



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

Date: June 8, 2006

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

Referral to: Zoning and Planning Committee

Subject: Appeal of the Board of Adjustment action denying variances to allow for a new four-dwelling unit, multi-family structure located at 813 East 21st Street (BZZ-2929).

Recommendation: The Board of Adjustment adopted the staff recommendation and denied the following variances: a variance to reduce the required east interior side yard setback from 7 ft. to 6 ft. and a variance to reduce the required west interior side yard setback from 7 ft. to 6 ft. all to allow a new four-dwelling unit, multi-family structure located at 813 East 21st Street in the R4 Multiple Family District.

Previous Directives: N/A

Prepared or Submitted by: Shanna Sether, City Planner, 612-673-2307

Approved by: Jack Byers, Planning Supervisor, 612-673-2634

Presenters in Committee: Shanna Sether, City Planner

Financial Impact (Check those that apply)

- No financial impact (If checked, go directly to Background/Supporting Information).
- Action requires an appropriation increase to the _____ Capital Budget or _____ Operating Budget.
- Action provides increased revenue for appropriation increase.
- Action requires use of contingency or reserves.
- Business Plan: _____ Action is within the plan. _____ Action requires a change to plan.
- Other financial impact (Explain):
- Request provided to department's finance contact when provided to the Committee Coordinator.

Community Impact (use any categories that apply)

Ward: 6

Neighborhood Notification: Ventura Village was notified of this application by e-mail sent on March 28, 2006.

City Goals: See staff report.

Comprehensive Plan: See staff report.

Zoning Code: See staff report.

Living Wage/Job Linkage: Not applicable.

End of 60/120-day Decision Period: On May 11, 2006, the applicant was provided a letter extending the decision period to no later than July 26, 2006.

Other: Not applicable.

Background/Supporting Information Attached: Jerone Mitchell, dba Infinite Developers, applied for a variance to reduce the east interior side yard setback from 7 feet to 6 feet and a variance to reduce the west interior side yard setback from 7 feet to 6 feet to allow for the construction of a new four-dwelling unit, multi-family structure located at 813 East 21st Street in the R4 Multiple Family District. The Board of Adjustment denied both variances on April 20, 2006. The Board voted 4-3 to deny both variance requests. The applicant filed an appeal of the decision of the Board of Adjustment on April 28, 2006. The April 20, 2006, Board of Adjustment minutes are not available due to a malfunction with the recording system. The Planning Division staff report is attached.

**Department of Community Planning and Economic Development - Planning
Division**

Variance Application

BZZ - 2929

Date: April 20, 2006

Applicant: Infinite Developers, Inc.

Address of Property: 813 21st Street East

Contact Person and Phone: Jerone Mitchell, 612-282-1500

Planning Staff and Phone: Shanna Sether, 612-673-2307

Date Application Deemed Complete: March 28, 2006

Public Hearing: April 20, 2006

Appeal Period Expiration: May 1, 2006.

End of 60 Day Decision Period: May 30, 2006

Ward: 6 **Neighborhood Organization:** Ventura Village

Existing Zoning: R4 Multiple Family Residence District

Proposed Uses: A new multiple family dwelling containing four (4) dwelling units.

Proposed Variances: There are six (6) proposed variances, all are to allow a four-dwelling unit, multi-family structure located at 813 21st Street East in the R4 Multiple-family District:

- Variance to reduce the required front yard setback along 21st Street East from 15 ft. to 7 ft.
- Variance to reduce the required east interior side yard setback from 7 ft. to 6 ft.
- Variance to required west interior side yard setback from 7 ft. to 6 ft.
- Variance to increase the maximum area of a detached accessory structure from 676 sqft. to 966 sq ft.
- Variance to reduce the required east side yard setback from 7 ft. to 1 ft. for a detached accessory structure
- Variance to reduce the required rear yard setback from 7 ft. to 1 ft. for a detached accessory structure

Zoning code section(s) authorizing the requested variance: 525.520 (1) and (3)

Background: The subject property is on an interior lot, approximately 50 ft. by 134 ft. (6,700 sq. ft.). The applicant plans to construct a new multiple family structure containing four (4) dwelling units. The minimum required front yard setback along 21st Street East is 15 ft. in the R4 District. The applicant is proposing to construct the new four-dwelling unit, multi-family structure in the same line with the adjacent structures, 7 ft. to the front property line. The proposed structure is 2 ½ stories in height, therefore the interior side yard setbacks are 7 ft. The applicant is proposing a structure 38 ft. wide on a lot that is 50 ft. wide and is proposing to locate the structure 6 ft. from the east interior side property line and 6 ft. from the west interior side property line.

The applicant is proposing a 23 ft. by 42 ft. (966 square foot), 4-stall detached garage towards the rear of the lot. The minimum parking requirement for a new four-unit dwelling is 4 parking stalls. The zoning code allows 676 square feet for a detached accessory structure or 10 percent of the lot area up to 1000 square feet, whichever is greater. The based on the size of the lot, 6720 square feet, applicant would be allowed a maximum 676 square foot garage.

The applicant is proposing to locate the 966 square foot detached garage 1 ft. to the east interior side property line and 1 ft. to the rear property line. A garage located entirely in the rear 40 feet of the lot may have reduced setbacks of 1 ft. to the side and rear property lines. However, the proposed garage projects 3 feet outside of the rear 40 feet and must meet the district setback of 7 ft. from the east side property line and rear property line. The applicant has proposed to locate the garage 1 ft. to the east interior side property line and 1 ft. to the rear property line; therefore this request will require a variance to reduce the east interior side yard setback and a variance to reduce the rear yard setback.

The proposed four-unit structure is subject to administrative site plan review. Preliminary review indicates that the design as currently proposed would receive 23 points (15 required) for providing a detached garage, a basement, a stucco exterior, 20% windows facing 21st Street East, 10% windows on the sides and rear, a roof pitch of 6/12 or steeper, and an open front porch of at least 50 square feet. The applicant is still required to apply for Administrative Site Plan Review.

The proposed 4-dwelling unit, multiple family structure will also be subject to Public Works review.

Findings Required by the Minneapolis Zoning Code:

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

Front yard setback: The applicant has requested a variance to reduce the required front yard setback along 21st Street East from 15 ft. to 7 ft. to allow for the construction of a new four-dwelling unit residential structure with a detached garage. The adjacent duplex to the east of the subject property is setback 3 ft. from the front property line and the adjacent triplex to the west of the subject property is setback 7 ft. from the front property line. The proposed location of the four-plex will match the existing setback to the triplex to the west at 7 ft. to the front property line from the Strict adherence to the regulations requires that the entire dwelling is constructed behind the district front yard setback of 15 ft., which is inconsistent with the adjacent dwellings.

East and west interior side yard setbacks for the principal structure:

The minimum lot width for a multiple family dwelling in the R4 District is 40 ft. Strict adherence to the regulations would not allow for the new four-plex as proposed.

The subject property is 50 ft. wide. The applicant is seeking a variance to reduce the east and west interior side yard setbacks from the required 7 ft. to 6 ft. to accommodate the proposed 38 foot wide structure. Staff believes that construction of a residential structure 36 ft. wide is possible and would allow reasonable use of the property. A 36 foot wide structure would not require a variance to reduce the interior side yard setbacks.

Maximum square footage of an accessory structure: The applicant is proposing to construct a new four-plex, which requires 4 parking stalls. The applicant is seeking a variance to increase the maximum permitted size of a detached accessory structure from 676 sq. ft. to 966 sq. ft. to allow for 4 garage spaces. Complying with the 676 sq. ft. maximum floor area for an accessory structure would prohibit the applicant from providing one enclosed parking space per dwelling unit, however, with the addition of a parking area adjacent to the detached garage would allow the parking requirement to be met and would allow for reasonable use of the property.

East interior side yard and rear yard setbacks for the parking area: The Zoning Ordinance requires a minimum of 4 off-street parking stalls for the proposed use. Off street parking stalls are not required to be in enclosed. Strict adherence to the code would not allow for the parking area to be located within 1 ft. to the side and rear property lines when it is located outside of the rear 40 ft. of the lot.

The applicant is seeking variance to reduce the east interior side and rear yard setbacks to allow for an enclosed parking area outside of the rear 40 ft. of the lot. There is alley access that terminates at the rear of the subject property and the adjacent lot, putting constraints on the maneuverability of the site.

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

Front yard setback along 21st Street East: The circumstances upon which the front yard setback variance is requested are unique to the parcel of land due to the location of the adjacent dwellings on the lot and the applicants desire to maintain the existing established setback. The location of the adjacent structures and the configuration of the lots are not circumstances created by the applicant.

East and west interior side yard setbacks for the principal structure: The applicant is requesting the side yard variances for a 38 ft wide residential structure and the property is approximately 50 ft. wide. The Zoning Ordinance states that a structure must be a minimum of 22 wide and the minimum building width and the minimum lot width for a multiple family dwelling is 40 ft. Staff believes that a 36 ft. wide, four-unit structure is a reasonable use of the property.

Maximum square footage of an accessory structure: The subject property is zoned R4 and the proposed use is for four new dwelling units. The minimum parking requirement for residential use is 1 parking stall per dwelling unit. Therefore a total of four parking spaces are required. The Zoning Ordinance does not require that the parking area is enclosed. The proposed detached garage allows for 4 enclosed parking spaces which meets the parking requirement. The relationship of the rear forty feet of the property to the dead-end alley are circumstances that are unique to the parcel of land and were not created by the applicant. However, it is the applicant's desire to provide enclosed parking for all four spaces that suggests the need for a variance; this is a circumstance that has been created by the applicant.

East interior side yard and rear yard setbacks for the parking area: The circumstances are unique to the parcel of land and have not been created by the applicant. The Zoning Ordinance requires 1 parking stall per dwelling unit. The proposed use as a four-plex will require 4 parking spaces. The lot has an alley that terminates at the rear lot line of the subject property and the adjacent lot. The parking requirement, existing alley access and maneuverability of vehicles in the alley on the site are not circumstances created by the applicant.

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

Front yard setback along 21st Street East: Staff believes the new four-plex on the lot will not alter the essential character of the surrounding neighborhood. The area is zoned R4 and consists primarily of duplexes and multiple family dwellings of three or more units. Staff believes that the new four-plex on the lot will not be injurious to the use or enjoyment of other property in the vicinity because it is of a similar use.

East and west interior side yard setbacks for the principal structure: Staff believes the construction of the new four-plex with the reduced side yard setbacks on the east and west interior sides may alter the essential character of the surrounding neighborhood. Granting this variance could be injurious to the enjoyment of the adjacent property because structure would be located closer to the adjacent residential structures than would otherwise be permitted by the zoning code.

Maximum square footage of an accessory structure: Staff believes the granting of the variance will not be in keeping with the spirit and intent of the ordinance and will alter the essential character of the surrounding area. Staff is generally concerned about accessory structures that exceed the maximum floor area requirements particularly since the principal structure is relatively large compared to most structures in this neighborhood. The structure walls of the principal dwelling and garage will line the entire east property line, walling it off from the other structures on the block that also have their parking area located in the same vicinity. This condition would be particularly troublesome given that the three properties that share the eastern property line are smaller than average lots.

East interior side yard and rear yard setbacks for the parking area: Staff believes the granting of the variance will be in keeping with the spirit and intent of the ordinance and will alter the essential character of the surrounding area. The Zoning Ordinance requires a minimum of 4 off-street parking stalls for the proposed use. Similarly, the neighborhood is comprised of a majority of multiple family dwellings with parking areas located in the rear.

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

Front yard setback along 21st Street East: Granting the setback variance would likely have no impact on the congestion of area streets or fire safety, nor would the proposed construction be detrimental to the public welfare or endanger the public safety.

East and west interior side yard setbacks for the principal structure: Granting the side yard setback variances and the minimum lot width variance would likely have no impact the congestion of area streets or fire safety, nor would the proposed structure be detrimental to the public welfare or endanger the public safety. A 3 ft. or greater setback of the building from the property line will allow for windows per the Building Code (*Section 302.1 2000 IBC*).

Maximum square footage of an accessory structure: Granting the variance could have impact on congestion of area streets and could be detrimental to the public welfare or public safety. These conditions would be likely due to the decreased maneuverability of vehicles on the site, thereby inhibiting visibility onto the site because of a solid wall of garages around the property. Granting the variance will likely have no impact on fire safety.

East interior side yard and rear yard setbacks for the parking area: Granting the setback variance would likely have no impact on the congestion of area streets or fire safety, nor would the proposed construction be detrimental to the public welfare or endanger the public safety.

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

The Department of Community Planning and Economic Development - Planning Division recommends that the Board of Adjustment adopt the above findings and

- **Approve** the variance to reduce the required front yard setback along 21st Street East from 15 ft. to 7 ft.,
- **Deny** the variance to reduce the required east interior side yard setback from 7 ft. to 6 ft.,
- **Deny** the variance to required west interior side yard setback from 7 ft. to 6 ft.,
- **Deny** the variance to increase the maximum area of a detached accessory structure from 676 sqft. to 966 sqft.,

- **Approve** the variance to reduce the required east side yard setback from 7 ft. to 1 ft. for a **for a parking area**, and
- **Approve** the variance to reduce the required rear yard setback from 7 ft. to 1 ft. **for a parking area**

all to allow for a new four-dwelling unit, multi-family structure, located at 813 21st Street East in the R4 Multiple-family District, subject to the following condition:

1. Review and approval of the final site and elevation plans in compliance with site plan review requirements for 1-4 unit dwelling units by CPED - Planning before building permits may be issued.