

Department of Community Planning and Economic Development – Planning Division

Variance Request
BZZ-4312

Date: June 19, 2009

Applicant: Michael Wilson and Rebecca Sun

Address of Property: 68 Barton Ave SE

Contact Person and Phone: Michael Wilson and Rebecca Sun, 612-379-1626

Planning Staff and Phone: John Smoley, Ph.D., 612-673-2830

Date Application Deemed Complete: April 6, 2009

Publication Date: June 19, 2009

Hearing Date: June 25, 2009

Appeal Period Expiration: July 6, 2009

End of 60 Day Decision Period: June 5, 2009

End of 120 Day Decision Period: August 4, 2009

Ward: 2 Neighborhood Organization: Prospect Park East River Road Improvement Association

Existing Zoning: R1A Single-Family District

Proposed Use: New detached garage

Proposed Variances: A variance to reduce the required rear yard setback from 5 feet to 0.5 feet and northern interior side yard setback from 5 feet to 3.3 feet to build a detached garage at 68 Barton Ave SE in the R1A Single Family District.

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

Background: The subject property is a single-family home. A detached, single-car garage existed on the northwest corner of the site for a number of years before being demolished. Currently, the former garage's extant concrete foundation is used as a parking pad for a vehicle. The applicant is proposing to construct a 16 foot by 17.8 foot detached, single-car garage in the same place as the former garage and current parking pad, though the new garage's pad and footprint will be larger.

The lot possesses the following dimensions: 89 feet (northern property line), 41 feet (western property line), 105 feet (southern property line), and 46 feet (eastern property line) for a total of 3800 square feet. There is no alley on this block. The immediate vicinity is characterized by residences with detached garages located in rear yards.

While the subject property possesses steep slopes, the lot is not in the Shoreland Overlay District, and thus requires no permits for development on or nearby a steep slope.

The proposed garage will result in the loss of one tree greater than 12 inches 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.**

The lot in question is 3,800 square feet in area. The minimum lot size for lots zoned R1A is 5,000 square feet. The subject property is a lot of record, therefore a garage may be built on the site, but the size, slope, and shape of the lot make construction of a garage in compliance with all Zoning Code standards a 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.**

A number of Zoning Code requirements dictate where detached garages may be placed. Required rear and interior side yards in the R1A district are five feet. Required front yards are 20 feet. Garages on this lot must remain outside of these yards. Zoning Code section 537.80 requires detached garages be located entirely to the rear of the principal structure. Zoning Code section 537.80 prevents detached accessory buildings from being located closer than 6 feet from a dwelling.

Even if the applicant proposed to construct a very small detached single-car garage whose dimensions were no more than the Zoning Code imposed minimum parking space size for 90 degree spaces (8.5 feet by 18 feet), the lot would not permit those standards to be met, unless the garage were built facing the northern property line and located behind the dwelling. To accomplish this, the dramatic slope of the land in the back yard would necessitate either filling or cutting away a large amount of soil, which might compromise nearby building foundations and retaining walls as well as create drainage issues.

The circumstances that prevent creation of the garage onsite have not been created by the current property owners.

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.**

The visual impact of the proposed garage would be minimal from the street, but would be more significant to properties to the rear of the subject lot due to the rearward slope of the land in this neighborhood. Nevertheless, this will be in keeping with the character of a neighborhood where many detached, rear yard garages stand much higher than their neighbors. The proposed garage's cladding and size (single-car) will help it further maintain the neighborhood's character. Most other properties in the vicinity have detached garages that do not abide by all Zoning Code requirements and/or have alley-loaded detached garages, much like the garage previously located on the subject property which was built within the required side and rear yards.

While attaching a new garage to the existing residence might meet the requirements of the Zoning Code, it would compromise the character of the residence, a property that contributes to the significance of the Prospect Park Historic District, currently under interim protection pending completion of a designation study. On May 12, 2009, the Heritage Preservation Commission approved the construction of the proposed detached garage, subject to the condition that the garage be clad in either siding or shingles to complement the residence without creating the impression that the garage existed during the historic district's period of significance.

The proposed garage will not be injurious to the use or enjoyment of other property in the vicinity.

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.**

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.

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** a variance to reduce the required rear yard setback from 5 feet to 0.5 feet and northern interior side yard setback from 5 feet to 3.3 feet to build a detached garage at 68 Barton Ave SE in the R1A Single Family District subject to the following conditions:

1. Mitigation for the loss of the 12" in diameter at breast height (DBH) tree shall be reviewed and approved by CPED-Planning staff.
2. Final site and elevation plans must be approved by CPED-Planning staff.

CPED Planning Division Report
BZZ-4312

Attachments:

- A. Vicinity Map (prepared by staff), p 5-6
- B. Application (submitted by Applicant), p 7-18
- C. Plans (submitted by Applicant), p 19-31
- D. Letter to Councilmember and Neighborhood Group (submitted by Applicant), p 32-34
- E. Public Comment, p 35-38