

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

Variance Request  
BZZ-2935

**Date:** May 4, 2006

**Applicant:** Chalee Dennis, on behalf of Peter Mortonson and Jennifer Burkhart

**Address of Property:** 3306 Fillmore Street Northeast

**Contact Person and Phone:** Chalee Dennis, 612-227-0804

**Planning Staff and Phone:** Molly McCartney, 612-673-5811

**Date Application Deemed Complete:** March 29, 2006

**Public Hearing:** May 4, 2006

**Appeal Period Expiration:** May 15, 2006

**End of 60 Day Decision Period:** May 28, 2006

**Ward: 1**      **Neighborhood Organization:** Waite Park Community Council

**Existing Zoning:** R1A, Single-family District

**Proposed Use:** Construct an addition to include an attached garage

**Proposed Variances:** A variance to reduce the required side yard from 5 ft. to 2 ft. 10 in. to allow for an addition at 3306 Fillmore Street Northeast in the R1A Single-family District

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

**Background:** The subject site is an interior lot measuring 40 ft. by 125 ft. in the R1A Single-family District. The existing single-family dwelling has a single-stall, attached garage. The applicant is proposing to remove the existing attached garage and rebuild the exact dimensions into habitable space and construct an addition to the southeast corner of the dwelling. This addition will be a single-stall garage. The proposed addition will follow the line of the southern edge of the structure, which is closer than 3 ft. to the property line.

The proposed plans currently show that there are windows on the existing garage (the portion that will be remodeled into habitable space). The Building Code does not permit openings (windows or doors) on a structure that is closer than 3 ft. to the property line (*Section 302.1 2000 IRC*). The Zoning Code requires that side exterior of a residential structure have a minimum of 5 percent windows [535.90(c)]. There is no variance for this requirement of the Zoning Code.

The subject site has a curb cut off Fillmore Street Northeast as well as an alley in the rear of the property. There is a small grade change in the alley, approximately 6 ft. from the alley surface to the middle of the subject lot. There are two other properties on this block of Fillmore Street Northeast that have curb cuts; the rest of the residential properties on the block have alley access to detached garages or parking spaces.

**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.**

Strict adherence to the code prohibits the addition to include an attached garage. The property currently has an attached garage, which the applicant is proposing to convert to habitable space. The property also has alley access that could be used to access parking in the rear of the property. Staff believes that an enclosed parking area that meets the setback requirements of the Zoning Code is a reasonable use of 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 location of the existing dwelling and attached garage are unique circumstances not created by the applicant, however, the applicant is proposing to expand the dwelling that is nonconforming to the interior setback. Staff believes that an enclosed parking area that meets the setback requirements of the Zoning Code is a reasonable use of the property because the property has a back yard easily accessed by an alley.

- 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.**

Granting the variance will not be keeping with the spirit and intent of the ordinance and will alter the character of the neighborhood. Front facing garages are not the predominant type of garage on this block, only two other properties have curb cuts off Fillmore Street Northeast. In addition the adjacent property to the south is located approximately 2 ft. from the shared property line. By expanding the attached garage, the two properties have less than 5 ft. separating them.

- 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.**

**CPED Planning Division Report**  
BZZ-2935

Granting the side yard setback variance would likely have no impact the congestion of area streets or fire safety. The proposed attached garage will be replacing an existing garage space. The proposed addition may be detrimental to the public welfare or endanger the public safety because of the close location of the adjacent structure to the south.

**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 **deny** the variance to reduce the required side yard from 5 ft. to 2 ft. 10 in. to allow for an addition at 3306 Fillmore Street Northeast in the R1A Single-family District.