

**Department of Community Planning and Economic Development –
Planning Division Report**

Variance Request
BZZ-3783

Date: October 11, 2007

Applicant: Jeffrey Magnuson

Address of Property: 3010 West 43rd Street

Contact Person and Phone: Jeffrey Magnuson, (952) 656-4475

Planning Staff and Phone: Erik Carlson, (612) 673-5348

Date Application Deemed Complete: September 11, 2007

Hearing Date: October 11, 2007

Appeal Period Expiration: October 22, 2007

End of 60 Day Decision Period: November 9, 2007

Ward: 13 **Neighborhood Organization:** Linden Hills Neighborhood Council

Existing Zoning: R1/ Single Family District

Proposed Use: Single-stall garage

Proposed Variance: To decrease the side yard setback from 6 feet to 3.8 feet

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

Background: The subject property includes a single family home and a detached one-stall garage. They are located on a 10,317 SF lot. There is no alley access. The lot abuts four other lots. Please refer to maps in the appendix for the position of those lots relative to the subject lot. The existing garage which measures 14 feet wide and 19 feet long is 3.8 feet from the east interior lot line. It was built in 1907.

The applicant is proposing a new single-stall garage 16 feet wide and 22 feet long setback the same distance as the existing garage from the east interior property line (3.8 feet). The proposed garage would be 1 foot shorter than the existing garage.

This proposed garage does not meet setback regulations. The applicable sections of the zoning code below trigger the variance and also dictate location options for the proposed garage.

535.280. Obstructions in required yards. *Interior side yards for detached buildings accessory to dwellings.* The interior side yard requirement for a detached accessory building may be reduced to one (1) foot when the entire accessory building is located in the rear forty (40) feet or rear twenty (20) percent of the lot, whichever is greater, provided that the principal structure on the adjoining lot has its rear wall at least forty (40) feet from the rear lot line.

The proposed garage is not in the rear 40 feet on the yard (which is greater than 20 percent of the lot). If it were relocated to the rear 40 feet of the yard with a 3.8 foot setback, a variance would still be required because the home 4240 Washburn Avenue S has its rear wall less than 40 feet from the rear property line of the subject property. Therefore, to avoid a variance the proposed garage cannot be closer than 6 feet to the east interior property line for the entire length of the lot.

Furthermore, in this case the *rear* lot line of the subject property abuts the *side yard* of 4236 Washburn Avenue S, so the following regulation also applies to the subject lot.

535.280 Obstructions in required yards. *Rear yards for detached buildings accessory to dwellings.* The rear yard requirement for a detached accessory building may be reduced to one (1) foot, except where vehicle access doors face the rear lot line, in which case no reduction of the required yard is permitted. Further, where a rear yard abuts a required side yard no reduction of the required yard is permitted unless the entire accessory building is located in the rear forty (40) feet or rear twenty (20) percent of the lot, whichever is greater, and is located behind the rear wall of the principal structure on the adjacent property to the rear.

The result is that applicant cannot build a garage within 1 foot of the rear lot line unless the garage is behind the home at 4236 Washburn Avenue South. For most properties, garages in the side yard setback (down to a foot) in the rear 40 feet of the lot are legal. Exhibit 1 shows the setbacks on the property.

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.**

A one-stall garage is a reasonable, indeed required structure for a residential lot. However, there is no hardship. Even with more restrictive setback regulations that apply to this property as shown in Exhibit 1, a one-stall garage can be constructed on

the lot without a variance. The possibility of compromising the design and beauty of the yard resulting from 4.2 foot change does not constitute a hardship.

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 arrangement of lots and homes on adjacent properties which requires the application of more setback regulations of the subject property is unique. This has not been created by any persons presently having interest in the property.

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.**

An intent of the setback ordinance is to provide separation between buildings and a degree of privacy between neighbors. The proposed garage is visually blocked by landscaping, a fence and another garage. Privacy is maintained. Granting of the variance would be in keeping with the spirit and intent of the setback ordinance because the

The proposed garage would not alter the essential character of the neighborhood because it would occupy the same location and would be approximately the same size as the existing garage which, due to its age, is a part of the neighborhood character. Other garages in the vicinity of the proposed garage are in close proximity to their respective homes. Also the proposed garage would be located at the rear of adjacent lots where one would expect a neighbor's garage to be placed. The proposed garage would not alter the essential character of the locality.

Given the modest size of the garage, its location at the rear of adjacent lots and the fact this its visual impact is mitigated due to landscaping, fence and another garage, the proposed garage would not be injurious to the use or enjoyment of other property in the vicinity. However, the proposed garage may cause harm to a significant tree on the neighbor's property.

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.**

The proposed variance would not substantially increase the congestion of public streets because it is automobile garage. The location of the proposed garage would

not increase the danger of fire or be detrimental to the public welfare or endanger the public safety.

Recommendation of the Department of Community Planning and Economic Development

The Department of Community Planning and Economic Development recommends the Board of Adjustment **adopt** the findings above and **deny** the variance application to decrease the side yard setback from 6 feet to 3.8 feet to allow for a single-stall garage.

Appendix A: Maps and Aerials

Appendix B: Application Material

Exhibit 1: Setback diagram

Appendix A

Appendix B

Exhibit 1