



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

Date: January 22, 2004

To: Council Member Gary Schiff, Zoning and Planning Committee

Prepared by: Carrie Flack, Senior City Planner

Presenter in Committee: Carrie Flack, Senior City Planner

Approved by: Blake Graham, Interim Director, Planning \_\_\_\_\_

**Subject:** Appeal of the decision of the Zoning Board of Adjustment by Gerry and Jeanne Nichols

**BZZ 1515** – 5832 Oakland Avenue South – Gerry and Jeanne Nichols have applied for a variance to reduce the north interior side yard setback from the required 6 ft. to 2 ft. to allow for the construction of a 24 ft. x 22 ft. attached garage, a variance to increase the maximum permitted width of a driveway from 25 ft. to 37 ft. to allow for a 9 ft. x 18 ft. parking pad on the south side of an attached garage and a variance to allow a parking pad within 6 ft. of a dwelling structure.

**RECOMMENDATION:** The Board of Adjustment adopted the staff recommendation and approved the variance to reduce the north interior side yard setback from the required 6 ft. to 2 ft., denied the variance to increase the maximum permitted width of a driveway from 25 ft. to 37 ft. and denied the variance to allow a parking pad within 6 ft. of a dwelling structure at the December 10, 03 Board of Adjustment meeting.

**Previous Directives:**

**Financial Impact** (Check those that apply)

- No financial impact - or - Action is within current department budget.  
(If checked, go directly to Background/Supporting Information)
- Action requires an appropriation increase to the Capital Budget
- Action requires an appropriation increase to the Operating Budget
- Action provides increased revenue for appropriation increase
- Action requires use of contingency or reserves
- Other financial impact (Explain):
- Request provided to the Budget Office when provided to the Committee Coordinator

**Community Impact**

Ward: 11

Neighborhood Notification: Hale, Page &amp; Diamond Lake Community Association

City Goals: N/A

Comprehensive Plan: N/A

Zoning Code: Chapter 525 Administration and Enforcement

Living Wage/Job Linkage: N/A

Other: N/A

**Background/Supporting Information**

Gerry and Jeanne Nichols 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 deny the requested variance to increase the maximum permitted width of a driveway from 25 ft. to 37 ft. to allow for a 9 ft. x 18 ft. parking pad on the south side of an attached garage and a variance to allow a parking pad within 6 ft. of a dwelling structure.

The appellant has stated that the decision is being appealed because the alternative that was suggested at the Board of Adjustment meeting that would not require a variance is not as desirable of an option. The appellant's complete statement of the action being appealed and reasons for the appeal is attached.

At the December 10, 2003 Zoning Board of Adjustment meeting six (6) Board members were present. All six members present voted to adopt the staff recommendation and denied the variance to increase the maximum permitted width of a driveway from 25 ft. to 37 ft. and denied the variance to allow a parking pad within 6 ft. of a dwelling structure at the December 10, 03 Board of Adjustment meeting. The minutes from the December 10, 2003 Zoning Board of Adjustment meeting are not available due to technical difficulties. Discussion by the Board involved an alternative plan that allowed for the parking pad to be installed without a variance and lack of hardship for the requested variance. The Board of Adjustment hearing actions are included below and the Planning Department staff report is attached.

**8. 5832 Oakland Avenue South (BZZ-1515, Ward 11)**

Gerry and Jeanne Nichols have applied for a variance to reduce the north interior side yard setback from the required 6 ft. to 2 ft. to allow for the construction of a 24 ft. x 22 ft. attached garage, a variance to increase the maximum permitted width of a driveway from 25 ft. to 37 ft. to allow for a 9 ft. x 18 ft. parking pad on the south side of an attached garage, and a variance to allow a parking pad within 6 feet of a dwelling structure located at 5832 Oakland Avenue South.

**BOARD OF ADJUSTMENT ACTION:**

Ms. Bloom motioned to adopt the staff recommendation and **approve** the variance application to reduce the north interior side yard setback from the required 6 ft. to 2 ft. to allow for the construction of a 24 ft. x 22 ft. attached garage, **deny** the variance to increase the maximum permitted width of a driveway from 25 ft. to 37 ft. to allow for a 9 ft. x 18 ft. parking pad on the south side of an attached garage, and **deny** the variance to allow a parking pad within 6 ft. of a dwelling structure. Mr. Rand seconded the motion.

**Roll Call Vote:**

Yeas: Bloom, Fields, Finlayson, Gates, Rand, Von Bargaen

Nays: None

Absent: Johnson, Lasky, Morgan

The Board of Adjustment adopted the staff recommendation and **approved** the variance to reduce the north interior side yard setback from the required 6 ft. to 2 ft. to allow for the construction of a 24 ft. x 22 ft. attached garage, **denied** the variance to increase the maximum permitted width of a driveway from 25 ft. to 37 ft. to allow for a 9 ft. x 18 ft. parking pad on the south side of an attached garage, and **denied** the variance to allow a parking pad within 6 ft. of a dwelling structure subject to the following conditions:

1. The Planning Department shall review and approve the final site and elevation plans.

## Community Planning and Economic Development - Planning Division Report

Variance Request  
BZZ-1515

**Date:** December 10, 2003

**Applicant:** Gerry and Jeanne Nichols

**Address of Property:** 5832 Oakland Avenue South

**Date Application Deemed Complete:** November 17, 2003

**End of 60 Day Decision Period:** January 16, 2004

**Contact Person and Phone:** Gerry Nichols, 612-861-5964

**Planning Staff and Phone:** Carrie Flack, 612 673-3239

**Ward:** 11      **Neighborhood Organization:** Hale, Page & Diamond Lake Community Association

**Existing Zoning:** R1, Single family district

**Proposed Use:** Construction of an attached garage with adjacent parking pad to an existing attached garage.

**Proposed Variance:** A variance to reduce the north interior side yard setback from the required 6 ft. to 2 ft. to allow for the construction of a 24 ft. x 22 ft. attached garage, a variance to increase the maximum permitted width of a driveway from 25 ft. to 37 ft. to allow for a 9 ft. x 18 ft. parking pad on the south side of an attached garage, and a variance to allow a parking pad within 6 ft. of a dwelling structure.

**Zoning code section authorizing the requested variance:** 525.520 (1) (8) (8)

**Background:** The subject site is approximately 64 ft. x 121 ft. (7,744 sq. ft.) and consists of a single family dwelling with an attached single car garage. The applicant is proposing to construct a 24 ft. x 22 ft. garage addition onto the existing single car garage to create a new two-car garage. The total garage square footage proposed is approximately 762 sq. ft. and the applicant is allowed a maximum of 774 sq. ft. of accessory structure floor area. The existing garage is located 5 ft. from the north interior property line. The proposed new garage addition will be 2 feet from the north interior property line. The required side yard setback is 6 ft. The new garage addition will be located approximately 3 ft. closer to the north property line than the existing garage. The new garage addition consists of a roof pitch that matches the dwelling and will be finished with brick materials, which is compatible with the existing brick finish of the dwelling. The applicant is also proposing to construct a 9 ft. x 18 ft. parking pad on the south side of the new attached garage that will be constructed with pavers. The proposed driveway width that will be accessed from the alley is approximately 37 ft. wide.

The applicant obtained a building permit from the city to construct the attached garage. After the footings for the garage were poured, the inspector discovered the setback issue. City staff re-evaluated the project and discovered the driveway width and parking pad issues as well. Therefore,

the applicant is now seeking approval of these variances to complete the construction of the attached garage and parking pad.

**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.

**North interior side yard setback:** The applicant is seeking a variance to reduce the north interior side yard setback from the required 6 feet to 2 ft. to allow for the construction of an attached garage onto an existing attached garage. The applicant states that the location of the proposed garage avoids blocking views from the back door of the dwelling and an existing deck, preserving site lines in the backyard. Strict adherence to the regulations requires a 6 ft. north interior side yard setback.

**Driveway width:** The applicant is seeking a variance to increase the maximum permitted width of a driveway from 25 ft. to 37 ft. to allow for a 9 ft. x 18 ft. parking pad on the south side of the new attached garage. The applicant states that the parking pad is necessary as a third parking space for his daughter in the future. Strict adherence to the regulations limits the driveway width to 25 ft.

**Open parking space within 6 ft. of a dwelling:** The applicant is seeking a variance to allow an open parking pad adjacent to the new attached garage. As the garage is attached to the dwelling, it is considered to be part of the dwelling and thus is subject to the same requirements of the dwelling. Therefore, a variance is necessary to allow a parking pad within 6 ft. of a dwelling. The applicant states that the parking pad is necessary as a third parking space for his daughter in the future. The applicant also states that locating the parking pad 6 ft. from the dwelling structure would place the parking pad in the middle of the yard, which detracts from the usable area of the back yard. Strict adherence to the regulations requires the parking pad to be located further than 6 ft. from the dwelling structure.

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.**

**North interior side yard setback:** The conditions upon which the variance is requested are unique to the parcel of land. The required north interior side yard setback is 6 ft. The existing garage is setback 5 ft. from the south property line. The new garage addition will project 3 ft. further north than the existing garage. The applicant states that the option to extend south two feet to match the alignment of the existing attached garage and dwelling is not as desirable since extending in that direction will diminish views into the back yard from an existing back door.

**Driveway width:** The conditions upon which the variance is requested are not unique to the parcel of land. The applicant states that the parking pad is necessary as a third parking space for his daughter in the future. With the addition of the new attached garage, the property will consist of three covered parking spaces that comply with the maximum floor area

allowed for accessory structures. The need for more storage space or additional parking is not a unique condition of the parcel of land.

**Open parking space within 6 ft. of a dwelling:** The conditions upon which the variance is requested are not unique to the parcel of land. The applicant states that the parking pad is necessary as a third parking space for his daughter in the future. The applicant also states that locating the parking pad 6 ft. from the dwelling structure would place the parking pad in the middle of the yard, which detracts from the usable area of the back yard. With the addition of the new attached garage, the property will consist of three covered parking spaces that comply with the maximum floor area allowed for accessory structures. The need for more storage space or additional parking is not a unique condition of the parcel of land.

- 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.**

**North interior side yard setback:** Granting the variance would be in keeping with the spirit and intent of the ordinance and would not alter the character of the area or be injurious to the use or enjoyment of other property in the area. Staff believes that the design of the garage is complimentary to the existing dwelling and attached garage. The roof pitch and materials of the new attached garage match the roof pitch and materials of the existing attached garage and dwelling.

**Driveway width:** Granting the variance would not be in keeping with the spirit and intent of the ordinance and would alter the character of the area or be injurious to the use or enjoyment of other property in the area. The subject property is 70 ft. wide at the rear of the lot. With the increased driveway width and adjacent parking pad, half of the width of the lot in the rear yard will be covered with impervious surfaces. Staff does not believe that providing parking for 4 vehicles is in keeping with the intent of the ordinance or consistent with the character of the area.

**Open parking space within 6 ft. of a dwelling:** Granting the variance would not be in keeping with the spirit and intent of the ordinance and would alter the character of the area or be injurious to the use or enjoyment of other property in the area. The subject property is 70 ft. wide at the rear of the lot. With the increased driveway width and adjacent parking pad, half of the width of the lot in the rear yard will be covered with impervious surfaces. Staff does not believe that providing parking for 4 vehicles is in keeping with the intent of the ordinance or consistent with the character of the area.

- 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.**

**North interior side yard setback:** Granting the variance will likely have no impact on the congestion or public streets or fire safety nor would the new attached garage be detrimental to the public welfare or endanger the public safety.

**Driveway width:** Granting the variance will likely have no impact on the congestion or public streets or fire safety nor would the new attached garage be detrimental to the public welfare or endanger the public safety.

**Open parking space within 6 ft. of a dwelling:** Granting the variance will likely have no impact on the congestion or public streets or fire safety nor would the new attached garage be detrimental to the public welfare or endanger the public safety.

**Recommendation of the City Planning Department:**

The City Planning Department recommends that the Board of Adjustment adopt the findings above and **approve** the variance to reduce the north interior side yard setback from the required 6 ft. to 2 ft. to allow for the construction of a 24 ft. x 22 ft. attached garage, **deny** the variance to increase the maximum permitted width of a driveway from 25 ft. to 37 ft. to allow for a 9 ft. x 18 ft. parking pad on the south side of an attached garage, and **deny** the variance to allow a parking pad within 6 ft. of a dwelling structure subject to the following conditions:

1. The Planning Department shall review and approve the final site and elevation plans.