

**Department of Community Planning and Economic Development - Planning Division Report**  
Variance  
BZZ-4591

**Date:** November 12, 2009

**Applicant:** Rasmus Law Office, LLC

**Address of Property:** 1804 Central Avenue NE

**Project Name:** 1804 Central Avenue NE

**Contact Person:** Dan Rasmus, (612) 746-0321

**Planning Staff:** Shanna Sether, (612) 673-2307

**Date Application Deemed Complete:** October 5, 2009

**End of 60-Day Decision Period:** December 4, 2009

**Ward: 1      Neighborhood Organization:** Logan Park, adjacent to Windom Park and NE Park

**Existing Zoning:** C2 Neighborhood Corridor Commercial District

**Zoning Plate Number:** 10

**Legal Description:** Not applicable

**Proposed Use:** A paved parking area accessory to an existing four-plex

**Concurrent Review:**

- Variance to reduce the minimum required north interior side yard to 0 ft. to allow for a paved parking area
- Variance to reduce the minimum distance between a paved parking area and a dwelling from 6 ft. to 0 ft.

**Zoning code section authorizing the requested variance:** Chapter 525, Article IX Variances, Specifically Section 525.520(1) “to vary the yard requirements, including permitted obstructions into required yards not allowed by the applicable regulations” and 525.520(8) “to permit parking that cannot comply with the location requirements for on-site parking, as specified in Chapter 537, Accessory Uses and Structures....”

**Background:** The subject property is an interior lot, approximately 43 ft. by 178 ft., (7,654 sq. ft.). The property consists of an existing two and a half story fourplex with a four-stall detached garage. Bituminous area and sidewalk almost exclusively covers the area between the alley and the fourplex. The zoning code allows parking areas as permitted obstructions in the required interior side yards, when they

are located in the rear 40 ft. of the lot. In addition, the zoning code states that “no detached accessory building or open parking space shall be located closer than six (6) feet from a dwelling of any type.” Zoning Enforcement staff issued a Notice of Non-Compliance (see attached) to the property owner on August 18, 2009. Therefore, the applicant has requested a variance to locate a paved parking area within the required interior side yards and within 6 ft. of the dwelling. The applicant is proposing to continue to use the bituminous area for a parking area within the required interior side yards and within 6 ft. of the dwelling.

As of writing this staff report, staff has not received any correspondence from the affected neighborhood organizations. Staff will forward comments, if any are received, at the Board of Adjustment meeting.

**Findings Required by the Minneapolis Zoning Code - Variances:**

- 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.**

**Both variances:** Staff believes that the subject property can be put to a reasonable use under the conditions allowed by the official code without causing undue hardship. Further, the current configuration, with pavement up to the adjacent residential property line, is not a reasonable use of the property. The applicant has stated that strict adherence to the ordinances would create undue hardship for the property owners by not allowing sufficient parking for the tenants of the building. The zoning code requires a minimum of one off-street parking space per dwelling. Therefore, the use is required to provide a minimum of 4 off-street parking spaces. There is an existing 4-stall detached garage and 20 ft. of bituminous surface between the garage and the alley in the rear 40 ft. of the lot, which could support another 4 vehicles. Staff cannot find that hardship exists in this case, as a detached garage and parking area between the garage and alley allows for sufficient area to allow for storage and vehicles without the need for the variances.

- 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.**

**Both variances:** The applicant’s existing site plan shows bituminous area and sidewalk almost exclusively covering the area between the alley and the fourplex. The applicant has stated that the site has existed in this present arrangement since the property was purchased by the existing owner in 1986. Further, the applicant has stated that the dimensions of the property and the arrangement of the structures on the property present a unique situation inherited by the current property owner and would allow reasonable use and minimum sufficient on-site parking. The lot arrangement and area are consistent with other residential properties in the City of Minneapolis and staff believes the circumstances for which the variance is sought have been created by the applicant. The zoning code requires a minimum of one off-street parking space per dwelling. Therefore, the use is required to provide a minimum of 4 off-street parking spaces. There is an existing 4-stall detached garage and 20 ft. of bituminous surface between the garage and the alley in the rear 40 ft. of the lot, which could support another 4 vehicles. Staff cannot find that hardship exists in this case, as a detached garage and parking area between the garage and alley allows for sufficient area to allow for storage and vehicles without the need for the variances.

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 reductions:** The granting of the variance will not be in keeping with the spirit and intent of the ordinance. The purpose of required yards is to provide for orderly development and use of land and to minimize conflicts among land uses by providing adequate light, air, open space and separation of uses. Further, the purpose of parking regulations is to provide for parking needs of uses and structure, to enhance the compatibility between parking areas and their surroundings and to regulate the number, design, maintenance, use and location of required off-street parking and the driveways that provide access and maneuvering. Staff believes that the granting of the variance will alter the essential character of the locality and be injurious to the use and enjoyment of other property in the vicinity. The interior side yards are paved up to the property line which does not allow for stormwater to be maintained on the property.

**Distance to a dwelling:** The granting of the variance will not be in keeping with the spirit and intent of the ordinance. The purpose of required yards is to provide for orderly development and use of land and to minimize conflicts among land uses by providing adequate light, air, open space and separation of uses. Further, the purpose of parking regulations is to provide for parking needs of uses and structure, to enhance the compatibility between parking areas and their surroundings and to regulate the number, design, maintenance, use and location of required off-street parking and the driveways that provide access and maneuvering. The parking area is directly adjacent to the dwelling and there are several windows on the rear elevation of the structure.

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.**

**Side yard reductions:** Granting of the variances would likely have no impact on the congestion of area streets or fire safety provided the site plan complies with all applicable building codes and life safety ordinances as well as Public Works standards. However, staff believes that the location of the parking area may be detrimental to the public welfare and safety, if it is located in the required yards, by not allowing any on-site infiltration of stormwater.

**Distance to a dwelling:** Granting of the variances would likely have no impact on the congestion of area streets or fire safety provided the site plan complies with all applicable building codes and life safety ordinances as well as Public Works standards. However, staff believes that the location of the parking area may be detrimental to the public welfare and safety, if it is located less than 6 ft. to the dwelling.

**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 minimum required north interior yard to 0 ft. to allow for a paved parking area.

**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 to reduce the minimum distance between a paved parking area and a dwelling from 6 ft. to 0 ft.

**Attachments:**

- 1) Written descriptions and findings submitted by the applicant
- 2) Copy of e-mail sent to neighborhood organizations and CM Ostrow
- 3) Notice of Non-Compliance, dated August 18, 2009
- 4) Zoning map
- 5) Survey
- 6) Site plan
- 7) Floor plans
- 8) Photographs