

Department of Community Planning and Economic Development – Planning Division
Variance
BZZ-4565

Date: October 13, 2009

Applicant: Bob and Leslie Dickson

Address of Property: 5536 Clinton Avenue

Project Name: Not Applicable

Contact Person and Phone: Tad Carter, 612-669-5906

Planning Staff and Phone: Janelle Widmeier, 612-673-3156

Date Application Deemed Complete: September 8, 2009

End of 60-Day Decision Period: November 7, 2009

Ward: 11 **Neighborhood Organization:** Hale Page Diamond Lake Community Association

Existing Zoning: R1 Single-family District, SH Shoreland Overlay District, and AP Airport Overlay District

Proposed Zoning: Not applicable for this application.

Zoning Plate Number: 37

Legal Description: Please see attached survey.

Existing Use: Single-family dwelling.

Concurrent Review: Variance to reduce the interior side yard requirement from two feet to one foot to allow the side lot line to be shifted closer to the existing garage located at the property of 5536 Clinton Ave S.

Applicable Code Provisions: Chapter 525, Article IX Variances, specifically Section 525.520(1) “To vary the yard requirements, including permitting obstructions into required yards not allowed by the applicable regulations.”

Background: A single-family dwelling exists at the property of 5536 Clinton Ave S. A detached garage is also located on the south side of the property. In 1994, the owner obtained a variance to reduce the interior side yard from 6 feet to 2 feet to rebuild the garage in its existing location (V-3782). The garage was built as approved by the variance. On the adjacent property to the south, 5540 Clinton Ave, a detached garage and slab for a future addition was built that does not comply with the minimum

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interior side yard setback of 6 feet (information on the history of the new garage and slab is included in the staff report for BZZ-4564). After obtaining a survey, the applicant discovered that the garage and slab did not meet the approved 3 foot setback previously granted by the Board of Adjustment and the eave overhang extended over the property line, both of which do not comply with the zoning code and building code. In order to allow the garage at 5540 Clinton Ave to remain in its current location, the applicant is proposing to adjust the lot line located between 5540 and 5536 Clinton Ave. The lot line adjustment would create an approximately 2 foot wide yard between the garage and the side lot line at the property of 5540 Clinton Ave and a one foot wide yard between the garage and the side lot line at the property of 5536 Clinton Ave.

In the R1 district, the minimum interior side yard for a garage is 6 feet when it is not located within the rear 40 feet or 20 percent of the lot. The owner obtained a variance to reduce the side yard to 2 feet. The set back between the garage and the proposed lot line location would be less than what was previously approved, therefore a variance to reduce the interior side yard is needed. The staff report for the requested minor subdivision application (MS-199) is included with the staff report for BZZ-4564.

As of writing this staff report, staff has not received any correspondence from the Hale, Page, Diamond Lake Community Association. Staff will forward comments, if any are received, at the City Planning Commission meeting.

VARIANCE:

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 two feet to one foot to allow the south lot line to be moved closer to the existing detached garage. The lot depth is approximately 225 feet along the south property line. The site is not adjacent to a public alley with access to a public street; therefore, the only allowed access to the property is through a curb cut on Clinton Avenue South. Detached structures accessory to dwellings are allowed to be located closer to interior side lot lines than the district side yard requirement when located in the rear 40 feet or 20 percent of the lot, whichever is greater, because there is typically little effect on an adjacent property. The subject property is more than two times as large and almost twice as deep as a typical Minneapolis residential lot (40 feet by 125 feet). If the garage were to be relocated to the rear 20 percent of the lot, the garage would be over 100 feet away from the existing single family dwelling and the driveway would increase from approximately 110 feet to 180 feet in length. Strict adherence to the regulations would be impractical and would increase the amount of impervious surface on the lot. The garage is located next to a garage on the adjacent property to the south, 5540 Clinton Ave, which is proposed to be located 2 feet from common lot line. Both garages are located behind the single family homes. For these reasons, the request is reasonable.

- 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 site does not have public alley access and the depth of the lot is almost twice the depth of an average sized lot in Minneapolis. If the garage were to be relocated in the rear 20 percent of the lot, the garage would have to be moved over 100 feet away from the existing single family dwelling and the driveway would be approximately 180 feet in length. The garage on the neighboring property adjacent to the new garage is also located closer than six feet from the side lot line and is not located in the rear 20 percent of the lot. These circumstances have not been created by the applicant and are unique to 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.**

In general, yard controls are established to provide for the orderly development and use of land and to minimize conflicts among land uses by regulating the dimension and use of yards in order to provide adequate light, air, open space and separation of uses. Detached structures accessory to dwellings are allowed to be located closer to interior side lot lines (up to one foot) than the district side yard requirement when located in the rear 40 feet or 20 percent of the lot, whichever is greater, because there is typically little effect on an adjacent property. The subject property is more than two times as large and almost twice as deep as a typical Minneapolis residential lot (40 feet by 125 feet). Placing the garage at the rear of the subject property would be impractical because of its size and the location of the home. The adjacent property to the south is similar in size. It also has a garage that is proposed to be located 2 feet from the interior side lot line. Both garages are located to the rear of both dwellings and adjacent to each other. The pictures provided by the applicant show that a perforated drainpipe has been installed next to the garage. Stormwater run-off onto the adjacent property should be minimal. Reducing the south interior side yard to allow the garage meets the intent of the ordinance and will have little effect on surrounding 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.**

Granting the side yard setback variance would likely have no impact on the congestion of area streets, fire safety, and the public welfare or safety.

RECOMMENDATION:

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Recommendation of the Community Planning and Economic Development Department – Planning Division—Variance:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance application to reduce the interior side yard from two feet to one foot for the property located at 5536 Clinton Ave S.

Attachments:

1. Statement and findings from applicant
2. Correspondence
3. Hennepin County and zoning maps
4. Aerial view
5. Survey
6. Garage elevations
7. Photo