

Department of Community Planning and Economic Development – Planning Division Report

Variance Request
BZZ-4246

Date: November 20, 2008

Applicant: Julie Donatelle

Address of Property: 2401 Lake Place

Contact Person and Phone: Julie Donatelle, 612-860-0441

Planning Staff and Phone: Aly Pennucci, 612-673-5342

Date Application Deemed Complete: October 27, 2008

Publication Date: November 14, 2008

Hearing Date: November 20, 2008

Appeal Period Expiration: December 1, 2008

End of 60 Day Decision Period: December 18, 2008

Ward: 10 **Neighborhood Organizations:** East Isles Residents Association

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

Proposed Use: Parking Area and rear patio

Proposed Variances:

- A variance to reduce the required interior side yard setback from 6 ft. to 0 ft. along the south side of the property to allow for an existing parking area.
- A variance to reduce the required rear yard setback from 6 ft. to 0 ft. to allow for an existing patio.
- A variance to reduce the established interior side yard setback from 3 ft. to 0 ft. on the north side of the property to allow for an existing patio.
- A variance to allow parking within 6 ft. of any residential structure.
- A variance to reduce the minimum required width of driveways in the R1 district from 10 ft. to 9.5 ft.
- A variance to increase the maximum impervious surface coverage from 75 percent to 85 percent.

Zoning code sections authorizing the requested variances: 525.520 (1) (8) (14) (15)

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Background: The subject property is an irregularly shaped lot (2,350 sq. ft.) and consists of an existing single family dwelling, built in 1907. In 2005 a new curb cut was approved to allow for a driveway with a minimum width of 10 ft. At the time of the curb cut approval staff did not identify that the size and configuration of the lot prohibits any legal parking space on the site. In response to a neighborhood complaint, Zoning Enforcement cited the applicant this fall for exceeding the maximum impervious surface coverage and a parking area located within 6 ft. of any dwelling. After a site plan was submitted for the parking area location and impervious surface coverage variances, planning staff discovered that the driveway did not meet the minimum width requirements, that the parking area was located within the required interior side yard on the south and that the rear patio was built in the required rear and interior side yard on the north.

Parking area: Parking areas are a permitted obstruction in a required interior side yard, provided such parking is located in the rear 40 ft. or 20 percent of the lot, whichever is greater, and located no closer than 6 ft. from a dwelling of any type. On the subject site, the parking area is located to the side of the single family home and is within 6 ft. of both the dwelling located on the subject site and the neighboring dwelling to the south.

Driveway width: In the R1 district, a driveway or curb cut cannot be narrower than ten (10) feet at any point. In 2005 the curb cut was approved with a minimum width of 10 ft. The existing curb cut and driveway on the subject site is 9 ft. 6 in. wide.

Impervious surface coverage: The applicant has stated that the installation of both the driveway and rear stone patio occurred in 2005 after the new curb cut was approved. In 2005 the zoning code allowed for not more than 75 percent impervious surface coverage; in 2007 this requirement changed to not more than 65 percent. Because the increase in impervious coverage occurred prior to the changes to the zoning code, the subject site must only meet the 2005 requirements. The amount of hard surface is approximately 85 percent of the lot and exceeds the maximum permitted by 10 percent. This property is located approximately two blocks from Lake of the Isles and is in the Shoreland Overlay District. Any surface water that is not managed on site drains into the stormwater system and eventually flows into Lake of the Isles.

The applicant has stated that “the patio is blue stone with pervious joints. Beneath the patio is 6-12 in. crushed rock base allowing water to penetrate easily into undisturbed soil. There is little water runoff and the patio slopes into landscaping areas on property. Rain water leaders will run into a landscaping area so as not to increase water runoff.” While this type of surface may allow for absorption, the zoning code considers stone or brick surfaces as impervious surfaces:

520.160 Impervious surface. Any material that significantly reduces or prevents natural absorption of stormwater into the soil and cause water to run off the surface in greater quantities and at an increased rate of flow. Impervious surfaces include, but are not limited to, buildings or other structures with roofs, sidewalks, and all stone, brick, concrete or asphalt surfaces.

The applicant also stated that she owns a 511 sq. ft. irregularly shaped parcel to the north of the subject site that is comprised of green space. City records indicate that this parcel is owned jointly by the applicant and the neighboring property owners and has not been merged with the subject site, therefore

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it is not considered part of the zoning lot of the subject site and cannot be included in the impervious surface cover calculation.

North interior side yard setback and rear setback: In the R1 district, patios not exceeding 50 square feet in area and projecting not more than four (4) feet into the required yard are permitted obstructions in the required rear yard. Patios are not permitted obstructions in the required interior side yard. The existing patio to the rear of the single family home is 297 square feet and projects 6 ft. into the required rear yard and 3 ft. into the required interior side yard.

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.**

Parking Area: The applicant is seeking a variance to reduce the required interior side yard setback from 6 ft. to 0 ft. and a variance to allow parking within 6 ft. of any dwelling to allow for an existing parking area. The zoning ordinance requires that there be parking for one vehicle on the site. Due to the small size of the subject site and the location of the neighboring dwelling to the south, strict adherence to the regulations would not allow for parking in any location on this site, which causes an undue hardship. In 2005, when the curb cut was approved, the applicant stated that the curb cut was needed to provide off street parking for the following reasons: snow emergencies and street cleaning, reduce parking congestion in the neighborhood, better protection for her vehicle from vandalism and theft, safety concerns, and the limited amount of off-street parking in the area. Parking adjacent to a residential use is a reasonable use of the property.

Driveway width: The applicant is seeking a variance to reduce the minimum required width of a driveway in the R1 district from 10 ft. to 9 ft 6 in. at the narrowest point to allow for an existing driveway. Strict adherence to the regulations would allow for a driveway with a minimum width of 10 ft, however, the subject site is very small and allowing a narrower driveway reduces the amount of impervious surface coverage and allows greater use of the front yard. A driveway is a reasonable use of a residential property.

Impervious surface coverage: The applicant is seeking a variance to increase the permitted impervious surface on the subject site from 75 percent to 85 percent to allow for the existing driveway, parking area and a rear stone patio. Impervious surfacing to the side of the dwelling is a reasonable use of the property to allow for a driveway and hard surfaced parking area. A rear patio is a reasonable use of a residential property. Strict adherence to the regulations restricts the size of the driveway, parking area and stone patio. Staff believes that the rear patio can be reduced in size and other steps taken to bring the subject site closer to compliance while still allowing reasonable use of the property.

North interior side yard setback and rear setback: The applicant is seeking a variance to reduce the required rear yard setback from 6 ft. to 0 ft. and a variance to reduce the established

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interior side yard setback from 3 ft. to 0 ft. on the north side of the property to allow for an existing 297 square foot patio. This does not create undue hardship because strict adherence to the regulations will allow for an approximately 150 square foot rear stone patio which is a reasonable use of the property.

- 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.**

Parking Area Location: The circumstances are unique to the parcel of land due to the lot size. A standard Minneapolis lot in the R1 district is 6,000 square feet. The subject site is irregularly shaped and is 2,350 square feet. The existing single family home was built in 1907 without an off street parking space. These circumstances were not created by the current homeowner.

Driveway width: The circumstances are unique to the parcel of land due to the lot size. Although the lot configuration does allow for a driveway width of 10 ft., staff believes that that a narrower driveway is reasonable and reduces the amount of impervious surface coverage.

Impervious surface coverage: The circumstances are unique to the parcel of land due to the lot size. As stated above, a typical Minneapolis lot in the R1 district is 6,000 square feet. Using the 2005 regulations, a typical Minneapolis lot is allowed 4,500 square feet of impervious surface cover. The subject site, at 2,350 square feet, is allowed 1,763 square feet of impervious surface coverage. This circumstance was not created by the property owner. A driveway and parking area to the side of the dwelling is a reasonable use of the property to allow for off-street parking. A rear patio is also a reasonable use of a residential property, however, staff believes that there are steps the property owner can take to bring the subject site closer to complying with the regulations and still allow reasonable use of the property.

North interior side yard setback and rear setback: The circumstances upon which the variance is requested are unique to this parcel of land due to the lot size. However, a smaller patio provides reasonable use of the property while bring the subject site closer to compliance with the applicable regulations.

- 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.**

Parking Area Location and Driveway Width: Granting of the variances will be in keeping with the spirit and intent of the ordinance by allowing for parking on the subject property, which will assist in meeting zoning code regulations for off-street parking. In addition, granting of this variance would not alter the essential character of the locality since most properties on Lake Place between the intersection of Lake Place, Irving Ave South and 25th Street West have a driveway leading to an off-street parking space or garage. Staff also believes that granting these variances will not be injurious to the use or enjoyment of other property in the area.

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Impervious surface coverage: Staff believes that granting the variance to increase the maximum impervious surface coverage from 75 percent to 85 percent will not be in keeping with the spirit of the ordinance. The impervious surface requirements of the zoning code attempt to address both water run-off issues and green space issues. While some of the hard cover portions of the property drain into the landscaped beds, much of the site drains into the stormwater system and eventually flows into Lake of the Isles. Because of the size of the lot it is difficult to meet the 75 percent requirement, but staff believes that some of the impervious cover can be removed to reduce reach 80 percent impervious cover and bring the subject site closer to compliance, reducing the amount of stormwater runoff while still allowing reasonable use of the property.

North interior side yard setback and rear setback: A rear stone patio built in the required yards will not likely alter the essential character of the area. However, staff believes granting the variances may be injurious to the use and enjoyment of the adjacent property owners (current and future). The site plan submitted by the applicant indicates that to the rear of the home, water flows west towards the rear property line. Providing additional landscaping along the interior side and rear property lines will allow greater absorption of stormwater runoff.

- 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.**

Parking Area Location: The proposed variance would likely have no impact on congestion of area streets. There may be some impact on fire safety due to the proximity of the driveway to the neighboring residence. Locating parking closer to the sidewalk is preferred to minimize the impact on the neighboring property.

Driveway Width The proposed variance would likely have no impact on congestion of area streets or fire safety, nor would the existing deck be detrimental to the public welfare or endanger the public safety.

Impervious surface coverage: Granting the variance to increase the maximum impervious surface coverage from 75 percent to 85 percent would likely have no impact on the congestion of area streets or fire safety, but the requested impervious surface may be detrimental to the public welfare through increasing stormwater runoff to the stormwater system that eventually flows into the Lake of the Isles and subsequent water bodies. As mentioned previously, the size of the lot makes it is difficult to meet the 75 percent requirement, but staff believes that some of the impervious cover can be removed to reach 80 percent impervious cover.

North interior side yard setback and rear setback: The proposed variance would likely have no impact on congestion of area streets or fire safety, nor would the existing deck be detrimental to the public welfare or endanger the public safety.

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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 **deny** the variance to reduce the established interior side yard setback from 3 ft. to 0 ft. on the north side of the property to allow for an existing patio and **approve** the following variances:

- A variance to reduce the required interior side yard setback from 6 ft. to 0 ft. along the south side of the property to allow for an existing parking area,
- a variance to allow parking within 6 ft. of any residential structure,
- a variance to reduce the minimum required width of driveways in the R1 district from 10 ft. to 9.5 ft,
- a variance to increase the maximum impervious surface coverage from 75 percent to **80 percent**,
- a variance to reduce the required rear yard setback from 6 ft. to **4 ft.** to allow for an existing patio,

at 2401 Lake Place in the R1 Single-family Residence District and SH Shoreland Overlay District, subject to the following conditions:

1. Final site plans are approved by CPED-Planning staff.
2. Impervious cover is removed to reduce the coverage from 85 percent to 80 percent (including the areas necessary to meet the required interior side yard (north) setback and to comply with a 4 ft. rear yard setback.
3. That the parking of vehicles is encouraged to be located on the section of the driveway closest to the sidewalk, provided that a 6 ft. front yard setback is maintained.

Attachments:

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| Appendix A. | Map of Area |
| Appendix B. | Aerial Photo |
| Appendix C. | Statement of proposed use and variance findings from applicant |
| Appendix D. | Letter to Council Member and Neighborhood Group |
| Appendix E. | Site plan |
| Appendix F. | Photos provided by applicant |
| Appendix G. | 2005 – Curb cut application and approved plan |