

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

Variance Request  
BZZ-3532

**Date:** May 17, 2007

**Applicant:** John Kosmos, on behalf of Thomas McCarthy and Anne Kelly

**Address of Property:** 318 Elmwood Place West

**Contact Person and Phone:** John Kosmos, (952) 922-3326

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

**Date Application Deemed Complete:** April 20, 2007

**Public Hearing:** May 17, 2007

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

**End of 60 Day Decision Period:** June 19, 2007

**Ward:** 11      **Neighborhood Organization:** Tangletown Neighborhood Association

**Existing Zoning:** R1 Single Family District

**Proposed Use:** A rear two car attached garage with roof top deck above and a 250 square feet patio in the front yard

**Proposed Variance:** A variance to decrease the east side yard setback from 6 feet to 5 feet for an rear attached garage and roof top deck and a variance to decrease the established front yard setback from 50 feet to 38 feet to allow for a 250 square foot patio in the front yard at 318 Elmwood Place West in the R1 Single Family District.

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

**Background:** The size of the subject site is 60 feet by 135 feet (8,100 square feet). The site currently contains a single family dwelling with a single car rear facing attached garage. The existing garage is 11 feet wide and is located 12 feet from the east property line. The applicant is proposing to widen the garage to make it 20 feet wide and extend it to the rear an additional 10 feet. The applicant is also planning on constructing a roof top deck above the proposed garage. The proposed attached garage will be 5 feet from side property line. The required interior side yard is 6 feet. A variance is required to reduce the side yard from 6 feet to 5 feet.

The applicant is also proposing to construct a roughly 250 square foot patio in front of the dwelling. The proposed patio will be circular in design with an 18 foot diameter. The district front yard setback for this property is 25 feet; however the homes along this block of Elmwood have a much larger setback. The established front yard setback is 50 feet. The established front yard setback leaves approximately 8 feet between the front of the dwelling and setback. The proposed patio will be located 38 feet from the front property line. A variance to reduce the established front yard setback from 50 feet to 38 feet is required to allow for the proposed patio.

**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.**

**Side Yard Setback:** The applicant has requested a variance to reduce the required east interior side yard setback from 6 feet to 5 feet to allow for an attached two car garage and roof top deck. The applicant has 12 feet between the dwelling and the east property line and has stated that they need to have the garage located 5 feet from the property line instead of the allowed 6 feet to allow for a 20 foot wide garage. The applicant states that moving the garage west one foot to meet the setback would require the garage to have to move north. The site plan the applicant provided does not justify this argument.

Staff believes alternative designs exist and that there is no undue hardship caused by strict adherence to the zoning ordinance. The proposed garage extends 20 feet back from nearest existing building wall of the dwelling. The size of the proposed rear foyer can be reduced by one foot to allow for the one foot shift of the garage. Shifting the garage west one foot would still allow for a 20 foot deep garage at its shallowest point, which is deep enough to accommodate a vehicle.

**Front Yard Setback:** The applicant has requested a variance to reduce the established front yard setback from 50 feet to 38 feet to allow for a 250 square foot front patio. The applicant states that the established setback of 50 feet and the north-south orientation of the lot creates a hardship due to sun exposure. While, the 50 foot front yard setback is larger than in most areas of the city, the 50 foot setback is consistent for this block of Elmwood Place. The lot is 134 feet deep and the applicant has approximately 45 feet between the rear of the dwelling and rear property line for a deck or patio.

Staff believes there is no undue hardship caused by strict adherence to the zoning ordinance. The applicant also has approximately 8 feet between the front of the dwelling and the established front yard setback in which a patio is permitted. Staff believes the applicant has alternative designs to accommodate a patio in the front yard as well as ample space to accommodate a deck or patio in the rear of the 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 not unique to the parcel. The parcel is 8,100 square feet; nearly 60 feet wide by 134 feet deep. The width and size of the parcel exceed the 50 foot minimum width and 6,000 square feet lot area for the R1 zoning district.

- 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.**

**Side Yard Setback:** Staff believes the proposed attached garage and roof top deck will not alter the essential character of the surrounding neighborhood. The adjacent property to the east has a similar design with a front loading attached garage. However, staff believes the impact of the proposed garage and roof top deck will be most experienced by the adjacent property to the east, 310 Elmwood Place. This property is located 7 feet from the side property line. Staff believes that garage and more importantly the roof top deck will be injurious to the enjoyment of this property.

**Front Yard Setback:** Staff believes the patio will alter the essential character of the surrounding neighborhood. The Zoning Ordinance limits the size of a patio in the front yard to minimize the impact of the activity on neighbors that occurs on a patio and to minimize the amount of materials (furniture, grills, etc) that are stored or used on a patio that result in clutter. Staff believes the proposed patio will alter the essential character of the neighborhood and be injurious to the enjoyment of neighboring properties.

- 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

- **Deny** the variance to reduce the east interior side yard from 6 feet to 5 feet.
- **Deny** the variance to decrease the established front yard setback from 50 feet to 38.

To allow for an attached garage and roof top deck in the rear of the dwelling and a 250 square foot patio in the front yard at 318 Elmwood Place West in the R1 Single Family District.