, single-family dwelling with an attached garage. The applicant is proposing to construct a new detached garage measuring 32 ft. by 30 ft. (990 sq. ft.) and convert the attached garage into storage or habitable space. The applicant has submitted an application for an administrative review to increase the garage size from 676 sq. ft. to 990 ft. The proposed detached garage will match exterior material (tan vinyl siding) and the roof pitch (4/12) of the primary structure. There is also a small storage shed located where the proposed garage will be placed that will be removed.

The proposed garage will be setback 3 ft. from the property line along Marshall Street Northeast and 1 ft. from the north interior property line. The dwelling to the north, 510 Main Street Northeast, faces Main Street North and has a front facing, attached garage with no structure in the rear of the property.

The properties north of 510 Main Street Northeast face Marshall Street Northeast for the rest of the block and have front facing, attached garages. Marshall Street Northeast curve to the northwest from the subject site. To the south of the subject site is a small parcel owned by the Minneapolis Park Board called Pioneer Triangle.

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 (Marshall Street Northeast): The applicant is seeking a variance to reduce the required front yard setback along Marshall Street Northeast from the district setback of 15 ft. to 3 ft. to allow for the construction of a detached garage. Strict adherence to the zoning code requires the addition to be constructed behind the front yard setback of 15 ft. from the property line along Marshall. The property is 175 ft. in length on the north side of the lot and 66 ft. wide, which would leave an area to construct a detached garage behind the setback along Marshall and still be 6 ft. from the dwelling. However, adhering to the setbacks may not allow the applicant to build a 990 sq. ft. garage, which is allowed per an administrative review to increase the garage size for a lot this size. The applicant states that the proposed location is desired in order to preserve existing vegetation, including trees. Staff believes that constructing a garage that meets the setback is a reasonable use of the property.

Interior side yard setback: The applicant is seeking a variance to reduce the interior side yard setback from 5 ft. to 1 ft along the north property line. For the garage to be built behind the front yard setback along Marshall, more than 6 ft. from the dwelling and meet the 5 ft. side yard setback, the result would be 19 ft., much less than the 30 ft. width of the proposed garage. Staff believes that if the proposed garage is located behind the front yard setback along Marshall, constructing a detached garage setback 1 ft. from the north property line that matches the roof pitch and materials of the existing garage is a reasonable use of the property.

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 (Marshall Street Northeast): The conditions upon which the setback variance is requested are unique to the parcel of property due to the through lot statue of the property and the location of the adjacent dwellings to the north. The subject property is a through lot with a front yard setback required along both Main Street Northeast and Marshall Street Northeast. The dwelling immediately adjacent also faces Main Street Northeast; however the rest of the block has dwellings facing Marshall. From the subject site and north, the road and block curves northwesterly, so that the “rear” of the subject site is not located in line with the dwellings that face Marshall and does not interfere with sightlines. While the classification of the property as a through lot and the location of the adjacent dwellings are circumstances that are

unique to the parcel and not created by the applicant, the location of the proposed garage is a circumstance created by the applicant. There is a space between the required front setback and the dwelling to locate a garage smaller than the 990 sq. ft. garage requested.

Interior side yard setback: The condition upon which the setback variance is requested is unique to the parcel of property due to the existing location of the dwelling and the required front yard setback along Marshall. For the garage to be built behind the front yard setback along Marshall, more than 6 ft from the dwelling and meet the 5 ft. side yard setback, the result would be 19 ft., much less than the 30 ft. width of the proposed garage. The front yard setback along Marshall and the location and size of the dwelling 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 (Marshall Street Northeast): Staff believes that granting the 3 ft. front yard setback for the detached garage may alter the essential character of the surrounding neighborhood because there are no other detached garages or other structures located along Marshall that is 3 ft. from the property line. While the subject site is considered to have two front yards, the proposed location for the detached garage does function more like a rear yard than a front yard at this portion of the block. In addition, the proposed garage will match the exterior materials (tan vinyl) and roof pitch (4/12) of the dwelling. The applicant also states that the proposed location of the garage was chosen to preserve garden areas in the middle of the lot and in the boulevard. The applicant states that the property has been awarded a Blooming Boulevard Award from the Committee on Urban Environment (CUE) for the last 5 years.

Interior side yard setback: Staff believes that granting a 1 ft. setback for the proposed detached garage will not alter the essential character of the surrounding neighborhood because the garage would result in minimal impact to the adjacent residential property. The adjacent property owner has a front facing, attached garage with no accessory structure in the rear yard. While the subject site is considered to have two front yards, the proposed location for the detached garage does function more like a rear yard than a front yard at this portion of the block.

- 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 yard setback (Marshall Street Northeast): Granting the front yard setback variance 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. The applicant states that there are safety concerns with speeding vehicles along Marshall which could be mitigated with a detached garage at the proposed location. The applicant states that a detached garage would enable vehicles to be backed into the garage and then driven forward into Marshall instead of backing into Marshall.

CPED Planning Division Report
BZZ-2618

Interior side yard setback: Granting the front yard setback variance 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 **deny** the variance to reduce the front yard setback along Marshall Street Northeast from 15 ft to 3 ft. on a through lot and **approve** the variance to reduce the north side yard setback from 5 ft. to 1 ft. on a through lot to allow for a detached garage for a single-family dwelling at 500 Main Street NE in the R5 Multiple-family and the MR Mississippi River Critical River Overlay District.

1. That the Planning Division review and approve the final site and elevation plans that measure to an architectural or engineering scale.