

**Department of Community Planning and Economic Development - Planning Division Report**  
Variances  
BZZ-4642

**Date:** January 14, 2010

**Applicant:** Jason and Joy Goray

**Address of Property:** 1119 5<sup>th</sup> Street NE

**Project Name:** 1119 5<sup>th</sup> Street NE

**Contact Person:** Jason and Joy Goray, (612) 362-9061

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

**Date Application Deemed Complete:** December 10, 2009

**End of 60-Day Decision Period:** February 8, 2010

**Ward:** 3      **Neighborhood Organization:** Sheridan Neighborhood Organization

**Existing Zoning:** R2B Two-Family District

**Zoning Plate Number:** 9

**Legal Description:** Not applicable

**Proposed Use:** A deck addition to an existing garage

**Concurrent Review:**

- **Variance:** to increase the maximum permitted floor area for an accessory structure from 676 square feet to 1,228 square feet to allow for an 11 ft. by 20 ft. attached deck to an existing detached garage of an existing duplex.
- **Variance:** to increase the maximum permitted floor area for an accessory structure from 676 square feet to 1,288 square feet to allow for a 7 ft. by 20 ft. attached deck to an existing detached garage of an existing duplex.
- **Variance:** to increase the maximum permitted floor area for an accessory structure from 676 square feet to 1,162 square feet to allow for a 5 ft. by 12 ft. attached deck to an existing detached garage of an existing duplex.
- **Variance:** to increase the maximum permitted floor area for an accessory structure from 676 square feet to 1,024 square feet to allow for a 4 ft. by 4 ft. exterior landing to an existing detached garage of an existing duplex.

**Zoning code section authorizing the requested variance:** Chapter 525, Article IX Variances, Specifically Section 525.520(3) (3) (3) (3) “to vary the gross floor area...of a structure or use”

**Background:** The subject property is approximately 40 ft. by 138 ft. (5,520 sq. ft.). The property consists of an existing two and a half story dwelling with a 672 sq. ft. detached garage. The garage was approved through an administrative review to increase its maximum height from 12 ft. to 15 ft. 8 in. in 2007, with conditions. The conditions of approval require that the primary exterior materials of the garage match the primary exterior materials of the principal structure and the roof matches the primary roof of the principal structure. The existing duplex has white stucco and a 12/12 pitch hip roof and the recently constructed detached garage is teal stucco board and a 12/12 pitch gable roof.

The applicant recently applied for a variance to construct a new 11 ft. by 20 ft., 2<sup>nd</sup> story deck to the south side of the existing detached garage in June of 2009. The Zoning Administrator has made the following determinations regarding decks and access to accessory structures: (1) structures, including decks, attached to existing detached accessory structures are calculated towards the gross floor area of the accessory structure; and (2) that fixed stairs that access the second floor of a detached accessory structure allows staff to calculate the second floor area towards to the gross floor area. The second floor area of the existing detached garage is 336 sq. ft. and the attached deck proposed by the applicant was 220 sq. ft. Therefore, the proposed deck addition increased the gross floor area of the detached garage from 672 sq. ft. to 1,228 sq. ft. The maximum area of a detached accessory structure is either 676 sq. ft. or 10% of the lot area (552 sq. ft.), whichever is greater. The application for this variance was denied by the Board of Adjustment on June 11, 2009, consistent with the staff recommendation that made the assertion that a fixed, interior stair to the interior of the detached garage would allow for appropriate use of the second floor of the existing detached garage.

Since the Board of Adjustment's decision on June 11, 2009, the applicant has contacted a structural engineer to determine whether or not the existing truss system may be cut into to provide a fixed, interior stair to access the second floor of the garage. The structural engineer has determined that the existing truss system cannot be modified and that new engineered trusses would have to be constructed in order to allow for the fixed stair. This would require an entirely new roof and truss system to the existing detached garage.

The applicant is now proposing four different options to allow for access to the second floor of the existing detached garage and provide a covered parking area over the open parking space on the south side of the garage.

**Option 1:** This is the same proposal as requested by the applicant in June of 2009. The applicant is proposing to construct a new 11 ft. by 20 ft., 2<sup>nd</sup> story deck to the south side of the existing detached garage. This will allow for both access to the second floor and a covered parking area over the parking space to the south of the existing garage. The second floor area of the existing detached garage is 336 sq. ft. and the proposed attached deck is 220 sq. ft. Therefore, the proposed deck addition increases the gross floor area of the detached garage from 670 sq. ft. to 1,228 sq. ft.

**Option 2:** This proposal is slightly different and is to construct a new 7 ft. by 20 ft., 2<sup>nd</sup> story deck to the south side of the existing detached garage and a trellis along the south property line. This will allow for both access to the second floor and an enclosed parking area over the parking space to the south of the existing garage. The second floor area of the existing detached garage is 336 sq. ft., the proposed attached deck is 140 sq. ft. and the enclosed parking space within the trellis is another 140

sq. ft. Therefore, the proposed deck addition increases the gross floor area of the detached garage from 670 sq. ft. to 1,288 sq. ft.

**Option 3:** This proposal is to construct a new 5 ft. by 12 ft., 2<sup>nd</sup> story deck to the south side of the existing detached garage, with a trellis connecting the deck to the ground along the south property line. The second floor area of the existing detached garage is 336 sq. ft., the proposed attached deck is 60 sq. ft. and the enclosed area under the deck and within the trellis is another 60 sq. ft. Therefore, the proposed deck addition increases the gross floor area of the detached garage from 670 sq. ft. to 1,162 sq. ft.

**Option 4:** This proposal is to construct a new 4 ft. by 4 ft. landing and stair to the south side of the existing detached garage. The second floor area of the existing detached garage is 336 sq. ft. and the proposed landing is 16 sq. ft. Therefore, the requested variance is to increase the maximum gross floor area of the detached garage from 676 sq. ft. to 1,024 sq. ft.

Staff has received a letter of support from the Sheridan Neighborhood Organization. Staff will forward any additional comments, if any are received, at the Board of Adjustment meeting.

**Findings Required by the Minneapolis Zoning Code – Variances 1-3 to allow for an attached deck to an existing detached garage:**

- 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 is seeking several variances to increase the maximum permitted floor area for an accessory structure from 676 square feet to allow for an attached deck to an existing detached garage of an existing duplex. The existing garage has a footprint of 672 sq. ft.; 4 sq. ft. less than the allowed maximum area. The applicant has indicated that the purpose of the proposed deck is to allow for additional area to move large items to storage on the second floor of the garage and to provide cover for a third parking space underneath it. Strict adherence to the regulations do allow for reasonable use of the property. The applicant is requesting a variance of 190% to 170% of the allowed maximum area. In light of the recent determination by the structural engineer, the applicant is unable to provide a drop-down stair on the interior of the garage. However, staff believes that the 4 ft. by 4 ft. landing would allow for reasonable use of the property and requires a substantially less variance. In addition, there is sufficient area in the rear yard, between the principal and accessory structure to locate a deck without the need for variance.

- 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 circumstances upon which the setback variance is requested are not unique to the parcel of land. The applicants constructed the existing garage at 672 sq. ft.; 4 sq. ft. less than the allowed maximum area. Staff does not believe a deck is required in order to accomplish use of the storage area on the second floor of the garage, nor another covered parking area. The applicant is requesting a variance of 190% to 170% of the allowed maximum area. In light of the recent

determination by the structural engineer, the applicant is unable to provide a drop-down stair on the interior of the garage. However, staff believes that the 4 ft. by 4 ft. landing would allow for reasonable use of the property and requires a substantially less variance. In addition, there is sufficient area in the rear yard, between the principal and accessory structure to locate a deck without the need for variance.

- 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.**

The standards governing accessory structures in the zoning code were established to provide for orderly development and use of land and to minimize conflicts among land uses by governing the size, location and operational characteristics of accessory structures. Staff is concerned that the location of the proposed 2<sup>nd</sup> story deck, 1 ft. to the south interior property line will be injurious to the use and enjoyment of other property in the vicinity.

- 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 side yard setback variance would likely have no impact on the congestion of area streets or fire safety, nor would the proposed deck addition to the existing garage be detrimental to endanger the public safety. However, staff believes that the proposed location of the 2<sup>nd</sup> story deck, 1 ft. to the south interior property line may be detrimental to the public welfare.

**Findings Required by the Minneapolis Zoning Code – Variances 4 to allow for an exterior landing and stair to an existing detached garage:**

- 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 is seeking a variance to increase the maximum permitted floor area for an accessory structure from 676 square feet to allow for an exterior landing and stair to an existing detached garage of an existing duplex. The applicant has indicated that the purpose of the proposed landing is to allow for access to the storage area on the second floor of the garage. In light of the recent determination by the structural engineer, the applicant is unable to provide a drop-down stair on the interior of the garage. Therefore, strict adherence to the regulations do not allow for reasonable use of the property, by not allowing access to the second floor storage area of the existing garage without substantial changes to the existing roof and truss system.

- 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 applicant is seeking a variance to increase the maximum permitted floor area for an accessory structure from 676 square feet to allow for an exterior landing and stair to an existing detached garage of an existing duplex. The applicant has indicated that the purpose of the proposed landing is to allow for access to the storage area on the second floor of the garage. In light of the recent

determination by the structural engineer, the applicant is unable to provide a drop-down stair on the interior of the garage. Therefore, strict adherence to the regulations do not allow for reasonable use of the property, by not allowing access to the second floor storage area of the existing garage without substantial changes to the existing roof and truss system.

**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.**

The standards governing accessory structures in the zoning code were established to provide for orderly development and use of land and to minimize conflicts among land uses by governing the size, location and operational characteristics of accessory structures. Staff does not believe that the proposed landing to the existing detached garage will alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.

**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 side yard setback variance would likely have no impact on the congestion of area streets or fire safety, nor would the proposed deck addition to the existing garage be detrimental to endanger the public safety or public welfare.

**Recommendation of the Department of Community Planning and Economic Development - Variance:**

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 permitted floor area for and accessory structure from 676 square feet to 1,228 square feet to allow for a 11 ft. by 20 ft. attached deck to an existing detached garage of an existing duplex for the property located at 1119 5<sup>th</sup> Street NE in the R2B Two-Family Residence District.

**Recommendation of the Department of Community Planning and Economic Development - Variance:**

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 permitted floor area for and accessory structure from 676 square feet to 1,288 square feet to allow for a 7 ft. by 20 ft. attached deck to an existing detached garage of an existing duplex for the property located at 1119 5<sup>th</sup> Street NE in the R2B Two-Family Residence District.

**Recommendation of the Department of Community Planning and Economic Development - Variance:**

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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 permitted floor area for and accessory structure from 676 square feet to 1,162 square feet to allow for a 5 ft. by 12 ft. attached deck to an existing detached garage of an existing duplex for the property located at 1119 5<sup>th</sup> Street NE in the R2B Two-Family Residence District.

**Recommendation of the Department of Community Planning and Economic Development - Variance:**

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the findings above and **approve** the variance to increase the maximum permitted floor area for and accessory structure from 676 square feet to 1,024 square feet to allow for a 4 ft. by 4 ft. landing to an existing detached garage of an existing duplex for the property located at 1119 5<sup>th</sup> Street NE in the R2B Two-Family Residence District, subject to the following condition of approval:

1. Community Planning and Economic Development Department – Planning Division staff review and approval of the site and elevation plans.

**Attachments:**

- 1) Written descriptions and findings submitted by the applicant
- 2) Copy of e-mail sent to Sheridan Neighborhood Organization and CM Hofstede
- 3) Correspondence from neighbors and the neighborhood organization
- 4) Zoning map
- 5) Site plan
- 6) Building elevations
- 7) Floor plans
- 8) Photographs