

Department of Community Planning and Economic Development – Planning Division

Variance Request
BZZ-3381

Date: January 18, 2007

Applicant: Michael Knutson, on behalf of Kevin Johnson and Rita Pelecis

Address of Property: 3911 Upton Avenue South

Contact Person and Phone: Michael Knutson, (612) 719-9015

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

Date Application Deemed Complete: December 27, 2006

Public Hearing: January 18, 2007

Appeal Period Expiration: January 29, 2007

End of 60 Day Decision Period: February 25, 2007

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

Existing Zoning: R1 Single Family District

Proposed Use: An addition to a single family dwelling

Proposed Variance: A variance to increase the maximum height of a single family dwelling from 2.5 stories to 3 stories to allow for two-story addition to an existing one-story single family dwelling located at 3911 Upton Avenue South in the R1 Single Family District.

Zoning code section authorizing the requested variance: 525.520 (4)

Background: The subject property is approximately 40 ft. by 115 ft., (4,573 square feet) and consists of an existing one-story single family dwelling. The applicant is proposing to build an addition that would consist of a full second story and a third floor that the applicant calls an “attic level” resulting in a dwelling that is 35 feet high. The proposed attic floor is considered a full story because it does not meet the Zoning Ordinance’s definition of a half story. This results in a 3 story dwelling. The maximum height for a single family dwelling in the R1 District is 2.5 stories or 35 feet, whichever is less. The proposed addition requires a variance to increase the maximum height to allow for a 3 story dwelling.

A half story is defined in section 520.160 of the Zoning Ordinance as:

Story, half. A story under a gable or hip roof that contains a habitable floor area, including floor area under dormers, not exceeding fifty (50) percent of the floor area of the floor below.

Where building height is limited to 2-1/2 stories, the definition of half-story must be referenced. In determining whether a half-story exists, both parts of the two-part test must be met. First, the half-story must be under a gable or hip roof. (A building with a flat, shed or mansard roof cannot qualify as having a half-story.) Second, the habitable floor area of the half-story may not exceed fifty percent of the floor area below it.

The floor area on the proposed second floor of the dwelling is 1,064 square feet. The proposed second floor will contain four bedrooms, two bathrooms and a laundry room. The third floor is 432 square feet and consists of a second mechanical room (other mechanical room located in basement), and an area called "attic storage" that includes built-in counters overlooking a bay of windows. The proposed third floor is 41 percent of the area of the second floor, and thereby meets the second part of the two-part test. However, the third floor is under a shed roof and does not meet the first part of the two-part test of a half story.

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 increase the maximum height of a single family residential dwelling from 2.5 stories to 3 stories. Strict adherence to the regulations would not allow for the proposed third floor addition to the existing single family dwelling, due to the proposed shed roof. The applicant has stated that redesigning the roof to meet the Zoning Ordinance definition of half story would result in decreased area for future solar panels, reduced attic space and it would compromise the architecture of the addition. An addition would be a reasonable use of the property if it complied with the maximum bulk requirements of two and one-half stories. Staff cannot find a reasonable hardship for allowing the variance. Staff believes alternative designs for the addition exist that would not require a variance and still provide the additional space the applicant desires.

- 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 circumstance for which the variance is sought is not unique to the parcel of land. The subject parcel is 4,573 square feet, which is nearly 1,500 square feet less than the minimum lot area in the R1 District. The applicant is proposing the addition, which does not meet height requirements stated in the Zoning Ordinance, and thus creating the circumstance that requires the

variance. Other design alternatives exist to accommodate increased habitable area for the dwelling that complies with the Zoning Ordinance.

- 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.**

Granting the variance will negatively alter the essential character of the surrounding neighborhood. The 3900 block of Upton has many dwellings with various setbacks and architectural styles ranging from 1950s style one-story ramblers to four squares to traditional 2.5 story dwellings. Hip or gable roofs are predominate on all of these dwellings and predominate on residential buildings in the neighborhood and in all of Minneapolis.

Due to the grade change of the street, as it drops to Lake Calhoun, each dwelling sits above the dwelling to its north. The proposed addition will create a similar affect with the dwelling to its north. The arrangement of the mass of the third story shed roof is centered in the middle of the dwelling, which reduces the impact of shadowing and mass on the neighboring dwellings.

The arrangement of the mass aside, the impacts of the third story addition on the neighboring home to the north is a concern to staff. The peak of the shed roof will be 35 feet high and due to the grade change the structure will appear to be 38 feet tall when viewed from the north. The shed roof also draws the massing of the building to the north, which will accentuate the impact of the height to the dwelling to the north. Staff believes granting the variance will be injurious to the use or enjoyment of the neighboring properties and negatively affect the character of the neighborhood.

- 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.**

Provided the addition complies with applicable provisions of the building code, granting the variance would likely have no impact on the congestion of area streets or fire safety, nor would the proposed addition to the existing single-family 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 increase the maximum height of a single family dwelling from 2.5 stories to 3 stories to allow for two-story addition to an existing one-story single family dwelling located at 3911 Upton Avenue South in the R1 Single Family District.