

Department of Community Planning and Economic Development - Planning Division Report**Variance Request
BZZ-3432****Date:** April 19, 2007**Applicant:** Richard Laumer (property owner)**Address of Property:** 3116 44th Street West**Contact Person and Phone:** Richard Laumer, (612) 922-3440**Planning Staff and Phone:** Aaron Hanauer, (612) 673-2494**Date Application Deemed Complete:** February 21, 2007**Public Hearing:** April 19, 2007**Appeal Period Expiration:** April 30, 2007**End of 120 Day Decision Period:** June 22, 2007**Ward:** 13 **Neighborhood Organization:** Linden Hills**Existing Zoning:** R1A, Single-Family District**Proposed Use:** Construction of home addition and attached rear garage with roof top deck.**Variances that were noticed:**

Staff, in error, notified property owners within 350 feet of the subject property that the proposed project required the following variances:

- Variance to allow an attached garage to exceed 1,000 square feet
- Variance to reduce the east interior side yard setback from 5 feet to 4.4 feet
- Variance to reduce the west interior side yard setback from 5 feet to 3 feet
- Variance to reduce the rear yard setback from 5 feet to 3.1 feet

The correct variances the applicant is requesting are as follows:

Proposed Variances:

- Variance to allow an attached garage to exceed 676 square feet
- Variance to reduce the east interior side yard setback from 5 feet to 3.5 feet
- Variance to reduce the west interior side yard setback from 5 feet to 3 feet
- Variance to reduce the rear yard setback from 5 feet to 0.18 feet

Zoning code section authorizing the requested variance: 525.520 (3) (1) (1) (1)

Background: The subject property, 3116 West 44th Street, is a substandard, slightly irregularly shaped (angled rear yard property line), R1A Zoning District lot that measures 45 feet x 98 feet x 46 feet x 102 feet (4,500 square feet). A standard R1A lot is 5,000 square feet and usually measures 40 feet x 125 feet. The principal structure is 1½ stories and was built in 1918. This property has an existing detached, two-car garage that measures 20 feet, 2 inches x 18 feet, 8 inches (380 square feet) which is accessed by a public easement (from Xerxes Avenue) that functions as an alley for the properties on the south end of this block.

The property owner is proposing to demolish the existing garage and excavate the rear yard and construct a 10 foot x 24 foot (240 square foot) rear, home addition and a 1,080 square foot attached rear garage (with office/shop space) and roof top deck that spans the distance of the garage.

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.**

Garage size: The applicant has requested a variance to allow an attached garage to be 1,080 square feet, which exceeds the 676 square feet maximum allowed by the Zoning Ordinance. The applicant states they have proposed a garage this size in order to provide needed, secure, covered storage. Strict adherence to the Zoning Ordinance would not cause undue hardship.

Interior side yard setback variance (east): The applicant has requested a variance to reduce the east interior side yard setback from 5 feet to 3 feet, 5 inches to allow for a 1,080 square foot attached garage (with roof top deck). Staff recognizes that in order for the applicant to build a new, two-car garage on this property, an east side yard setback variance will likely be necessary due to the garage at 3124 West 44th Street obstructing 18 feet, 2 inches of the subject property's rear property line (see existing survey). However, staff believes that design alternatives exist and that strict adherence to the Zoning Ordinance, when analyzing the proposed project, would not cause undue hardship.

Interior side yard setback variance (west): The applicant has requested a variance to reduce the west interior side yard setback from 5 feet to 3 feet to allow for a 1,080 square foot, attached garage (with roof top deck). The applicant states that they have proposed a garage this size to provide needed, secure, covered storage. However, staff believes that design alternatives exist that would not require this variance and strict adherence to the Zoning Ordinance would not cause undue hardship.

Rear yard setback variance: The applicant has requested a variance to reduce the rear yard setback from 5 feet to 0.18 feet to allow for a 1,080 square foot, attached garage (with roof top deck). Strict adherence to the zoning code requires that a garage be 5 feet from the property line. Staff recognizes two potential hardships on this lot, that being, a substandard lot depth of 97 feet

(125 feet is average for an R1A Zoning District) and the angled, rear property line. However, staff believes that these hardships do not hinder an applicant from building a garage that meets the Zoning Code regulations. Staff believes design alternatives exist and that strict adherence to the Zoning Ordinance, when analyzing the proposed project, would not cause undue 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.**

Garage size: The circumstance upon which the garage size variance is requested is not unique to the parcel of land and has been created by the applicant. The applicant has proposed a 1,080 square foot garage knowing that it is 404 square feet above what is allowed under the Zoning Code. The applicant states that they have proposed a garage this size in order to provide needed, secure, covered space. Staff realizes the combined square footage of the subject property's existing principal structure and garage is likely less than the average single-family home and garage in the Linden Hills neighborhood. However, the subject property lot provides enough room to expand the square footage of the principal structure and garage without requiring this variance.

Interior side yard setback variance (east): The circumstance upon which the east side yard setback variance is requested that is unique to the parcel of land and has not been created by the applicant is the location of the garage at 3124 West 44th Street. The location of this garage reduces access to the rear lot of the subject property and a new garage will likely require a east side yard setback variance.

Interior side yard setback variance (west): The circumstance upon which the west side yard setback variance is requested is not unique to the parcel of land and has been created by the applicant. The subject property is 45 feet wide; 5 feet wider than a standard R1A Zoning District lot. The applicant has proposed a garage that is 38 feet 8 inches wide and 1,080 square feet, which is 404 square feet above the maximum garage allowed for a majority of lots in Minneapolis.

Rear yard setback variance: There are two circumstances upon which the rear yard setback variance is requested that are unique to the parcel of land. First, the subject property has a substandard lot depth, 97 feet; a standard R1A Zoning District lot is 125 feet deep. Second, the angled, rear property will likely reduce the rear yard setback for a new garage. Staff recognizes these two unique circumstances. However, staff believes that the applicant created the circumstances upon which this variance is requested by proposing to build a 240 square foot, rear, home addition and 1,080 square foot garage.

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.**

All variances: Even though three of the five parcels on the south end of this block, West 44th Street, are larger residential structures (condominium or apartment buildings) and there are oversized, rear garages in this area, staff believes that granting the variances for the proposed project may alter the character of the surrounding area by encouraging oversized garages that eliminate backyards and negatively impact adjacent property owners (current and future). Staff also believes that the proposed project may be injurious to the use and enjoyment of adjacent property owners because the roof-top deck would be constructed to a height of 9 feet above grade and located less than 4 feet from the east and west property lines, which would create unnecessary intrusion on the neighboring properties. The applicant could likely build a home addition with roof-top deck and detached garage that would require fewer variances.

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.**

All variances: Granting of the variances would have no impact on the congestion of area streets or fire safety (if built to building code regulations), nor would the variances 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 (CPED)–Planning Division recommends that the Board of Adjustment adopt the findings above and

- **Deny** the variance to allow an attached garage to exceed 676 square feet.
- **Deny** the variance to reduce the east interior side yard setback from 5 feet to 3.5 feet.
- **Deny** the variance to reduce the west interior side yard setback from 5 feet to 3 feet.
- **Deny** the variance to reduce the rear yard setback from 5 feet to 0.18 feet.

and not allow for the construction of a home addition and attached garage with roof top deck as currently proposed at 3116 West 44th Street in the R1A, Single-Family District subject to the following conditions:

Attachments:

- Zoning map (1 page)
- Statement of proposed use (1 page)
- Applicant photos (3 pages)
- Existing and proposed survey (2 pages)
- Elevations and floor plans (5 pages)
- 3116 West 44th Street topography (1 page)
- Aerials (1 page)