

**Department of Community Planning and Economic Development – Planning Division**  
Variance  
BZZ-4399

**Date:** June 11, 2009

**Applicant:** Haven Stephens and Davis Klaila

**Address of Property:** 704 Cedar Lake Road S

**Project Name:** Addition

**Contact Person and Phone:** Haven Stephens and Davis Klaila, (612) 374-0952

**Planning Staff and Phone:** Aly Pennucci, (612) 673-5342

**Date Application Deemed Complete:** May 5, 2009

**End of 60-Day Decision Period:** July 3, 2009

**Ward:** 7      **Neighborhood Organization:** Bryn Mawr Neighborhood Association

**Existing Zoning:** R1A Single Family Residence District

**Zoning Plate Number:** 17

**Legal Description:** Not applicable for this application

**Proposed Use:** Addition to single family residence

**Variance:** A variance to reduce the north interior side yard setback from 5 feet to 3.2 feet to allow for an addition and new attached garage to the rear of an existing single family home located at 704 Cedar Lake Road S in the R1A Single Family Residence District

**Applicable zoning code provisions:** Chapter 525, Article IX Variances, Specific Section 525.520(1) “to vary the yard requirements, including permitted obstructions into required yards not allowed by the applicable regulations.”

**Background:** The subject property is located on an interior lot that is approximately 40 ft. by 128 ft. (5120 sq. ft.). The property contains a single-family dwelling that is oriented askew to the northeast lot line. At its closest, the subject dwelling is 3.7 feet from the north property line and at its farthest it is 6.8 feet. The applicants constructed a 37 ft. x 12 ft. rear addition, a second

story addition over the original attached garage, a 12 ft. x 10 ft. rear deck and interior renovations to convert the existing attached garage to a family room. A building permit was issued for the addition, deck and interior renovations on September 15, 2008.

In November 2008, the Department of Regulatory Services-Construction Code Services Division received an inquiry from a neighbor regarding the size and location of the addition. The building inspector confirmed that the height of the structure complies with all applicable regulations. The building inspector contacted Zoning Staff to determine the north interior side yard setback requirements. In the R1A Single Family Residence District the required interior side yard is 5 ft. The Department of Community Planning and Economic Development – Planning Division Zoning Staff determined that the plans were erroneously approved with a 4.5 foot setback for the addition. Construction Inspections Staff from Regulatory Services-Construction Code Services Division made several requests to the applicants and the contractor to locate the property stakes.

The Department of Community Planning and Economic Development – Planning Division Zoning Staff also verified that the existing home and proposed addition does not exceed the maximum floor area ratio (FAR). In the R1A Single Family Residence District, the maximum FAR is 0.5 or 2,500 square feet of gross floor area (GFA), whichever is greater. There is a provision in section 546.240(c)(2) that allows single and two-family dwellings existing on January 1, 2008 to exceed the maximum FAR by 500 square feet (one time) with a new addition. The lot area of the subject property is 5,120 square feet; the maximum FAR is 2,560 sq. ft. With the one time increase of 500 square feet the maximum GFA is 3,060 sq. ft. The actual GFA of the existing single-family home with the new addition is approximately 2,750 sq. ft.

The original attached garage is located in the required side yard. Per section 531.30(2)(a) of the Minneapolis Code of Ordinances, a single-family dwelling nonconforming as to side or rear yard only has all the rights of a conforming structure. The extension of a single-family dwelling along the existing setback or the addition of a second story is permitted provided the portion of the structure within the required side yard comprises at least 60 percent of the length of the entire structure. Because the portion of the existing structure where the second story addition was proposed is located in the required yard, Zoning Staff inadvertently overlooked that it did not comprise 60 percent of the length of the entire structure and therefore 531.30(2)(a) does not apply.

Zoning Staff contacted the applicants and asked that they submit a registered land survey to verify the location of the property line and determine if a variance would be required. Following several requests to the applicants for a survey of the property, Zoning Enforcement Staff issued a notice of non-compliance on February 19, 2009 requiring that the property owners submit a land survey by March 21, 2009 (see attachments). The applicants submitted a survey of the subject property in April 2009. The survey revealed that the addition is located between 3.7 and 3.2 feet from the north interior side yard setback; the plans originally submitted by the applicants incorrectly showed that the existing structure and proposed addition at 4.5 feet from the north property line. After reviewing the survey, Zoning Staff determined that a variance to reduce the north interior side yard setback from 5 feet to 3.2 feet to allow for the addition to the rear of an existing single-family dwelling is required.

As of writing this staff report, staff has not received any correspondence from the Bryn Mawr Neighborhood Association. Staff did receive comments from the homeowners of the neighboring property immediately to the north of 704 Cedar Lake Road South, at 612 Thomas Ave S (see attached).

**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 is seeking a variance to reduce the north interior side yard setback from 5 feet to 3.2 feet to allow for an addition and new attached garage to the rear of an existing single family home. A portion of the original structure is located 3.7 feet from the interior side property line. Strict adherence to the regulations would not allow for the rear addition to the existing single-family dwelling to remain. Although other alternatives exist to the property, the addition could be built to meet the district setback of 5 ft., this would not be practical given the location of the rear portion of the existing structure. The Department of Community Planning and Economic Development – Planning Division recognizes a unique hardship on the property.

- 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 circumstances upon which the side yard setback variance is requested are unique to the parcel of land due to the skewed orientation of the existing dwelling relative to the property and have not been created by the applicant. The original attached garage is located 3.7 feet from the north interior side property line. The design of the addition logically follows the line of the house straight up and back. Neither the Department of Community Planning and Economic Development – Planning Division Staff nor the applicants were aware of the skewed orientation of the existing dwelling prior to the submission of a registered land survey and therefore did not identify that the new addition would intrude further into the required side yard.

- 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.**

While staff is concerned about the length of the building wall and its proximity to the adjacent property, the rear addition to the single-family dwelling will not be injurious to the use or enjoyment of other property in the vicinity. The close proximity to the neighboring property is mitigated somewhat by the fact that the addition is located to the rear portion of the property rather than immediately adjacent to the dwelling on the neighboring property. The variance is in keeping with the spirit and intent of the

ordinance and will not alter the essential character of the locality. Any impacts of the addition would likely be most experienced by the neighbor immediately to the north of 704 Cedar Lake Road South, at 612 Thomas Ave S (see attached comments submitted by the homeowners of 612 Thomas Ave S). While the Department of Community Planning and Economic Development – Planning Division acknowledges that there may be impacts to the neighboring property, moving the wall 1.8 feet is unlikely to significantly change these impacts.

The City also recognizes that there are many non-conforming structures as to the north interior side yard property lines in the City; section 531.30(2)(a) (described above) allows for an addition to a single-family dwelling that is nonconforming as to side or rear yard only to extend within the required yard. Although the subject property does not meet the requirement of section 531.30(2)(a) that the portion of the structure within the required side yard comprises at least 60 percent of the length of the entire structure, granting this variance is in keeping with the spirit and intent of the ordinance. The applicants intends to complete the project by installing siding on the front of the house to match the new addition.

- 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 side yard setback variance would likely have no impact on the congestion of area streets or fire safety, nor would the proposed addition to the existing single-family dwelling be detrimental to the public welfare or endanger the public safety. The addition complies with the building code provision requiring three feet between the interior property line and residential windows.

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

**RECOMMENDATIONS**

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the variance:**

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 north interior side yard setback from 5 feet to 3.2 feet to allow for an addition and new attached garage to the rear of an existing single family home located at 704 Cedar Lake Road S in the R1A Single Family Residence District, subject to the following conditions of approval:

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1. Review and approval of final site and elevation plans by the Department of Community Planning and Economic Development – Planning Division.

**Attachments:**

- 1) Written descriptions and findings submitted by the applicant
- 2) Correspondence from neighbors
- 3) Copy of e-mail sent to neighborhood organizations and CM
- 4) Zoning map
- 5) Survey
- 6) Building elevations
- 7) Floor plans
- 8) Photographs
- 9) Oblique aerials
- 10) Communications to applicants from Zoning Enforcement Staff