

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

Variance Request  
BZZ-3544

**Date:** May 17, 2007

**Applicant:** Jeffery A. Washburne

**Address of Property:** 4440 Xerxes Avenue South

**Contact Person and Phone:** Jeffery A. Washburne, (612) 619-9647

**Planning Staff and Phone:** Brian Schaffer, (612) 673-2670

**Date Application Deemed Complete:** April 23, 2007

**Public Hearing:** May 17, 2007

**Appeal Period Expiration:** May 27, 2007

**End of 60 Day Decision Period:** June 22, 2007

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

**Existing Zoning:** R1A Single Family District

**Proposed Use:** A 16 by 23.5 foot two story rear addition

**Proposed Variance:** A variance to reduce the required north interior side yard setback from 5 feet to 3 feet to allow for a two and a half story rear addition to a single family dwelling at 4440 Xerxes Avenue South in the R1A Single Family District.

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

**Background:** The size of the subject site is 42 ft. x 135 ft. (5,670 sq. ft.) The property owner is proposing to build a two and a half story addition to the rear of the existing single family. The existing single family dwelling is located 2 feet 8 inches from the north property line and 15 feet from the south property line. The footprint of the existing dwelling is 624 square feet.

The proposed two and a half story addition to the existing dwelling that will increase the footprint of the dwelling to 1,088 square feet. The proposed addition will follow the existing south building wall. The addition will be offset from the north building wall 4 inches and will be built 3 feet from the north property line.

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Section 531.30(2.a.) of the Minneapolis Code of Ordinances allows for additions along existing building walls of single family dwellings when the dwelling is non conforming due to setbacks as long as the existing building wall is three (3) from the property line.

Single and two-family dwellings nonconforming as to side and rear yards only. A single or two-family dwelling nonconforming as to side and rear yards only shall have all the rights of a conforming structure, provided the structure is located not closer than three (3) feet from the side and rear lot line, and provided further that the structure shall not be enlarged, altered or relocated in such a way as to increase its nonconformity. For the purposes of this section, the extension of a single or two-family dwelling along the existing setback or the addition of a second story or half-story shall not be considered as increasing its nonconformity, provided the portion of the structure within the required side or rear yard comprises at least sixty (60) percent of the length of the entire structure, and provided further that the structure shall not be enlarged, altered or relocated within the required front yard and all other requirements of this zoning ordinance are met.

The International Residential Code (IRC) prohibits openings, including windows and doors, in walls that are closer than three (3) feet to the property line. Due to the IRC and Minneapolis Ordinance requirements the applicant is proposing to build the addition at 3 feet from the north property line.

**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 has requested a variance to reduce the required north interior side yard setback from five (5) feet to three (3) feet to allow for a two and half story addition to the rear of the dwelling. The lot is 42 feet wide and meets the minimum lot width. However, the existing house is nonconforming to the north interior side yard, located only 2 feet 8 inches to the property line. The subject property does not have alley access and has a driveway located to the south of the dwelling. Shifting the proposed rear addition to the south to accommodate the Zoning Ordinance standard five foot setback would impair the driveway access. Staff believes the addition is a reasonable use of the property and recognizes the hardship on the property created by the location of the subject dwelling.

- 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 conditions upon which the setback variance is requested are unique to the parcel. As previously mentioned, the variance is to allow for a two and a half story addition to the rear of the dwelling. The lot is 42 feet wide and meets the minimum lot width. However, the existing house is nonconforming to the north interior side yard, located only two feet eight inches to the property line. The subject site does not have alley access and requires driveway access to garage

located to the rear of the dwelling. These circumstances are unique to this parcel and were not created by the applicant.

- 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.**

Staff believes that the two and a half story addition to the single-family dwelling will not alter the essential character of the surrounding neighborhood or be injurious to the use or enjoyment of other property in the vicinity. The proposed addition will be stepped back 4 inches from the existing north building wall and will extend 16 feet to the west. The impact of the additional mass along the north building wall is most experienced by the dwelling to the north, 4436 Xerxes Avenue South. The dwelling at 4436 Xerxes Avenue is setback approximately 13 feet from the property line and has a driveway located between the dwelling and the property line. Staff believes this distance will mitigate much of the impact of the additional mass.

Both the adjacent dwelling to north and the adjacent dwelling to the south have rear two story additions and the proposed addition at the subject dwelling will be similar in design and footprint. Staff does not believe the construction of the addition as proposed will negatively alter the essential character of the neighborhood or 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.**

Granting the variances would likely have no impact on the congestion of area streets or fire safety, nor would the proposed dwelling 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** the variance to reduce the required north interior side yard setback from 5 feet to 3 feet to allow for a two and a half story rear addition to a single family dwelling at 4440 Xerxes Avenue South in the R1A Single Family District with the following condition:

1. CPED-Planning review and approve final site plan, floor plans, and elevations.