

Department of Community Planning and Economic Development - Planning Division Report**Variance Request
BZZ-3432****Date:** June 7, 2007**Applicant:** Richard Laumer (property owner)**Address of Property:** 3116 44th Street West**Contact Person and Phone:** Richard Laumer, (612) 922-3440**Planning Staff and Phone:** Aaron Hanauer, (612) 673-2494**Date Application Deemed Complete:** May 8, 2007**Public Hearing:** June 7, 2007**Appeal Period Expiration:** June 18, 2007**End of 120 Day Decision Period:** June 22, 2007**Ward:** 13 **Neighborhood Organization:** Linden Hills Neighborhood Council**Existing Zoning:** R1A, Single-Family District**Proposed Use:** Construction of home addition and attached rear garage with roof top deck.**Proposed Variances:**

- Variance to reduce the west interior side yard setback from 5 ft. to 3 ft. 5 in.
- Variance to reduce the rear yard setback from 5 feet to 1 foot

Zoning code section authorizing the requested variance: 525.520 (1) (1)**Background:** The Board of Adjustment heard the applicant's original variance request on April 19, 2007. At that meeting, the Board of Adjustment voted 6 to 1 to deny the following variance requests:

- Variance to allow an attached garage to exceed 676 square feet
- Variance to reduce the east interior side yard setback from 5 feet to 3.5 feet
- Variance to reduce the west interior side yard setback from 5 feet to 3 feet
- Variance to reduce the rear yard setback from 5 feet to 0.18 feet

and not allow for the construction of home addition and the attached rear garage with roof top deck.

At the April 19th public hearing, it was determined that the applicant was applying for two variances rather than four. The west side yard variance was withdrawn at the public hearing. Also during the

public hearing, the garage size variance was determined not needed if an interior door attached the house to the office/shop space.

The subject property, 3116 West 44th Street, is a substandard, slightly irregularly shaped (angled rear yard property line), R1A Zoning District lot that measures 45 ft. by 98 ft. by 46 ft. by 102 ft. (4,500 square feet). A standard R1A lot is 5,000 square feet and typically measures 40 ft. x 125 ft. The principal structure is 1½ stories and was built in 1918. This property has an existing, rear, detached, two-car garage that measures 20 ft. 2 in. x 18 ft. 8 in. (380 sq. ft.) which is accessed by a public easement from Xerxes Avenue.

The property owner is proposing to demolish the existing garage, excavate the rear yard, and construct a 10 ft. x 24 ft. (240 sq. ft.), rear, home addition. The addition would be for a kitchen expansion, first floor laundry room, and improved entrance to the basement. Connected to this home addition would be a new, 405 sq. ft. office/shop space and a 604 sq. ft. (21 ft. x 28 ft. 9 in.), two-car garage. Above the office/shop and garage would be a roof-top deck.

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.**

Interior side yard setback variance: The applicant has requested a variance to reduce the east interior side yard setback from 5 ft. to 3 ft. 5 in. to allow for the home addition and attached garage (with roof top deck). Staff recognizes as a hardship the location of the garage at 3124 West 44th Street. The neighboring garage obstructs 18 ft. 2 in. of the subject property's rear property line, which leaves fewer options for building a rear garage.

Rear yard setback variance: The applicant has requested a variance to reduce the rear yard setback from 5 ft. to 1 foot to allow for the home addition and attached garage (with roof top deck). Strict adherence to the zoning code requires that the proposed garage be 5 ft. from the property line. Staff recognizes two potential hardships on this lot, that being, a substandard lot depth of 102 ft. (125 ft. is typical for an R1A Zoning District) and the angled, rear property line. However, staff believes design alternatives exist, and the applicant can build the home addition and garage without requiring the variance.

- 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.**

Interior side yard setback variance: The circumstance upon which the east side yard setback variance is requested that is unique to the parcel of land and has not been created by the applicant is the location of the garage at 3124 West 44th Street. The location of this garage

obstructs 18 ft. 2 in. of the subject property's rear property line, which leaves fewer options for building a rear garage.

Rear yard setback variance: There are two circumstances upon which the rear yard setback variance is requested that are unique to the parcel of land. First, the subject property has a substandard lot depth, 102 feet; a standard R1A Zoning District lot is 125 feet deep. Second, the angled, rear property line. Staff recognizes these two unique circumstances. However, staff believes that the applicant created the circumstances upon which this variance is requested by choosing the proposed design and that alternative designs exist that would not require this 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.**

Interior side yard setback variance: Granting of the variance for the proposed project will be in keeping with the spirit and intent of the ordinance. In addition, staff believes that granting of the variance will not negatively alter the essential character of the locality due to the minimal visibility of the deck from public streets. Finally, staff believes that the proposed project will not be injurious to the eastern adjacent property at 3114 West 44th Street for two reasons. First, the maximum height of the proposed addition is 9 feet above grade. Second, the roof top deck will be located 16 ft. from the corner of the neighboring home.

Rear yard setback variance: Granting of the variance for the proposed project will not be in keeping with the spirit and intent of the ordinance because this variance is not necessary to build an attached two-car garage, home addition, and roof-top deck. The applicant states that they are seeking this rear yard setback variance to “keep the structure as “aligned” as possible with the adjacent buildings to maintain visual continuity, a request by the owners of the easement.”

Staff also believes that granting the variance could potentially be injurious to the use and enjoyment of other properties in the area, in particular 3124 West 44th Street. The proposed garage to 1 foot of the rear property line will likely continue to make maneuvering of vehicles for the subject property and 3124 West 44th Street awkward. If the setback for the proposed garage was increased to 5 ft., which is the required distance for rear garages that have a garage door facing the rear property line, it would provide additional maneuvering room for the subject property and 3124 West 44th Street.

Staff believes that granting the variance may not alter the essential character of the locality due to the proposed deck's minimal visibility from public streets.

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.**

Interior side yard setback variance: Granting of the variances would have no impact on the congestion of area streets or fire safety (if built to building code regulations), nor would the variances be detrimental to the public welfare or endanger the public safety.

Rear yard setback variance: Granting of the variance will likely have no impact on the congestion of area streets or fire safety (if built to building code regulations). However, staff believes granting the rear yard variance may potentially be detrimental to the public welfare of 3124 West 44th Street by allowing the maneuvering of the vehicles in the easement to continue to be awkward. The awkwardness is caused by the garages being at a near 90 degree angle so close to one another. If the setback for the proposed garage was increased to 5 ft., which is the required distance for rear garages that have a garage door facing the rear property line, it would provide additional maneuvering room for the subject property and 3124 West 44th Street.

Recommendation of the Department of Community Planning and Economic Development:

The Department of Community Planning and Economic Development (CPED)–Planning Division recommends that the Board of Adjustment adopt the findings above and

- **Approve** the variance to reduce the east interior side yard setback from 5 feet to 3.5 feet.
- **Deny** the variance to reduce the rear yard setback from 5 feet to 1 ft.

and allow for the construction of a home addition and attached garage with roof top deck at 3116 West 44th Street in the R1A, Single-Family District subject to the following conditions:

1. That the Planning Division-CPED review and approve the final site plan, floor plans, and elevation. All drawings will be measured to an architect or engineer's scale.

Attachments:

- Zoning map (1 page)
- Statement of proposed use (2 pages)
- Applicant photos (6 pages)
- Existing and proposed survey (2 pages)
- Elevations and floor plans (5 pages)
- 3116 West 44th Street topography (1 page)
- Aerials (1 page)
- Letter of support (2 pages)
- Board of Adjustment April 19, 2007 Actions (1 page)
- Board of Adjustment April 19, 2007 staff report for 3116 West 44th Street (4 pages)