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

Variance Request
BZZ-4228

**Date:** November 28, 2008

**Applicant:** Don Gooley

**Address of Property:** 4524 Chowen Avenue South

**Contact Person and Phone:** Don Gooley, 612-386-8841

**Planning Staff and Phone:** John Smoley, 612-673-2830

**Date Application Deemed Complete:** October 28, 2008

**Publication Date:** November 28, 2008

**Hearing Date:** December 4, 2008

**Appeal Period Expiration:** December 14, 2008

**End of 60 Day Decision Period:** December 27, 2008

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

**Existing Zoning:** R1 Single-Family District

**Proposed Use:** New detached garage

**Proposed Variances:**

- A variance to allow a detached garage that is not entirely to the rear of the principal structure (537.80).
- A variance to allow a detached garage to be located closer than 6 feet from the dwelling (537.80).
- A variance to reduce the established front yard setback to allow for a detached garage (546.160).
- A variance to reduce the interior side yard setback to allow for a detached garage (546.220).

To allow for the construction of a detached garage at 4524 Chowen Avenue South in the R1, Single-Family District.

**Zoning code section authorizing the requested variance:** 525.520 (1) (22)

**Background:** The subject property is a single-family home with an existing detached garage located in front of the house in the front yard setback. The applicant is proposing to demolish the existing single

stall garage and replace it with a two stall, 20 foot by 22 foot detached garage. This application requires four variances because:

a) the proposed garage will be located in front of the principal structure;
b) the proposed garage will be closer than 6 feet from the dwelling;
c) the proposed garage will be within the required front yard; and
d) the proposed garage will be within the required side yard.

The lot is 50 feet by 105 feet (5,250 sq. feet). The parcel has an existing single car garage but no parking pads or driveways. There is no alley on this block and all the homes on both sides of Chowen Avenue South have curb cuts from the street. The block has a mix of detached and attached garages located in both front and back yards.

While this lot meets the Zoning Code's definition of a steep slope, the property is not in the Shoreland Overlay District, and thus requires no permits for development on or nearby a steep slope.

**Analysis:** The location of the proposed garage is 1.5 feet closer to the front property line (0 foot setback) than the existing garage. There is 2 feet of right of way between the property line and sidewalk. Both the existing and proposed garage doors are overhead sectional roll-up doors, thus avoiding the front clearance area that would be required by tilt-up doors.

Like the existing residence, the proposed garage will be clad in stucco and will have a front gable.

The proposed garage will result in the loss of one tree (12" in diameter at breast height) protected by Zoning Code section 535.300.

**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 variance to allow a detached garage that is not entirely to the rear of the principal structure (537.80).**

Strict adherence to the Zoning Code's standards requires that the garage be located behind the existing residence. This creates a hardship in that a garage could not be located behind the residence without significant retention of earth and new retaining walls, possibly jeopardizing the structural stability of the home.

**A variance to allow a detached garage to be located closer than 6 feet from the dwelling (537.80).**

Unless it is placed behind the principal structure (which requires the navigation of a very steep slope), the proposed garage could only be 6 feet or more from the residence by either a) reducing the depth of the garage to 15.6 feet; b) reducing the width of the garage to between 15 feet and

16 feet; or c) building the garage partially on the adjacent property. Section 541.330 of the Zoning Code requires 90 degree parking spaces be at least 8.5 feet wide and 18 feet long.

**A variance to reduce the established front yard setback to allow for a detached garage (546.160).**

Strict adherence to the Zoning Code requires the garage be located outside of the front yard. This creates a hardship in that a garage could not be located behind the residence without significant retention of earth and new retaining walls, possibly jeopardizing the structural stability of the home.

**A variance to reduce the interior side yard setback to allow for a detached garage (546.220).**

Strict adherence to the Zoning Code requires the garage be located outside of the side yard setback, which is 6 feet. This would create a 6 foot wide canyon between the adjacent property line and the proposed garage wall unless the area is filled with earth and a retaining wall is constructed at the street level. Additionally, the property owners to the south of this lot support this side yard setback variance.

**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.**

**A variance to allow a detached garage that is not entirely to the rear of the principal structure (537.80).**

The unique circumstance for which this variance is sought is the sharp increase in slope in the front yard. The applicant has not created this condition.

**A variance to allow a detached garage to be located closer than 6 feet from the dwelling (537.80).**

The applicant seeks to build a two car garage, wider than the existing one car garage on the lot. This request has created the circumstance that requires a variance to construct the garage closer than 6 feet from the dwelling. Nevertheless, construction of a new garage is a reasonable request. Although it is located 9 feet from the residence, in accordance with the Zoning Code, the existing garage is in extremely poor condition, and is nonconforming in the following ways:

1. Being positioned 1.5 feet from the front property line and extending over the side yard property line onto the neighbor's lot, the existing garage violates Zoning Code section 546.280 which stipulates front and side yard setbacks of 20 feet and 5 feet, respectively.
2. Due to its position in front of the residence, the garage violates Zoning Code table 535-1 which prohibits accessory buildings in the front yard.

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**A variance to reduce the interior side yard setback to allow for a detached garage (546.220).**

The applicant seeks to build a two car garage, wider than the existing one car garage on the lot. This request has created the circumstance that requires a variance to construct the garage in the interior side yard. Nevertheless, construction of a new garage is a reasonable request. The existing garage is in extremely poor condition, and is nonconforming in the following ways:

3. Being positioned 1.5 feet from the front property line and extending over the side yard property line onto the neighbor's lot, the existing garage violates Zoning Code section 546.280 which stipulates front and side yard setbacks of 20 feet and 5 feet, respectively.
4. Due to its position in front of the residence, the garage violates Zoning Code table 535-1 which prohibits accessory buildings in the front 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.**

**A variance to allow a detached garage that is not entirely to the rear of the principal structure (537.80).**

Evidence indicates that the property has had an existing garage in the front yard since the construction of the residence in 1911. The visual impact of the proposed garage would be minimal due to the existence of similar garages at the street wall along this block. Generally, the position of garages on this block is directly correlated with the slope of the land leading into each lot. On lots where the land slopes upward gradually toward the rear of the lot, properties generally have detached garages in the rear yard. On lots where the land slopes upward sharply toward the rear of the lot, properties generally have garages in the front yard. 4524 Chowen Avenue exemplifies the latter situation, having a 9.3 foot rise in grade over the first 17 feet of the lot. The rear gable on the garage will begin less than one foot from the finished grade. The proposed garage will be located closer to the front property line, but the 1.5 foot space between the existing garage and front lot line was insufficient to park even a bicycle, much less a car. The proposed garage location will result in no substantive change from the current situation. Section 478.90 of the City of Minneapolis's Code of Ordinances prohibits parking vehicles on sidewalks or boulevards between sidewalks, so no vehicles will protrude from the garage, blocking access to the public right of way, except when entering or exiting the garage.

While the proposed garage is adding additional mass in the front yard, the garage is to be tucked into the slope, much like the existing garage. The proposed garage is larger than the existing garage; however, it does meet the Zoning Code's size requirements for garages. The stucco

cladding and front gable roof style of the proposed garage complement these features on the existing residence.

**A variance to allow a detached garage to be located closer than 6 feet from the dwelling (537.80).**

The visual impact of the proposed garage would be minimal due to the existence of similar garages at the street wall along this block.

While the proposed garage is adding additional mass in the front yard, the garage is to be tucked into the slope, much like the existing garage. The proposed garage is larger than the existing garage; however, it does meet the Zoning Code's size requirements for garages. The stucco cladding and front gable roof style of the proposed garage complement these features on the existing residence.

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The proposed garage will be located closer to the front property line, but the 1.5 feet space between the existing garage and front lot line was insufficient to park even a bicycle, much less a car. The proposed garage location will result in no substantive change from the current situation.

While the proposed garage is adding additional mass in the front yard, the garage is to be tucked into the slope, much like the existing garage. The proposed garage is larger than the existing garage; however, it does meet the Zoning Code's size requirements for garages. The stucco cladding and front gable roof style of the proposed garage complement these features on the existing residence.

**A variance to reduce the interior side yard setback to allow for a detached garage (546.220).**

The visual impact of the proposed garage would be minimal due to the very steep slope of the land, the proposed elevation of the garage (set into the slope), and the current existence of a garage in the setback. The current garage encroaches onto the lot to the south. The proposed location of the garage, as conditioned, would position the garage 1.5 feet further from the neighbor's residence that the current garage.

**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.**

**A variance to allow a detached garage that is not entirely to the rear of the principal structure (537.80).**

Vehicles entering or exiting the garage would be backing out into the street. While this is not an ideal situation from a public safety/public welfare standpoint, this is the situation that currently exists on most residential lots and violates neither Public Works' nor the Zoning Code's standards. Additionally, increasing the front yard setback of the garage will eliminate neither the very steep slope of the land on either side of the garage nor the retaining walls required to keep that land in place. Regardless of the placement of the garage, these retaining walls will screen views of pedestrians approaching on the adjacent sidewalk.

**A variance to allow a detached garage to be located closer than 6 feet from the dwelling (537.80).**

The existing garage is constructed of concrete and is set into the earth. The proposed garage will not be constructed entirely of concrete. While the presence of flammable building materials, such as wood, will increase the danger of fire, the proposed garage shall be required to comply with code requirements designed to minimize the chances of fire.

The rear gable on the garage will begin less than one foot from the finished grade. While this does permit easy access for climbers in the yard, the gable roof shape clearly distinguishes the land from the garage roof, ensuring no one will accidentally walk across the garage roof thinking that it is a continuation of the natural slope of the land.

**A variance to reduce the established front yard setback to allow for a detached garage (546.160).**

Vehicles entering or exiting the garage would be backing out into the street. While this is not an ideal situation from a public safety/public welfare standpoint, this is the situation that currently exists on most residential lots and violates neither Public Works' nor the Zoning Code's standards. Additionally, increasing the front yard setback of the garage will eliminate neither the very steep slope of the land on either side of the garage nor the retaining walls required to keep that land in place. Regardless of the placement of the garage, these retaining walls will screen views of pedestrians approaching on the adjacent sidewalk.

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very steep slope of the land on either side of the garage nor the retaining walls required to keep that land in place. Regardless of the placement of the garage, these retaining walls will screen views of pedestrians approaching on the adjacent sidewalk.

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The rear gable on the garage will begin less than one foot from the finished grade. While this does permit easy access for climbers in the yard, the gable roof shape clearly distinguishes the land from the garage roof, ensuring no one will accidentally walk across the garage roof thinking that it is a continuation of the natural slope of the land. As conditioned, the project will include a fence that inhibits climbing on the garage roof. Additionally, the one foot setback between the proposed garage and southern property line shall be filled to prevent falls from the adjacent yard into this space.

**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 **approve** the following variances:

- A variance to allow a detached garage that is not entirely to the rear of the principal structure (537.80).
- A variance to allow a detached garage to be located closer than 6 feet from the dwelling (537.80).
- A variance to reduce the established front yard setback to allow for a detached garage (546.160).
- A variance to reduce the interior side yard setback to allow for a detached garage (546.220) subject to the following conditions:
    1. Existing and proposed retaining walls, stairs, garage, and related features shall remain outside of the public right of way or have a valid encroachment permit.
    2. Existing and proposed retaining walls, stairs, garage, and related features shall remain on the parcel owner's property or have a recorded easement permitting such encroachment.
    3. The garage walls shall be set back at least one foot from the side yard property line with eaves no closer than 6 inches to that property line.
    4. The garage shall not exceed 12 feet to the mid-point of the roof and 10 feet from the floor to the top plate.
    5. The project shall include the installation of a fence or knee wall designed to inhibit climbing on the north, south, and west sides of the garage, placed either on the garage or no further than one foot from the garage.
    6. The one foot setback between the proposed garage and southern property line shall be filled to prevent falls from the adjacent yard into this space.
    7. The Public Works Department must approve any curb cut widening.
    8. Final planting plans must be approved by CPED-Planning staff. Mitigation for the loss of the 12" in diameter at breast height (DBH) front yard tree shall be accomplished by relocating the tree or replanting trees on an inch-per-inch basis using the following formula:
        a) One depot tree = ½ inch DBH

b) One 15 gallon container tree = 1 inch DBH
c) One 24 inch box tree = 2 inches DBH
d) One 36 inch box tree = 3 inches DBH
e) One 48 inch box tree = 4 inches DBH
f) One 60 inch box tree = 5 inches DBH
g) One 72 inch box tree = 6 inches DBH

9. Final site and elevation plans must be approved by CPED-Planning staff.

Attachment A: Plans
Attachment B: Photographs
Attachment C: Public comment
Attachment D: Vicinity Map

# Attachment A: Plans

# Attachment B: Photographs

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# Attachment D: Vicinity Map