

Department of Community Planning and Economic Development – Planning Division

Variance Request
BZZ-3545

Date: May 17, 2007

Applicant: Todd Heilicher, on behalf of the property owner

Address of Property: 93 Nicollet Street

Contact Person and Phone: Todd Heilicher, (763) 797-0456

Planning Staff and Phone: Brian Schaffer, (612) 673-2670

Date Application Deemed Complete: April 26, 2007

Public Hearing: May 17, 2007

Appeal Period Expiration: May 27, 2007

End of 60 Day Decision Period: June 25, 2007

Ward: 3 **Neighborhood Organization:** Nicollet Island-East Bank Neighborhood Association

Existing Zoning: R3 Multiple Family District & MR Mississippi River Critical Area Overlay District

Proposed Use: A 16.5 ft by 16.5 foot two story rear addition

Proposed Variance: A variance to decrease the southeast interior side yard setback from 5 feet to 3 feet 10 inches to allow for a rear two story addition to a single family dwelling at 93 Nicollet Street in the R3 Multiple Family District and the MR Mississippi River Critical Area Overlay District.

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

Background: The size of the subject site is 25 ft. x 102 ft. (2,550 sq. ft.) The property is contributing property to the St. Anthony Falls Historic District. The property owner is proposing to build a two and a half story addition to the rear of the existing single family. The existing single family dwelling is located 2 feet 6 inches from the southeast property line and 4 feet 4 inches from the south property line.

The applicant is proposing to remove a one story rear addition added to the structure in 1990. In its place the applicant is proposing to construct a two story rear addition with a one story porch with roof top deck. The proposed addition will be 16 feet 6 inches deep and 16 feet 6 inches wide. The one story porch will be 6 feet deep and 12 feet 10 inches wide. The proposed addition will be offset 1 foot 4

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inches from the existing southeast building wall and will be 3 feet 10 inches from the southeast interior side property line.

Section 531.30(2.a.) of the Minneapolis Code of Ordinances allows for additions along existing building walls of single family dwellings when the dwelling is non conforming due to setbacks as long as the existing building wall is three (3) from the property line.

Single and two-family dwellings nonconforming as to side and rear yards only. A single or two-family dwelling nonconforming as to side and rear yards only shall have all the rights of a conforming structure, provided the structure is located not closer than three (3) feet from the side and rear lot line, and provided further that the structure shall not be enlarged, altered or relocated in such a way as to increase its nonconformity. For the purposes of this section, the extension of a single or two-family dwelling along the existing setback or the addition of a second story or half-story shall not be considered as increasing its nonconformity, provided the portion of the structure within the required side or rear yard comprises at least sixty (60) percent of the length of the entire structure, and provided further that the structure shall not be enlarged, altered or relocated within the required front yard and all other requirements of this zoning ordinance are met.

The International Residential Code (IRC) prohibits openings, including windows and doors, in walls that are closer than three (3) feet to the property line. Due to the IRC and Minneapolis Ordinance requirements the applicant is proposing to build the addition at 3 feet 10 inches from the north property line.

The subject site is located on Nicollet Island and is in the St. Anthony Falls Historic District. The proposed addition requires a Certificate of Appropriateness from the Heritage Preservation Commission. This will be heard by the Heritage Preservation Commission on May 15, 2007.

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.**

The applicant has requested a variance to reduce the required southeast interior side yard setback from 5 feet to 3 feet 10 inches to allow for a two story addition to the rear of the dwelling. The lot is 25 feet wide and substandard in width. The existing house is nonconforming to the southeast interior side yard, located only 2 feet 4 inches to the property line. Staff believes the addition is a reasonable use of the property and recognizes the hardship on the property created by the location of the subject dwelling and narrowness of the lot.

- 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 conditions upon which the setback variance is requested are unique to the parcel. As previously mentioned, the variance is to allow for a two story addition to the rear of the dwelling. The lot is 25 feet wide and is substandard in width. However, the existing house is nonconforming to the north interior side yard, located only two feet eight inches to the property line. The subject site does not have alley access and requires driveway access to garage located to the rear of the dwelling. These circumstances are unique to this parcel and were not 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.**

Staff believes that the two story addition to the single-family dwelling will not alter the essential character of the surrounding neighborhood or be injurious to the use or enjoyment of other property in the vicinity. The proposed addition will be stepped back 1 foot 4 inches from the existing north building wall and will extend 16 feet 6 inches. The impact of the additional mass along the southeast building wall is most experienced by the dwelling to the southeast, 91 Nicollet Street. This dwelling is setback approximately 12 feet from the property line. Staff believes this distance will mitigate much of the impact of the additional mass.

The adjacent dwelling to the southeast has a rear two story addition and the proposed addition on the subject dwelling will be similar in design and footprint. Staff does not believe the construction of the addition as proposed will alter the essential character of the neighborhood or 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.**

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

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

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the findings above and **approve** the variance to decrease the southeast interior side yard setback from 5 feet to 3 feet 10 inches to allow for a rear two story addition to a single family dwelling at 93 Nicollet Street in the R3 Multiple Family District and the MR Mississippi River Critical Area Overlay District with the following condition:

1. CPED-Planning review and approve final site plan, floor plans, and elevations.