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MEMORANDUM

DATE: June 12, 2003

TO: Council Member Gary Schiff, Chair, Zoning & Planning Committee and Members of the Committee

FROM: Carrie Flack, City Planner

SUBJECT: Appeal of the decision of the Zoning Board of Adjustment by Joni Babinski and Thomas Hanks

Joni Babinski and Thomas Hanks, owners of properties located at 1601, 1603 and 1605 11th Avenue South, have filed an appeal of the decision of the Zoning Board of Adjustment. The appeal is associated with the decision of the Zoning Board of Adjustment to approve the variance to increase the maximum permitted height of an accessory structure from the permitted 12 feet to 16 feet 6 inches to allow for the construction of a detached garage on a 17,250 square foot site zoned R5, Multiple-family District.

Ms. Babinski and Mr. Hanks have also included information regarding the appealing of the decision to approve the location of the accessory structure on the rear property line as shown on the plan submitted by Mr. Koch. However, the proposed garage will comply with the required setbacks for the R5 District. Therefore, no variances for the garage location are necessary as the location is permitted per the Zoning Ordinance. Ms. Babinski and Mr. Hanks also request that the Board of Adjustment's decision denying a variance to increase the maximum permitted floor area of an accessory structure from 1,000 square feet to 1,612 square feet be affirmed. The Board of Adjustment's decision approving a variance for the driveway is not being appealed by Ms. Babinski and Mr. Hanks.

The appellants are appealing the decision of the Zoning Board of Adjustment to approve the requested height variance to allow for the construction of a detached garage. The appellants have indicated that this action is being appealed for several reasons. First, the appellants believe that the granting of this variance is not consistent with the size and scale of any of the garages on neighboring properties. Second, the appellants believe that the granting of the variance is injurious to the use and enjoyment of their properties as the increased height will block sunlight and views to their properties. And third, the appellants believe that the variance granted fails to meet the required findings in the Minneapolis Code. The appellant's complete statement of the action being appealed and reasons for the appeal are attached.

At the May 7, 2003 Zoning Board of Adjustment meeting, seven Board members were present. Six of the Board members voted to approve the variance application and one Board member recused himself. The actions from the May 7, 2003 Zoning Board of Adjustment meeting are attached.

HEARING AGENDA

Minutes

May 7, 2003

Minneapolis Board of Adjustment:

Ms. Debra Bloom - Absent
Mr. David Fields
Mr. John Finlayson
Mr. Paul Gates
Ms. Tonia Johnson
Ms. Marissa Lasky
Mr. Barry Morgan - Absent
Mr. Peter Rand
Ms. Gail Von Bargaen

HEARING

926 13th Ave. S. (BZZ-1134, Ward 7)

Keith K. Koch has applied for a variance to increase the maximum permitted floor area of an accessory structure from 1,000 square feet to 1,664 square feet to allow for a 32-foot by 52-foot detached garage, a variance to increase the maximum permitted height of an accessory structure from the permitted 12 feet to 19 feet (approximately 58 percent of the height of the structure to which it is accessory) and a variance to increase the maximum permitted width of a driveway from 25 feet to 57 feet at 926 13th Ave. S.

Staff, Ms. Flack stated that the variances noticed for this property have been reduced. After applicant filed the application they did revise the plans and reduced the variance requests. The area and height of the garage were reduced based on revisions to the plan that the applicant made and the applicant now seeks a variance to allow for a 1,612 square foot garage that is 16 feet 6 inches in height with a driveway apron that is 45 feet in width.

Testimony:

Keith Koch, 926 13th Ave. S. suggested an additional compromise on the square footage of the garage by further changing the depth of the garage from 32 feet to 28 feet which reduces the request for the variance from 1,612 square feet to 1,420 square feet. Mr. Koch realizes that storage is not normally recognized as a hardship. Mr. Koch states that the roof pitch has to be 10/12. If the garage needs to be even narrower in depth, the second floor becomes unusable space. Mr. Koch is asking for the variance so that the second floor could actually be used. There are dormers incorporated into it to fit the characteristic of the neighborhood. Therefore, that space could be used for storage. Mr. Koch's rationale for the need of a four-car garage is that the structure is a duplex with two three-bedroom apartments. Mr. Koch stated that is typical to rent to others who have two to three cars, including Mr. Koch and his wife, who have two cars. It is consistent with the neighborhood's need to get parking off the street being that we do live in a neighborhood that has a lot of institutions such as, churches, dome and North Central University. Mr. Koch stated that in the last two years they have had several break-ins and last summer every one of the cars in his parking lot was broken into all

at one time. This winter a car was stolen at gunpoint. This garage variance does not create precedence of any significant size. There are only 80 properties over 15,000 square feet in size within Minneapolis altogether that are duplex or triplex in nature. Mr. Koch also requested leniency on the condition requiring compatible materials. Mr. Koch stated that stucco adds significant costs to the construction of the garage and that the existing garage is lap sided with wood. Mr. Koch asked to incorporate the same compatible colors as the house with vinyl siding to make it attractive without a lot of maintenance. The house itself was never intended to be stucco. Originally it was lap sided. Characteristics of neighborhood include two story garages, five-car garage directly behind, and there is a three-car garage carport.

Opposition:

Joni Babinski, 1601 11th Ave. S. also owns 1603/1605 11th Avenue South. Ms. Babinski stated that until she got the notice she did not know a thing about this. At 1601 there are two houses and some people say that the house in the back is a carriage house, which it is not. It was a house that was in Elliot Park and when they created the park they moved it to our lot. The fellow that built it then built our house in front. So there are two actual duplexes. We have nice decks on the back of all of our duplexes and all of them will be affected because we will lose the east sun. 1603 is 25 feet tall; the garage will be 23 feet tall. We not only lose all of our afternoon sun because of the high rises across the street. Now we will lose our morning sun. How do you rent a house that does not have any sun. Ms. Babinski stated that it makes it hard to sell and to rent. Ms. Babinski stated we have over 25,000 square feet of property on that block. We have a little over 400 square feet for storage. That is all we need. With 18 units that is all we need for storage. This is right on our lot line. I can see the potential for lots of problems.

Tom Hanks, 1601 11th Ave. S. stated the height of the building is exactly the height of the four surrounding duplexes as proposed. It seems a little erroneous to have a garage the size of a commercial building in a residential neighborhood.

Tismal Crow, 1605 11th Ave. S. has a small garden plot in the back yard and it is very dependent on a certain amount of sunlight. He further stated that when the garage is constructed, it will block out the light and I will be living in the bottom of a canyon. None of these plants will be able to grow and I use these as part of my work. I have a couple of birds that also need the light. We are totally blocked out by the monstrosity across the street that is Augustana Homes for one half of the day and this garage will block out the morning light. I will move out of the neighborhood that I enjoy living in if this garage is built.

Board of Adjustment member comments:

Ms. Lasky loves the design and believes that it can be constructed within 1,000 square feet. She further stated that the roof truss design is a hardship being created by the applicant and that a different roof truss design could be used. It is not a hardship to the property. The design is great. Additional storage is not a hardship.

Staff, Ms. Watson answered question about height that would be allowed without a variance is 12 feet.

Mr. Rand stated that the whole premise has been maximizing what kind of space can be achieved. Everything can be scaled down. There just would not be as much storage space.

Mr. Gates looked at the orientation and stated that it does not seem to him that a garage at 16 feet high would shade property to the west significantly more than a garage which may be within the normal 12 foot guidelines for more than a few minutes in the morning. Mr. Gates further stated that the staff recommendation was a pretty good median between the rights of the applicant and that of the neighbors. Mr. Gates stated that to put on a very flat roof on that garage is not within keeping the design of the house.

Ms. Lasky stated that she opposes vinyl siding. She proposed that the front facing façade be stucco and the sides be lap siding to match the color of the house.

Mr. Gates stated that he believes there have been times when we have held the applicant to a higher aesthetic standard when coming here for a variance. We should hold them to that code standard. He further stated that they are asking for a very big garage on the site and we should not stand for it being unattractive in any way.

BOARD OF ADJUSTMENT ACTION:

Mr. Gates motioned to adopt staff findings to **deny** the variance to increase the maximum permitted floor area of an accessory structure from 1,000 square feet to 1,612 square feet to allow for a 32 foot by 52 foot detached garage, **approve** the variance to increase the maximum permitted height of an accessory structure from the permitted 12 feet to 16 feet 6 inches and **approve** the variance to increase the maximum permitted width of a driveway from 25 feet to 45 feet. Ms. Von Barga seconded the motion.

ROLL CALL VOTE:

Yeas: Finlayson, Gates, Lasky, Rand, Von Barga, Johnson

Nays: None

Recused: Fields

Absent: Bloom and Morgan

The Board of Adjustment adopted the staff findings and **denied** the variance to increase the maximum permitted floor area of an accessory structure from 1,000 square feet to 1,612 square feet to allow for a 32 foot by 52 foot detached garage, **approved** the variance to increase the maximum permitted height of an accessory structure from the permitted 12 feet to 16 feet 6 inches (approximately 47 percent of the height of the structure to which it is accessory), and **approved** the variance to increase the maximum permitted width of a driveway from 25 feet to 45 feet all subject to the following three conditions:

1. The Planning Department shall review and approve the final site and elevation plans.
2. The exterior building materials used for the garage shall be compatible to the exterior building materials of the house.
3. The existing garage shall be removed.

Minneapolis City Planning Department Report

Variance Request
BZZ-1134

Date: May 7, 2003

Applicant: Keith Koch

Address of Property: 926 13th Avenue South

Date Application Deemed Complete: April 21, 2003

End of 60 Day Decision Period: June 20, 2003

Contact Person and Phone: Keith Koch, 612-333-3289

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

Ward: 7 **Neighborhood Organization:** Elliot Park Neighborhood, Inc.

Existing Zoning: R5, Multiple-family District

Proposed Use: Construction of 4 car garage with attached storage shed.

Proposed Variance: A variance to increase the maximum permitted floor area of an accessory structure from 1,000 square feet to 1,664 square feet to allow for a 32 foot by 52 foot detached garage, a variance to increase the maximum permitted height of an accessory structure from the permitted 12 feet to 19 feet (approximately 58 percent of the height of the structure to which it is accessory) and a variance to increase the maximum permitted width of a driveway from 25 feet to 57 feet.

NOTE: All of the variances as noticed are now different. The applicant revised the plans and now seeks a variance to allow for a 1,612 square foot garage that is 16.5 feet in height with a driveway apron that is 45 feet in width.

Zoning code section authorizing the requested variance: 525.520 (3) (4) (8)

Background: The subject site is 17,250 square feet and consists of a 3-story duplex (2 3BR units). The applicant is proposing to construct a 1,612 square foot 4-car garage with an attached shed that is approximately 52 feet wide x 32 feet deep (9.3% of the lot area). The proposed garage has a 10/12 roof pitch, which is slightly less than the 12/12 roof pitch of the house. The garage is approximately 16.5 feet tall, approximately 47 percent of the height of the structure to which it is accessory. The added height from the 10/12 roof pitch in addition to the additional garage depth, accommodates a pre-fabricated truss system that will allow for the two proposed window dormers and will also allow for some potential storage on the second level. The front elevation consists of 4 garage doors that are 9 feet wide each, two dormers in the roofline, and the door to the shed portion of the garage. The garage is proposed to be vinyl siding which is not consistent with the stucco materials of the existing dwelling.

In addition, the applicant is proposing to maintain a gravel parking area adjacent to the garage that is approximately 37 feet x 56 feet. The driveway isle from the street is 11 feet in width. However, the apron in front of the garage is about 45 feet in width and the parking area narrows to the existing 37 feet in width. The variance request is for the apron width. The additional area provides parking spaces for visitors.

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.

Maximum permitted floor area: The applicant is requesting a variance to increase the maximum permitted floor area for an accessory structure from 1,000 square feet to 1,612 square feet. The applicant stated that the 1,000 square foot maximum would hinder the usefulness of the garage structure to meet the storage and parking needs of the 4-5 adults typically living on the property. The applicant stated that the depth of the garage was dictated by a prefabricated truss size for a 10/12 roof pitch that also accommodates the window dormers. The width of the garage was dictated by the number of garage stalls being provided. Additional hardships stated by the applicant address the lack of storage for the many items needed to maintain a 17,250 square foot property with a 3-story house. Strict adherence to the regulations would allow the applicant to construct a 4 car garage that is approximately 45 feet wide x 22 feet deep. Additional storage to accommodate the residents needs do not constitute a hardship.

Maximum permitted height: The applicant is requesting a variance to increase the maximum permitted height of an accessory structure from the permitted 12 feet to 16 feet 6 inches. Originally, the applicant's plans proposed a garage that was 19 feet high. The applicant has revised the proposed plans and reduced the height to 16.5 feet, 47 percent of the height of the principal structure. Strict adherence to the regulations would cause the proposed garage to increase the roof pitch to match the 12/12 roof pitch of the house and create a taller garage.

Maximum driveway width: The applicant is requesting a variance to increase the maximum permitted width of a driveway from 25 feet to 45 feet. The applicant is proposing to maintain the existing parking area on the property that is approximately 37 feet wide x 56 feet long. The applicant states that due to the width of the 4 stall garage (44.5 feet), a 25 foot wide driveway would prevent the use of two of the stalls. The driveway apron in front of the garage would need to be about 45 feet wide at the entrance of the garage tapering to 37 feet where it is presently. Strict adherence to the regulations would cause the proposed driveway apron to the garage to be reduced, which would eliminate access to two of the garage stalls.

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.

Maximum permitted floor area: The conditions upon which the variance is requested are unique to the parcel. The lot size, location, use, and surrounding uses and zoning, are unique to the property and variance request. Although, the need for more storage space is not unique to the parcel of land, the 1,000 square foot maximum limits the size of the garage to a 45 foot wide x 22 foot deep garage which would allow for minimal storage. The maximum floor area of all detached accessory structures shall not exceed 676 square feet or 10% of the lot area not to exceed 1,000 square feet. The applicant's lot is 17,250 square feet. Ten percent of the lot area would allow for a garage that is 1,725 square feet. However, 1,000 square feet is the maximum allowable area regardless of the size of the property. A 4 car garage can be accommodated in a building that is 45 feet wide x 22 feet deep.

Maximum permitted height: The conditions upon which the variance is requested are unique to the parcel. The roof pitch of the house is 12/12 and the proposed garage has a 10/12 roof pitch. Matching the roof pitch of the house would only further increase the height of the garage.

Maximum driveway width: The conditions upon which this variance is requested are unique to the parcel. The garage width is 44.5 feet to accommodate 4 garage stalls. The site plan proposes a driveway apron approximately 45 feet wide in front of the doors that tapers to 37 feet wide for the parking area. A reduction in driveway width would not allow for appropriate access to 2 of the garage stalls.

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.**

Maximum permitted floor area: The proposed garage size is not in keeping with the spirit and intent of the ordinance as 1,000 square feet is the maximum allowable floor area. However, the proposed garage will not alter the essential character of the surrounding neighborhood. The applicant's property is 17,250 square feet in size, is located adjacent to the freeway at a dead end street, and is surrounded by multifamily structures that vary from 3 stories to 8 stories in height. The applicant has submitted evidence that garages in excess of two stalls and two stories exist on adjacent properties. The applicant's design proposed garage design respects the architectural design of the structure to which it is accessory and would be in keeping with similar structures in the neighborhood.

Maximum permitted height: Staff believes that the proposed height of the garage will not alter the essential character of the surrounding neighborhood which consists of several multifamily buildings in excess of three stories. The roof pitch of the existing house is 12/12 and the proposed garage has a 10/12 roof pitch. Increasing the roof pitch to match that of the house would only increase the height of the garage. The materials for the garage consist of vinyl siding which is not consistent with the stucco materials of the applicant's structure. Staff recommends that the garage incorporate stucco materials that are consistent with the existing structure. With staff's recommendation the garage design is consistent with the architectural character of the house. Staff believes that the garage design is in keeping with the neighborhood and will not be injurious to the use or enjoyment of other property in the vicinity.

Maximum driveway width: Staff believes that the proposed driveway and parking area will not alter the essential character of the surrounding neighborhood. The garage and driveway design are consistent with the architectural character of the house and the parking area currently exists. Staff believes that the garage design is in keeping with the neighborhood and will not be injurious to the use or enjoyment of other property in the vicinity.

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.**

Maximum permitted floor area: Granting the variance would likely have no impact on the congestion of area streets or fire safety, nor would the proposed garage be detrimental to the public welfare or endanger the public safety.

Maximum permitted height: Granting the variance would likely have no impact on the congestion of area streets or fire safety, nor would the proposed garage be detrimental to the public welfare or endanger the public safety.

Maximum driveway width: Granting the variance would likely have no impact on the congestion of area streets or fire safety, nor would the proposed driveway 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 **deny** the variance to increase the maximum permitted floor area of an accessory structure from 1,000 square feet to 1,612 square feet to allow for a 32 foot by 52 foot detached garage, and **approve** the variance to increase the maximum permitted height of an accessory structure from the permitted 12 feet to 16 feet 6 inches (approximately 47 percent of the height of the structure to which it is accessory), and **approve** the variance to increase the maximum permitted width of a driveway from 25 feet to 45 feet all subject to the following conditions:

1. The Planning Department shall review and approve the final site and elevation plans.
2. The exterior building materials used for the garage shall be compatible to the exterior building materials of the house.
3. The existing garage be removed.