

Department of Community Planning and Economic Development - Planning Division Report
Variance
BZZ-4392

Date: June 11, 2009

Applicant: Jason Amende

Address of Property: 20 Luverne Avenue

Project Name: 20 Luverne Avenue

Contact Person: Jason Amende, (612) 801-1155

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

Date Application Deemed Complete: May 8, 2009

End of 60-Day Decision Period: July 7, 2009

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

Existing Zoning: R1 Single Family District

Zoning Plate Number: 37

Legal Description: Not applicable

Proposed Use: A garage addition to an existing single-family dwelling.

Variance: to reduce the south interior side yard setback from 6 feet to approximately 2 feet to allow for a new attached garage with a roof-top deck to an existing single family home.

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.”

Background: The subject property is approximately 52 ft. by 80 ft. (4,160 sq. ft.). The property consists of an existing one and a half story dwelling with a parking pad in the front yard. The dwelling was constructed in 1911 and a building permit was issued in 1921 for an 18 ft. by 20 ft. garage; however, the permit was never inspected and staff believes that it was not constructed. The applicant is proposing to construct a new 14 ft. by 38 ft., front-facing attached garage to the structure.

The existing dwelling is located approximately 16 ft. from the south interior property line. The applicant is proposing to construct a 14 ft. wide garage to the structure with a roof-top deck. The minimum interior side yard setback in the R1 District is 6 ft. and the applicant is proposing to locate the garage 2 ft. to the

property line. Therefore, the applicant is seeking a variance to reduce the required south interior side yard setback from 6 ft. to 2 ft. to allow for the addition of the attached garage with roof-top deck.

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

Findings Required by the Minneapolis Zoning Code - Variance:

- 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.**

Garage: The applicant is seeking a variance to reduce the south interior side yard setback from 6 ft. to 2 ft. to allow for the construction of a new attached garage to an existing single-family dwelling. The lot area is approximately 4,160 square feet; 1,840 square feet deficient of the minimum lot area in the R1 District. The existing dwelling on the subject property is located approximately 16 ft. to the south interior side property line. Strict adherence to the regulations requires a minimum of a 6 ft. interior side setback and would not allow for the garage on the property, sufficient in width to allow for the parking of a vehicle. The property owners are currently parking in a nonconforming location on a driveway in the required front yard. Staff believes that the garage would allow for reasonable use and would otherwise cause undue hardship due to the constraints of the substandard lot.

Roof-top deck: The applicant is seeking a variance to the south interior side yard setback from 6 ft. to 2 ft. to allow for the construction of a new attached garage with a roof-top deck to an existing single-family dwelling. The existing dwelling on the subject property is located approximately 16 ft. to the east interior side property line. Strict adherence to the regulations requires a minimum of a 6 ft. interior side setback and would not allow for the deck as proposed. Staff believes that the deck would allow for reasonable use while maintaining the minimum interior side setback.

- 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.**

Garage: The circumstances upon which the setback variance is requested are unique to the parcel of land due to the substandard lot width and the lack of alley access. The applicant did not create these circumstances and the alternative to the variance would cause a hardship to the property owner by not allowing for adequate use and access to this property. Staff does not believe a 2 ft. setback is required in order to accomplish a garage addition, but rather a 3 ft. setback, to the dwelling that would serve the property owner.

Roof-top deck: The circumstances upon which the setback variance is requested are unique to the parcel of land. The alternative to the variance would not cause a hardship to the property owner by not allowing for adequate use and access to this property. Staff does not believe a 2 ft. setback is required in order to accomplish a deck addition to the dwelling that would serve the property

owner. The proposal for a 10 ft. wide deck instead of a 14 ft. wide deck is a circumstance that would be created by the applicant.

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.**

Garage: Staff believes the proposal of the new attached garage located 2 ft. to the south interior side may alter the essential character of the surrounding neighborhood and be injurious to the surrounding property. Staff does recognize the substandard lot width of the property and the difficulty this poses for the property owner, however does not believe that a 2 ft. side yard setback is appropriate for the garage addition and instead recommends that the applicant locate their garage 3 ft. to the south interior property line. Staff believes that the proposed attached garage will be less likely to be injurious to the use or enjoyment of other property in the vicinity, if the garage is setback at least 3 ft.

Roof-top deck: Staff believes the proposal of the roof-top deck located 2 ft. to the south interior side may alter the essential character of the surrounding neighborhood and be injurious to the surrounding property. Staff does recognize the substandard lot width of the property and the difficulty this poses for the property owner, however does not believe that a 2 ft. side yard setback is appropriate for a roof-top deck. The adjacent structure to the south has windows on the north side of their building that would face the new roof-top deck and the potential for nuisance is likely. Staff believes that the proposed roof-top will likely not be injurious to the use or enjoyment of other property in the vicinity, if the roof-top deck is located at least 6 ft. to the south interior side property line.

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.**

Both variances: Granting the side yard setback 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 - 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 reduce the south interior side setback from 6 ft. to 3 ft. all to allow for the addition of a new attached garage to an existing single family dwelling located at 20 Luverne Avenue in the R1 Single Family District subject to the following conditions:

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

2. The exterior materials of the attached garage shall match the existing dwelling.

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 reduce the south interior side setback from 6 ft. to 2 ft. all to allow for a roof-top deck, above a proposed garage, to an existing single family dwelling located at 20 Luverne Avenue in the R1 Single Family District.

Attachments:

- 1) Written descriptions and findings submitted by the applicant
- 2) Correspondence from neighbors, neighborhood associations, etc.
- 3) Copy of e-mail sent to neighborhood organizations and CM Benson
- 4) Zoning map
- 5) Survey
- 6) Site plan
- 7) Building elevations
- 8) Floor plans
- 9) Photographs
- 10) Oblique aerials