



## Request for City Council Committee Action from the Department of Community Planning & Economic Development—Planning Division

Date: January 21, 2010

To: Chair, Zoning & Planning Committee and Members of the Committee

Referral to: Zoning & Planning Committee

**Subject:** Appeal of the decision of the Board of Adjustment to deny the four requested variances to allow for an addition to an existing detached garage accessory to an existing fourplex for the property located at 3020 10<sup>th</sup> Avenue South in the R4 Multiple-Family District.

**Recommendation:** The following action was taken by the Board of Adjustment on December 17, 2008 (BZZ-4625):

### 2. 3020 10<sup>th</sup> Avenue South (BZZ-4625, Ward 8)

**A. Variance:** Daniel Lubbers has applied for a variance to increase the maximum floor area of a detached accessory structure to allow for an addition to an existing detached garage accessory to an existing fourplex for the property located at 3020 10<sup>th</sup> Avenue South in the R4 Multiple-Family District.

**ACTIONS:** The Board of Adjustment **adopts** the findings and **denied** the variance to increase the maximum floor area of a detached accessory structure to allow for an addition to an existing detached garage accessory to an existing fourplex for the property located at 3020 10<sup>th</sup> Avenue South in the R4 Multiple-Family District.

**B. Variance:** Daniel Lubbers has applied for a variance to increase the maximum height of a detached accessory structure to allow for an addition to an existing detached garage accessory to an existing fourplex for the property located at 3020 10<sup>th</sup> Avenue South in the R4 Multiple-Family District.

**ACTIONS:** The Board of Adjustment **adopts** the findings and **denied** the variance to increase the maximum height of a detached accessory structure to allow for an addition to an existing detached garage accessory to an existing fourplex for the property located at 3020 10<sup>th</sup> Avenue South in the R4 Multiple-Family District.

**C. Variance:** Daniel Lubbers has applied for a variance to reduce the minimum distance between an accessory structure and a dwelling to allow for an addition to an existing detached garage accessory to an existing fourplex for the property located at 3020 10th Avenue South in the R4 Multiple-Family District.

**ACTIONS:** The Board of Adjustment **adopts** the findings and **denied** the variance to reduce the minimum distance between an accessory structure and a dwelling to allow for an addition to an existing detached garage accessory to an existing fourplex for the property located at 3020 10th Avenue South in the R4 Multiple-Family District.

**D. Variance:** Daniel Lubbers has applied for a variance to reduce the minimum south interior side yard from 7 ft. to 1 ft. to allow for a detached garage not located entirely in the rear 40 ft. of the zoning lot to allow for an addition to an existing detached garage accessory to an existing fourplex for the property located at 3020 10th Avenue South in the R4 Multiple-Family District.

**ACTIONS:** The Board of Adjustment **adopts** the findings and **denied** the variance to reduce the minimum south interior side yard from 7 ft. to 1 ft. to allow for a detached garage not located entirely in the rear 40 ft. of the zoning lot to allow for an addition to an existing detached garage accessory to an existing fourplex for the property located at 3020 10th Avenue South in the R4 Multiple-Family District.

**Ward:** 8

Prepared by: Shanna Sether, Senior Planner (612-673-2307) Approved by: Jason Wittenberg, Planning Supervisor Presenters in Committee: Shanna Sether, Senior Planner
---

#### **Financial Impact**

- No financial impact

#### **Community Impact**

- Neighborhood Notification: Powderhorn Park Neighborhood Association was notified of the applications.
- City Goals: See staff report
- Comprehensive Plan: See staff report
- Zoning Code: See staff report
- End of 60/120-day decision period: On December 22, 2009, staff sent a letter to the applicant extending the 60 day decision period to no later than March 13, 2010.

#### **Supporting Information**

Daniel Lubbers has filed an appeal of the decision of the Board of Adjustment to deny the four requested variances to allow for an addition to an existing detached garage accessory to a fourplex for the property located at 3020-10<sup>th</sup> Avenue South in the R4 Multiple-Family District. At its meeting on December 17, 2009, the Board of Adjustment voted 7-0 to adopt staff findings and deny the four variances requested by the applicant. The appeal (attached) was filed on December 22, 2009. The appellant's complete statement of the action being appealed and reasons for the appeal are attached. The Board of Adjustment minutes and Planning Division staff report are attached.

**Department of Community Planning and Economic Development - Planning Division Report**  
Variance  
BZZ-4625

**Date:** December 17, 2009

**Applicant:** Daniel Lubbers

**Address of Property:** 3020 – 10<sup>th</sup> Avenue South

**Project Name:** 3020 – 10<sup>th</sup> Avenue South Garage Addition

**Contact Person:** Daniel Lubbers,

**Planning Staff:** Shanna Sether, (612) 673-2307

**Date Application Deemed Complete:** November 13, 2009

**End of 60-Day Decision Period:** January 12, 2010

**Ward:** 8      **Neighborhood Organization:** Powderhorn Park Neighborhood Association

**Existing Zoning:** R4 Multiple-Family District

**Zoning Plate Number:** 26

**Legal Description:** Not applicable

**Proposed Use:** An addition to an existing detached garage accessory to an existing four-unit dwelling.

**Concurrent Review:**

- Variance to increase the maximum floor area of a detached accessory structure
- Variance to increase the maximum height of a detached accessory structure
- Variance to reduce the minimum distance between an accessory structure and a dwelling
- Variance to reduce the minimum south interior side yard from 7 ft. to 1 ft. to allow for a detached garage not located entirely in the rear 40 ft. of the zoning lot

**Zoning code section authorizing the requested variance:** Chapter 525, Article IX Variances, Specifically Section 525.520(1) “to vary the yard requirements, including permitted obstructions into required yards not allowed by the applicable regulations,” Section 525.520(3) “to vary the gross floor area...of a structure or use,” Section 525.520(4) “to vary the height requirements for any structure...,” and Section 525.520(8) “to permit parking that cannot comply with the location requirements for on-site parking, as specified in Chapter 537, Accessory Uses and Structures....”

**Background:** The subject property is approximately 70 ft. by 126 ft., on average, (8,636 sq. ft.). The property consists of an existing two and a half story dwelling with four dwelling units and a detached garage. The applicant has recently constructed an 11 ft. by 16 ft., 13 ft. 10” tall, shed roof addition to his existing 22 ft. by 36 ft. detached garage. There are an additional three striped parking stalls on the northwest corner of the property. According to the applicant, the purpose of the addition is to allow for storage area, which is currently unavailable in the four-stall garage or within the dwelling units. The property owner occupies one of the four dwelling units on the property and rents out the three remaining units. The addition to the garage is intended for storage including excess furniture, a snow blower, lawn mower, and additional appliances for the dwelling units on the property.

The addition to the detached garage is approximately 11ft. by 16 ft. and the existing detached garage is 22 ft. by 36 ft. The total square footage of the garage and addition is 968 square feet. The maximum floor area for a detached accessory structure to a fourplex is equal to 10% of the lot area. Based on the lot area, the maximum floor area permitted for accessory structures on the subject parcel is 863.6 sq. ft. per 537.60(b)2 of the zoning code. Therefore, the applicant has requested a variance to increase the maximum floor area for a detached accessory from 863.6 sq. ft. to 968 sq. ft. to allow for the addition to the existing detached garage.

The addition to the detached garage is approximately 13 ft. 10” at the ridge of the shed roof. The maximum height of any portion of a detached accessory structure is 12 ft. The maximum height of a detached accessory structure may be approved administratively to 16 ft. in height if the materials and roof pitch match that of the principal structure per 537.50(b) of the zoning code. The principal structure appears to have a 6/12 pitched gable roof, the existing detached garage appears to have a 4/12 pitched gable roof and the addition has a shed roof. Therefore, the applicant is requesting a variance to increase the maximum height of a detached accessory structure from 12 ft. to 13 ft. 10” to allow for the addition to the detached garage.

The zoning code states that “no detached accessory building or open parking space shall be located closer than six (6) feet from a dwelling of any type.” The existing detached garage is located approximately 16 ft. to the dwelling. However, the applicant constructed the addition 5 ft. from dwelling. Therefore, the applicant is requesting a variance to reduce the minimum distance between an accessory structure and a dwelling from 6 ft. to 5 ft. to allow for the 11 ft. by 16 ft. addition to the detached garage.

The zoning code allows for a reduction of the interior side yard for detached accessory structures, when the entire structure is located in the rear 40 ft. or 20% of the lot. The existing detached garage is located in the rear 40 ft. of the lot. However, the addition to the detached garage now extends 51 ft. from the rear of the lot and therefore the entire structure is required to meet the minimum interior side yard requirement of 7 ft. The applicant has requested a variance to reduce the minimum south interior side yard from 7 ft. to 1 ft. to allow for the detached garage and addition not located entirely in the rear 40 ft. of the zoning lot.

As of writing this staff report, staff has not received any correspondence from the Powderhorn Park Neighborhood Association. Staff will forward comments, if any are received, at the Board of Adjustment meeting.

**Findings Required by the Minneapolis Zoning Code – Variance to increase the maximum area of a detached accessory structure:**

- 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.**

The applicant is seeking a variance to increase the maximum area of a detached accessory structure from 863.6 sq. ft. to 968 sq. ft. for an existing 22 ft. by 36 ft. detached garage and 11 ft. by 16 ft. addition to the detached garage. The applicant has stated the purpose of the addition is to allow for storage area, which is currently unavailable in the four-stall garage or within the dwelling units. The property owner occupies one of the four dwelling units on the property and rents out the three remaining units fully furnished. The addition to the garage is intended for storage including excess furniture, a snow blower, lawn mower, and additional appliances for the dwelling units on the property. While staff recognizes that there may be a need to provide additional storage space for the property, there appears to be sufficient area within the existing detached garage and perhaps a smaller storage area or addition that is equivalent that does not exceed 863.6 sq. ft., which is permitted by the zoning code.

- 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.**

The circumstances upon which the variance is requested have been created by the applicant. The maximum area allowed for all detached accessory structure shall not exceed 10% of the lot area for uses other than single and two-family in the residence districts. The maximum floor area allowed for the property is 863.6 square feet and the applicant has constructed 968 sq. ft. of floor area. There appears to be sufficient area within the existing detached garage and perhaps a smaller storage area or addition that is equivalent that does not exceed 863.6 sq. ft., which is permitted by the zoning code.

- 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.**

The granting of the variance may not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity; however, staff does not believe that granting this exception will be in with the spirit and intent of the ordinance. The maximum area allowed for all detached accessory structure shall not exceed 10% of the lot area for uses other than single and two-family in the residence districts. The maximum floor area allowed for the property is 863.6 square feet and the applicant has constructed 968 sq. ft. of floor area. The purpose of these ordinances is to set standards governing the type, size, location and operational characteristics of accessory structures.

- 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.**

Granting the variance would likely have no impact on the congestion of area streets or fire safety, nor would the proposed garage addition to the existing fourplex dwelling be detrimental to the public welfare or endanger the public safety.

**Findings Required by the Minneapolis Zoning Code – Variance to increase the maximum height of a detached accessory structure:**

- 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.**

The applicant is seeking a variance to increase the maximum height of a detached accessory structure to approximately 13 ft. 10 in. to allow for an addition to an existing detached garage. The roof type on the addition is a shed roof and the height is measured to the ridge. The roof of the existing detached garage is a 4/12 gable and the dwelling has a 6/12 gable roof. Staff is not generally supportive of increasing the maximum height of a detached accessory structure when the roof type and pitch do not match that of the existing dwelling. . The applicant is able to avoid a variance and instead apply for an administrative review to increase the maximum height of the detached garage if the roof pitches of the garage and addition match the dwelling. Staff believes that reasonable use of the property exists with the garage addition not exceeding the maximum height of 12 ft.

- 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.**

The circumstances upon which the variance is requested have been created by the applicant. The applicant is seeking a variance to increase the maximum height and area of a detached accessory structure to approximately 13 ft. 10 in. to allow for an addition to an existing detached garage. The roof type on the addition is a shed roof and the height is measured to the ridge. The roof of the existing detached garage is a 4/12 gable and the dwelling has a 6/12 gable roof. Staff is not generally supportive of increasing the maximum height of a detached accessory structure when the roof type and pitch do not match that of the existing dwelling. The applicant is able to avoid a variance and instead apply for an administrative review to increase the maximum height of the detached garage if the roof pitches of the garage and addition match the dwelling. Staff believes that reasonable use of the property exists with the garage addition not exceeding the maximum height of 12 ft.

- 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.**

The granting of the variance may not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity; however, staff does not believe that granting this exception will be in with the spirit and intent of the ordinance. The zoning code was amended in 2000 to allow for the administrative increase in the maximum height of the detached garage under the condition that the roof pitch and exterior materials match that of the dwelling. The purpose of these ordinances is to set standards governing the type, size, location and operational characteristics of accessory structures.

- 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.**

Granting the variance would likely have no impact on the congestion of area streets or fire safety, nor would the proposed garage addition to the existing fourplex dwelling be detrimental to the public welfare or endanger the public safety.

**Findings Required by the Minneapolis Zoning Code - Variance to reduce the minimum distance between an accessory structure and a dwelling:**

- 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.**

Staff believes that the subject property can be put to a reasonable use under the conditions allowed by the official code without causing undue hardship. The applicant has constructed an 11 ft. by 16 ft. addition to the existing garage and it is located 5 ft. to the dwelling. The applicant has stated that strict adherence to the ordinances would create undue hardship for the property owners by not allowing sufficient storage area for the existing fourplex. Staff cannot find that hardship exists in this case, as the addition could have been constructed in such away to be located at least 6 ft. to the dwelling.

- 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.**

The circumstances upon which the variance is requested have been created by the applicant. The applicant has constructed an 11 ft. by 16 ft. addition to the existing garage and it is located 5 ft. to the dwelling. The applicant has stated that strict adherence to the ordinances would create undue hardship for the property owners by not allowing sufficient storage area for the existing fourplex. Staff cannot find that hardship exists in this case, as the addition could have been constructed in such away to be located at least 6 ft. to the dwelling.

- 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.**

The granting of the variance will not be in keeping with the spirit and intent of the ordinance. The purpose of required yards is to provide for orderly development and use of land and to minimize conflicts among land uses by providing adequate light, air, open space and separation of uses. The applicant has constructed an 11 ft. by 16 ft. addition to the existing garage and it is located 5 ft. to the dwelling. The applicant could have constructed the addition in such away to be located at least 6 ft. to the dwelling.

**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.**

Granting the variance would likely have no impact on the congestion of area streets or fire safety, nor would the proposed garage addition to the existing fourplex dwelling be detrimental to the public welfare or endanger the public safety.

**Findings Required by the Minneapolis Zoning Code – Variance to reduce the minimum south interior side yard from 7 ft. to 1 ft. to allow for a detached garage not located entirely in the rear 40 ft. of the zoning lot:**

**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.**

The applicant is seeking a variance to the south interior side yard setback from 7 ft. to 1 ft. to allow for a newly constructed addition and an existing detached garage to be located outside of the rear 40 feet. The zoning code allows for a reduction of the interior side yard for detached accessory structures, when the entire structure is located in the rear 40 ft. or 20% of the lot. The existing detached garage is located in the rear 40 ft. of the lot. However, the addition to the detached garage now extends 51 ft. from the rear of the lot and therefore the entire structure is required to meet the minimum interior side yard requirement of 7 ft. Strict adherence to the regulations requires a minimum of a 7 ft. interior side setback for the entire accessory structure and would not allow for the recently constructed addition. Staff believes that the detached accessory structure would allow for reasonable use while maintaining the minimum interior side setback.

**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.**

The circumstances upon which the variance is requested have been created by the applicant. The applicant has constructed an 11 ft. by 16 ft. addition to the existing garage and it is located outside of the rear 40 ft. of the lot. The applicant has stated that strict adherence to the ordinances would create undue hardship for the property owners by not allowing sufficient storage area for the existing fourplex. Staff cannot find that hardship exists in this case, as the additional storage area could have been provided in a way that would not require a variance.

**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.**

Staff believes that the granting of the variance will not be in keeping with the spirit and intent of the ordinance. The purpose of required yards is to provide for orderly development and use of land and to minimize conflicts among land uses by providing adequate light, air, open space and separation of uses. Further, staff believes that the detached garage with the addition, having a 33 ft. long wall and located 1 ft. to the south interior side may alter the essential character of the surrounding neighborhood and be injurious to the surrounding property. Staff does not believe the location of the garage addition is appropriate outside of the rear 40 ft. of the lot. The garage and addition are located 1 ft. to the interior side property line and the eaves are located approximately 6” to the property line. There is a walkway on the adjacent property where the roof line. Staff is concerned that stormwater from the roof will directly impact the adjacent neighbor. This, however, may be mitigated through the use of gutters. Staff believes that the detached accessory structure will likely not be injurious to the use or enjoyment of other property in the vicinity, if the detached accessory structure complies with the minimum required south interior yard.

**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.**

Granting of the variance would likely have no impact on the congestion of area streets or fire safety provided the site plan complies with all applicable building codes and life safety ordinances as well as Public Works standards. However, staff believes that the location of the addition may be detrimental to the public welfare and safety, if it is located within the required south interior yard.

**Recommendation of the Department of Community Planning and Economic Development - Variance:**

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 increase the maximum floor area of a detached accessory structure to allow for an addition to an existing detached garage accessory to an existing fourplex for the property located at 3020 10<sup>th</sup> Avenue South in the R4 Multiple-Family District.

**Recommendation of the Department of Community Planning and Economic Development - Variance:**

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 increase the maximum height of a detached accessory structure to allow for an addition to an existing detached garage accessory to an existing fourplex for the property located at 3020 10<sup>th</sup> Avenue South in the R4 Multiple-Family District.

**Recommendation of the Department of Community Planning and Economic Development - Variance:**

Department of Community Planning and Economic Development – Planning Division  
BZZ-4625

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 minimum distance between an accessory structure and a dwelling to allow for an addition to an existing detached garage accessory to an existing fourplex for the property located at 3020 10<sup>th</sup> Avenue South in the R4 Multiple-Family District.

**Recommendation of the Department of Community Planning and Economic Development - Variance:**

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 minimum south interior side yard from 7 ft. to 1 ft. to allow for a detached garage not located entirely in the rear 40 ft. of the zoning lot to allow for an addition to an existing detached garage accessory to an existing fourplex for the property located at 3020 10<sup>th</sup> Avenue South in the R4 Multiple-Family District.

**Attachments:**

- 1) Written descriptions and findings submitted by the applicant
- 2) Copy of letter sent to the neighborhood organization and CM Glidden
- 3) Zoning map
- 4) Site plan
- 5) Building elevations
- 6) Floor plans
- 7) Photographs

## Appeal Transcript BZZ-4625 3020 10th Avenue South

**Matt Perry:** Let's proceed with 3020 10<sup>th</sup> Avenue South. Miss Sether.

**Shanna Sether:** Mr. Chair, Members of the Board. Item number two is for the property located at 3020 10<sup>th</sup> Avenue South. The applicant is the property owner, Daniel Lubbers. He is proposing to legalize an existing addition to a detached accessory garage that's accessory to the existing 4-unit building. As you can see here the proposed site plan with the existing four-plex there is also an existing 22 by 36 detached garage. The applicant constructed an 11 by 16 addition to the existing detached garage which has caused the requirement to apply for four proposed variances. The first variance is to increase the maximum floor area of the detached accessory structure from 863.6 square feet to approximately 968 square feet.

**Matt Perry:** Ms. Sether I'm sorry for interrupting you, can you move that graphic up just a little bit. If everyone's okay, so we know where the existing house is. I'm sorry for the interruption, thank you.

**Shanna Sether:** No problem. Okay. The addition to the garage, as you can see in one of your attached pictures, appears as this. Here is a rendering of the garage. As you can see, it has a shed roof. Although it matches in kind the pitch of the roof, however, the addition to the garage actually has a shed roof. Therefore, the maximum height is measured to the peak of the shed roof and it measures 13 feet 10 inches. The maximum height of a detached accessory garage is 12 feet, for this particular roof type we actually measured to 13 feet 10 inches. The third variance is to reduce the minimum distance between a dwelling, an accessory structure from 6 feet to 5 feet, and the final variance is to reduce the minimum interior side yard setback from 7 feet to 1 foot to allow for the entire accessory structure. The Zoning Code permits a reduction of the interior side yard to 1 foot for the wall 6 inches to the eave when the entire structure is located in the rear 40 feet. The existing structure 22 feet in depth, 18 feet from the alley is exactly 40 feet to the rear property line. The addition of the 11 by 16, or the 11 feet along the south property line now brings the structure outside of the rear 40 feet. Therefore, the entire structure is required to meet the minimum interior side yard structure for any principal structure, or accessory structure on the side rear 40 feet on the zoning lot which is set so the final variance is to reduce from 7 feet down to 1 foot. Staff is recommending denial of the four applications based on the following - I should back up just a moment. As of writing the staff report, staff had not received correspondence from the Powderhorn Park Neighborhood Association, however, we did receive a letter of support in e-mail form and I have the original letter here today from the Director of the Powderhorn Park Neighborhood Association giving their support for the application. In addition to that, the property owner, Daniel Lubbers, also has a petition that he will provide to the Board of Adjustment with support from some of the other neighbors nearby. For the first variance, the variance to increase the maximum area of the detached accessory structure from 863.6 square feet to 968 square feet is recommended for denial by staff based on the following findings: The applicant is seeking a variance to increase the maximum floor area to allow for the 11 by 16 addition to the existing detached garage. The applicant had stated that the purpose of the addition is to allow for additional storage. The applicant is also the property owner and occupies one of the four dwelling units in the four-plex. The other three units are furnished apartments for which the property owner stores things like extra furniture, air conditioning units, and some yard maintenance equipment – snow blowers, lawn mowers. He has stated that the existing detached

garage houses four vehicles, and then there are also three additional parking spaces which you won't see here on the site plan but staff, when we visited the site, identified them adjacent to the alley (unintelligible). The Zoning Code allows for uses, other than single and two-family, to have a maximum floor area for accessory structures as 10 per cent of the lot area. Unlike with a single and two-family, where we require that they match pitch and materials to the house, they're just granted that extra 10 per cent of the lot area. So the maximum floor area allowed for a detached accessory structure, notwithstanding the appearance of the garage, is 863.6 square feet which is 10 per cent of the lot. Staff believes that is sufficient area to allow for storage and the parking of vehicles for the proposed four-plex which would eliminate the need for a variance. The applicant is over that by approximately 105 square feet. Staff believes that the circumstances of the variance have been created by the applicant and not necessarily the property. The maximum floor area for detached accessory structures shall not exceed 10 percent of the lot area, and again, staff believes that 863.6 square feet maximum is sufficient and permitted by the Zoning Code. Further, that granting of the variance may not alter the essential character of the locality or be injurious to the use and enjoyment of the property in the vicinity. However, it does not believe that granting this exception will be within the spirit of the ordinance which already allows for a greater amount of accessory structure based on the use. Staff however, does believe that granting the variance would likely have no impact on the congestion of public streets, and the danger of fire and the proposed addition to the garage to the existing four-plex would not be detrimental to public welfare or a danger to public safety. Staff is recommending denial of the variance to increase the maximum height of the attached accessory structure. As previously mentioned the addition to the garage does follow the same roofline as the gabled roof on the existing garage. This is a view looking from the house looking toward the garage, so it would be facing west, and although this garage is no taller than the existing garage, the spirit is that staff is not recommending approval of the other variances that would allow for the maximum height and further believes that if the pitch is matched, and roof types matched, the opportunity to have an administrative review to increase the overall height of the structure is possible. The roof pitch of the house appears to be a six twelve pitch to a roof pitch of the garage is a (unintelligible) also and that appears to be a four twelve and this addition is classified as shed roof based on its type. And again, the variance would not be required, and it's an administrative process would be allowed to increase floor area and meet the maximum height. It already matches materials – what would have to change is the roof pitch. Staff is recommending denial of the variance to reduce the minimum distance between the accessory structure and the dwelling. Staff believes that the subject property can be put to reasonable use under the conditions allowed by the official Code without causing undue hardship. The applicant constructed the 11 by 16 foot addition to the existing garage and is only located 5 feet from the dwelling. The applicant has stated that strict adherence to the Ordinance would cause undue hardship by not allowing him sufficient storage for the existing four-plex, however staff cannot find that hardship exists in this case as the addition could have easily been constructed 6 feet away from the dwelling, the circumstances for which the variances requested have been created by the applicant. Again, they could have constructed it 6 feet away from the house. Granting of the variance will not be in keeping with the spirit and intent of the Ordinance. The purpose of required yards is to provide for orderly development and separating uses. Having the structure only 5 feet away does not meet the intent of the Ordinance. Staff however, does believe that the composed variance will not substantially increase congestion of public streets, increase the danger of fire or be a detriment to public welfare and public safety. And finally the staff is recommending denial of the

variance to reduce the minimum south interior side yard setback from 7 feet to 1 foot to allow for the detached garage now located entirely in the rear of the subject lot. Staff identified the potential of providing some sort of other accessory structure on the north side of the existing garage, however, that would have eliminated the current outdoor parking area that's provided here. Having the structure constructed somewhere here or somewhere else in the yard would not make the existing structure a nonconforming. Staff has some concerns also about the location of the proposed addition considering this is a 33 foot long wall, only one foot to the property line. The adjacent property is a sidewalk and another detached accessory structure from the neighboring property. Staff is concerned that water sheeting from the addition and existing garage will be detrimental to the walkway area that's between the two properties. However, that could probably be mitigated through the use of gutters. There is potential for (unintelligible) So, to reiterate, staff is recommending denial of the four requested variances all to allow for the 11 by 16 addition to the existing detached garage, and with that I can take any questions.

**Matt Perry:** Mr. Sandberg and Mr. Manning and Mr. Ditzler.

**Dick Sandberg:** Thanks Mr. Chair. Ms. Sether, in the staff report the first paragraph under "Background", is it a four stall garage?

**Shanna Sether:** Yes.

**Dick Sandberg:** The photos look like it's a three stall garage.

**Shanna Sether:** Oh, I apologize, that's an error, it's a three car garage.

**Dick Sandberg:** Okay, thank you.

**Matt Perry:** Mr. Manning, then Mr. Ditzler.

**Bruce Manning:** Do you know if the applicant was required to pull a building permit to construct the accessory structure and if the applicant did do so or did not do so?

**Shanna Sether:** Yes, the applicant hired Sussel Construction to construct the existing detached garage. All of that detached garage is in compliance with the building permit that was required. I believe it was constructed right around 2004 - the current structure, not the addition. The addition would require a building permit. The applicant did not receive a building permit to construct the addition.

**Bruce Manning:** Thank you Ms. Sether.

**Matt Perry:** Mr. Ditzler.

**Matt Ditzler:** To touch on briefly what Mr. Sandberg pointed out, in your testimony did you say that there were four cars in this garage and it's only a three car garage?

**Shanna Sether:** It's only a three car garage.

**Matt Ditzler:** Is there, I can't tell from the photos if the parking area, excuse me, if the apron between the garage, the apron between the garage and the alley - is there, what is the surface of that?

**Shanna Sether:** It is asphalt and it is a permitted area to park temporarily. It is 18 feet in depth so it does allow for parking area behind the garage.

**Matt Ditzler:** Is that (unintelligible) analysis to the impervious surface percentages on this lot?

**Shanna Sether:** Staff did not do those calculations for this particular application, however, in this particular zoning district the amount for impervious surface is quite high.

**Matt Ditzler:** It is. Okay.

**Shanna Sether:** I believe it's still 85 percent maximum for impervious surface.

**Matt Perry:** Other questions for staff? I see none. Is the applicant present? Would you care to speak? If you'd state your name and address for the record.

**Daniel Lubbers:** Good afternoon. I'm Daniel Lubbers, I own the property at 3020 and 3022 10<sup>th</sup> Avenue South. I live at the 3022 address which is the main floor, right now there's two upper floors and a lower floor. I basically have no storage because I have a third floor apartment and a basement apartment. The only storage I have is in the garage. Four or five people use the yard itself. Right now currently I have parking for all my tenants on the property. No cars park on the street (unintelligible) If I lose my storage that would mean one of my cars is going to come out of the garage and be parked in the parking lot so I can store the furniture and that means that one of my cars (unintelligible) ... parking this close to the Midtown Exchange parking is a premium (unintelligible) with all the merchants and the traffic from Midtown. I've owned the property for almost 27 years. I've lived (unintelligible) I went through the roughness of the 90's when the Chicago neighborhood was very, very tough - I toughed it out, I put a lot of money in my property, I feel (unintelligible) homeowner with (unintelligible). I'm block captain on two occasions. I'm currently block captain. I have petitioned with the south property owner being the first signature on the petition. This (unintelligible) is my first signature on the petition. His family bought their building in December 1959 and he past away 20 years ago just last March. (unintelligible) kept the building and he had no problem with the current garage. Since the pictures were taken there is a gutter that goes from the whole length of the garage (unintelligible) the water to the alley. If we look at here, you can see the gutter right here. But since this picture was taken I've added the gutter over here with a one inch flow going downwards so the water would drain towards the alley. Currently this sidewalk and steps are 10 inches on my property - I have no problem with that. We have (unintelligible) with one another. Going back to the petition, one of the other signatures on the petition is Jan Little, which is line number 7 here. She's (unintelligible) for the last 15 years. She has no problem with it. I got the neighbors two doors down, which is line number 11 here. Then I've also got the neighbor directly behind me, I'm not sure which line that is. Yeah, here, line number 5. If we go back to looking at the pictures, you look at the front of the property you do not see the garage or the addition I put on. If you go to the back, when you're driving through the alley, it's an L-shaped alley where the actual alley comes like this around the US Bank over here to the north of me, you cannot see the addition at all. And as you look at the terrace over here, where that little door is right where the terrace is, I was on that terrace to take this picture here so you can get an exact look - exactly where the roof line goes. With a patio right here by the service door, which you can see in this picture here, I was told to stop by Inspection. I did not know I was supposed to get a permit for this property to do it myself, unfortunately I was wrong. That's one of the reasons why I'm here I guess. The reason why I did a shed roof was to divert the water to the gutter (unintelligible) to the alley because there'd be no place to

store water to sit right over here and everything. If you look at this picture here that's between the garage (unintelligible) house garage is right here with mine being here to the north and the sidewalk going in between. You can see the current gutter right over here and stuff. The downspout right over here. And then I'd like to ... my neighbor Don Jones here says he (unintelligible).

**Matt Perry:** Well before we have other speakers, have you concluded your testimony? There might be some questions from Board members. Are you done with your testimony or would like to give some more?

**Daniel Lubbers:** Yes.

**Matt Perry:** Questions for the applicant? Mr. Ditzler.

**Matt Ditzler:** Hi, just a quick question. Now that we've determined that it's a three car garage with three cars inside of it, can you state for the record as to whose cars they are? If you have four units in there and only three garage stalls whose cars are they?

**Daniel Lubbers:** I've got three cars myself, and where the small door is there's a 1958 Ford hard top convertible that has \$30,000 paint job stored in that spot. I've got a newer car parked in the middle slot, and there's a '77 Lincoln Town Car parked in the other spot. The car (unintelligible) the newer car would be going out. The Ford (unintelligible) and put the furniture back over here where I had the furniture before I bought the Lincoln Town Car.

**Matt Ditzler:** Thank you.

**Matt Perry:** Are there any other questions of the applicant? I actually have a question. There is a picture of the two garages that you put out. Could you put that out again please?

**Daniel Lubbers:** This one here?

**Matt Perry:** No, it was the one – you're looking down...

**Daniel Lubbers:** That one?

**Matt Perry:** Yes. I'm a little disoriented when I'm looking at this picture. With the garage, the one that's blue, shall we say, that's yours? The white one is your neighbor's? It looks like the white one extends, I don't know if it's further back? I don't know, like I said, I'm a little disoriented.

**Daniel Lubbers:** He's close to the front, I'm going to guess, I didn't measure, but I'm gonna guess.

**Matt Perry:** Oh, it's that one there.

**Daniel Lubbers:** Yes, but he's probably only about 10 feet off the alley edge.

**Matt Perry:** Okay, so can you put that picture up again that you had? So does his garage run all the way, oh no it doesn't, I see, it runs not quite back to those stairs that are going up to the back of this home.

**Daniel Lubbers:** I'm going guess about 20 by 20 or 24 by 24 – it's pretty square.

**Matt Perry:** Okay. Thank you. My curiosity was about that picture and looking at the relationship of the two garages as well as the land and I think you answered my question. Mr. Koch.

**Chris Koch:** You said that one of your cars is a '54 Ford ...

**Daniel Lubbers:** '58 Ford hard top convertible.

**Chris Koch:** So you probably don't drive it all that much.

**Daniel Lubbers:** It's stored until Spring.

**Chris Koch:** That way if someone were to park behind that stall it wouldn't be an inconvenience?

**Daniel Lubbers:** I think right now, if someone has company, there's no rule (unintelligible) he is welcome to park in front of the small garage door.

**Matt Perry:** Any other questions of the applicant? I see none. Thank you sir. Is there anyone else to speak in favor of this application? Step forward and give your name and address for the record.

**Don Jones:** My name is Don Jones and live at 3045 10<sup>th</sup> Avenue South, just south of his property. I've known Dan for, it's actually about 10 years that I've known him and he has a very nice property. He maintains very, very fine integrity there and has great tenants. He's very proud of his property. He's a very big asset and he's been quite instrumental in keeping our neighborhood safe. He's brought order to the area, we've had some very serious problems with crime and drinking and this that and the other and he's been active in the Parkside West Association. So I also come to know Mr. Lubbers since these years I've know him he loves classic cars. Of course this is what precipitated this or there was a storage (unintelligible) and the addition to the garage. I can understand why he couldn't leave those cars outside. It was just too much (unintelligible). He has the space to put them. He'd cut down and his tenants parking which he maintains properly as required. But it's kind of essential to keep those cars under cover because somebody would want a piece of one of them, if not the whole car. That's what I understand precipitated this so on that note I have no problem with it. It's well done. I'm (unintelligible) in construction through the years. I come from an area where the code is much stricter than we have here and he's used all quality materials so it doesn't violate the Zoning Regulations. It doesn't present a safety issue. On that note, I'm going to say that hopefully you'll be granting these variances.

**Matt Perry:** Okay, thank you sir. Mr. Manning did you have a question of the speaker?

**Bruce Manning:** (unintelligible) I have a question at the end.

**Matt Perry:** Okay, go ahead.

**Bruce Manning:** Thank you sir for talking with us today. Was the property a four-plex when you purchased it?

**Daniel Lubbers:** It was a legal duplex in 1983, May 26 on the (unintelligible) when I closed on the property. In 1989 I was in front of this Board and I upped the zoning to a legal tri-plex. And then I was again in front of this Board about 4 years ago now and I upped it to a legal tri-plex (sic) to utilize the fourth apartment in the basement

which was there, but wasn't basically zoned. As you can I see I put money into it trying to keep up the neighborhood the best that I could. (unintelligible) I like the people, commercial, I like the property, I like the freeway system that's like (unintelligible).

**Bruce Manning:** Can you tell me sir if, was there a garage on the property at one point?

**Daniel Lubbers:** There was a garage constructed in 1924 after the structure for \$300. Hip roof – all four sides of the garage had a roof with two single doors and it was sitting at about a 90-degree angle to the alley. I didn't have (unintelligible) and put a garage door on it and I was so tired of the garage being so rickety because the doors weren't closing, it was collapsing and went like this. My uncle built (unintelligible) on the alley side for the garbage cans before (unintelligible) until I started renovation on the property. (unintelligible)

**Bruce Manning:** Thank you.

**Matt Perry:** I actually have a couple of questions and maybe I missed this unless someone else can answer the questions. Maybe it's in the material and I overlooked it, but I looked there and just didn't see it. What has sparked, right now, this need for additional storage. Clearly you've been storing a lot of stuff already. So what ...

**Daniel Lubbers:** When I purchased the property I was driving a '79 Town Car and I missed the big Town Car days where the luxury cars were huge and for the last two years I've been looking around, looking for another big Town Car of that vintage. Then I bought the '77 three months ago. That's what put this whole operation in gear.

**Matt Perry:** I see, so the purchase of another classic car, I'll say classic car, has displaced the storage area that you need and so rather you went forward to try to find a way to cover, or add storage for that area that now has a car, part of the car covering it. Is that true?

**Daniel Lubbers:** Yes.

**Matt Perry:** Okay. Where do the tenants park?

**Daniel Lubbers:** They've got the three parking spots on ...

**Matt Perry:** In front?

**Daniel Lubbers:** If you look right here, it's really hard to see but I call this parking spot number 4, which is like an overflow only for the winter. This is spot number 3, there's a parking curve here which you can't really see there's a 3 on, as well as the three over here in the parking lot. Parking spot number 1 at an angle, you can see this parking at an angle over here? That would be 1, 2, 3 and the overflow parking.

**Matt Perry:** Okay, great.

**Daniel Lubbers:** So there's one spot for each unit.

**Matt Perry:** Alright. Those are the two questions I had and thank you very much for answering them completely. Alright. Is there anyone else to speak in support of this application? I see none. Is there anyone to speak against? I see no one.

We're going to close the public hearing and so at this point the Board can we talk?  
Board comment?

**Daniel Lubbers:** Can I make one more comment?

**Matt Perry:** Sure.

**Daniel Lubbers:** One thing I would like to mention. I did go above the codes that I have to go as far as for fireproofing. On the inside I've got 5 inch fire rock screwed to the 2 by 4's on the inside. There's also outdoor fire rock 5/8 attached to the outside with a cement floor which I believe is another (unintelligible). If a car should start on fire, or

Dick's house should start on fire, or my house start on fire, it would take three hours to burn through to get out of the garage (unintelligible) as far as storing my cars.

**Matt Perry:** As I said, the public hearing is closed. Board comment? Mr. Finalyson.

**John Finlayson:** The storage issue, I start to look at what's available in the principal structure and in this case there's nothing available because there rented spaces and the applicant himself put the storage capacity out of the basement by turning it into a unit and so in essence, that defense of storage – it doesn't work for me. And then an initial vehicle was purchased and that bumps everything into this new structure. So again, I don't see the hardship. The necessity was caused by the actions of the applicant.

**Matt Perry:** Thank you for your comments Mr. Finlayson. Mr. Ditzler.

**Matt Ditzler:** I would concur with Board Member Finalyson. The four-plex is, the Code is clear that (unintelligible) states an exception, gives the property owner more ... (end of tape side A) ... by his own admission that creates the resident capacity of this property multiple times and has eliminated the storage that was there. In addition to that, the storage that he did have, that he built the fantastic garage out back, that he has chosen to store his own personal property there as opposed to anything that has to do with his rental business or income. There are plenty of other options to safely store those vehicles elsewhere and this definitely doesn't constitute a hardship as far as the Code is concerned. I also agree with John that he absolutely has created it himself. And so for that, at this point I cannot find for the applicant. I will support staff on this motion.

**Matt Perry:** Thank you Mr. Ditzler. Mr. Koch.

**Chris Koch:** This is how I view it - I was desperately trying to find a way to side with the applicant. He's a good guy as far as what he has done to keep this thing safe. He's a good neighbor, he's a good citizen, but it's just, even as staff said, there's an alternative to the mass and to the size and everything to meet the staff (unintelligible). Your lack of storage, whether you created it or not, is their way where you could have gotten and probably wouldn't have even needed to get a variance at all. And as much as I've wanted to just let this one go, (unintelligible) I just can't make a decision about that based on, as much as I want to, none of the findings, I couldn't in good conscious make up findings and then next week when someone says, you know what, I want to build a 5-car garage because I need storage. I couldn't do that.

**Matt Perry:** Okay. Mr. Gates.

**Paul Gates:** Just briefly, I'll echo Mr. Koch's comments. By appearances and the applicant's statement, and from the neighbor's statement the applicant is really an exemplary landlord and the City needs landlords like that, so I think (unintelligible) here in the City. But we do operate, need to operate here under the legislation which requires that we find this thing a hardship associated with the property, side structure, something about the lot or the building that constitutes hardship, and I have to concur with others that there isn't anything that's distinct about the property or the building that hasn't been exacerbated by the applicant's own modifications or adding units, things like that which would reduce the traditional storage in the attic and the basement or the garage. So I need to concur with Members on the Board and I think with that I will move that we adopt staff recommendation and deny the variance.

**Matt Perry:** The variances

**Paul Gates:** The variances – all four variances.

**Dick Sandberg:** I'll second that.

**Matt Perry:** There's a second by Mr. Sandberg. Would you like to add any comments Mr. Sandberg?

**Dick Sandberg:** No. I'd also like to add that I'm sorry that we're here after the fact and that I agree that, I feel bad for this situation, but I reviewed the staff findings and all 12 of them that affect this project I think I would agree with, so I have concur.

**Matt Perry:** Is there any further discussion? Mr. Manning.

**Bruce Manning:** Just very briefly. I looked at all 12 findings I could probably find for the applicant on a handful of them. The presence of the US Bank butting up against Lake Street makes this a property that you probably don't see that often. The City has decided to let this become a four-plex. I'm not sure I see an analytical difference between the applicant and the applicant if he had (unintelligible) something else, or the garage (unintelligible). Unfortunately those two items don't defeat any sufficient collection of the four findings such that I can find in favor of any of the variances. I should say that I think that the shed roof is a good solution here, frankly and I find the Code by and large unnecessarily harsh to shed roofs and I am terribly sympathetic with the applicant. I'm also going to support the motion but in a glum kind of sad way. That's it.

**Matt Perry:** Alright. I think everybody has spoken except for me, and I typically don't speak. But I will add this. Just for clarity I think staff has probably explained this to the applicant and as the Board knows, even if we find for some of the findings that's not sufficient to grant a variance. We have to find for all of the findings. So with that I'll have the Clerk please call the roll"

**Clerk:** Mr. Ditzler?

**Matt Ditzler:** Yes.

**Clerk:** Mr. Finlayson?

**John Finalyson:** Aye.

**Clerk:** Mr. Gates?

**Paul Gates:** Aye.

**Clerk:** Mr. Koch?

**Chris Koch:** Yes.

**Clerk:** Mr. Manning?

**Bruce Manning:** Yes.

**Clerk:** Mr. Sandberg?

**Dick Sandberg:** Yes.

**Clerk:** Motion passes.

**Matt Perry:** Those variance requests, all four are denied. Mr. Lubbers you can talk with staff after the hearing to see what your options are going forward. I want to take just a moment also to say what others have said here today. On behalf of the City your commitment to the City, the quality of your service as a landlord and this is no way a reflection on those things. So we wish you good luck.