

Department of Community Planning and Economic Development – Planning Division

Variance Request
BZZ-3999

Applicant: Steven Behnke, on behalf of Mike and Jen Olson

Address of Property: 3924 Upton Ave South

Contact Person and Phone: Steven Behnke, (612) 290-5570

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

Date Application Deemed Complete: April 1, 2008

Publication of Staff Report: April 18, 2008

Public Hearing: April 24, 2008

Appeal Period Expiration: May 5, 2008

End of 60 Day Decision Period: May 31, 2008

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

Existing Zoning: R1 Single Family District

Proposed Use: A new single family dwelling with detached garage

Proposed Variance: A variance to reduce the established front yard setback from 32 to 25 feet to allow for a new single family dwelling located at 3924 Upton Avenue South

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

Background: The size of the subject site is approximately 50 feet by 115 feet (5, 750 square feet). The property currently contains a structure that was originally constructed as a neighborhood store and then converted into a single family dwelling. The structure is located 3.1 feet from the front property line and 5.2 feet from the south property line. The applicant is proposing to demolish the existing home and construct a new single family dwelling.

The proposed home receives 16 of 24 possible points for the Site Plan Review. The home received points for having a detached garage, a basement, external materials of stucco, and having a roof pitch greater than 6/12. The minimum points required for approval is 15 points.

The front yard setback for the district is 25 feet; however the established front yard setback created by the front corners of the two adjacent properties is approximately 32 feet. The adjacent dwelling to the north, 3922 Upton Ave S, is located 25.6 feet from the front property line and the adjacent dwelling to the south, 3930 Upton Avenue South, is located 36.1 feet from the front property line.

The applicant is proposing to build the structure to match the established front yard setback created by the dwelling to the north at 25.6 feet and the dwelling two properties south, 3934 Upton Avenue, at 25.2 feet, this results in a setback of approximately 25 feet. A variance is required to reduce the established front yard setback from 32 to 25 feet.

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 established front yard setback from 32 feet to 25 feet to allow for a new single family dwelling. The intent of the front yard increase or established front yard setback is to create and maintain a consistent front building wall by having consistent front yard setbacks. The west side of Upton Avenue has a consistent setback of approximately 25 feet with the exception of two properties, the subject property which is currently 3.1 feet from the front property line and the adjacent property to the south which 36 feet from the front property line. The application of the established front yard setback on this site results in a structure set further back than the other structures on the west side of the 3900 block of Upton. Staff believes there is undue hardship caused by the strict interpretation of the zoning ordinance and believes that matching the consistent front yard setback along Upton is a reasonable use.

- 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 variance is requested are unique to the parcel. The applicant is proposing a front yard setback that is keeping with setback of all of the structures, but one, along the west side of the 3900 block of Upton Avenue South. The applicant did not construct the structure at 3930 Upton Avenue South that is creating the increased front yard setback.

The applicant did not plat the subject parcel, which is 10 feet shorter than typical Minneapolis lots.

- 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.**

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The proposed setback variance will enhance the essential character of the neighborhood. The proposed setback will be in keeping with the consistent front yard setback of the block at approximately 25 feet.

The proposed setback of 25 feet will result in the structure that is approximately 7 feet closer to the front property line than the adjacent property to the south. This location could be injurious to this property, 3930 Upton Avenue S. However, the existing dwelling on the subject site is located 3.1 feet from the front property line and is 5.2 feet from the south interior property line. Staff believes that the proposed structure will be less injurious to the use or enjoyment of the adjacent property to the south as it will have a greater front yard setback, 25 feet versus 3 feet, and greater interior side yard setback, 6 feet versus 5.2 feet.

- 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 variance would not likely increase congestion in the area or increase the danger of fire safety, nor would the terrace variance be detrimental to welfare or 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** variance to reduce the established front yard setback from 32 to 25 feet to allow for a new single family dwelling located at 3924 Upton Avenue South in the R1 Single Family District with the following condition:

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

Attachments:

1. Applicant's Statement
2. Map of Area
3. Site Plan and plans for the proposed home
4. Photographs