

Department of Community Planning and Economic Development - Planning Division Report

Variance Request
BZZ-3906

Date: January 24, 2008

Applicant: Tom Frattallone (property owner)

Address of Property: 2708 Emerson Avenue South

Contact Person and Phone: Tom Frattallone, (612) 874-1445

Planning Staff and Phone: Aaron Hanauer, (612) 673-2494

Date Application Deemed Complete: December 21, 2007

Publication Date: January 18, 2008

Public Hearing: January 24, 2008

Appeal Period Expiration: February 4, 2008

End of 60 Day Decision Period: February 19, 2008

Ward: 10 **Neighborhood Organization:** Lowry Hill East

Existing Zoning: R2B

Proposed Use: To allow for a detached garage to have vehicle access doors face the alley and for a garage expansion.

Proposed Variance: A variance to reduce the rear yard setback from 5 feet to 2.5 feet.

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

Background: The subject property, 2708 Emerson Avenue South, is zoned R2B. It measures 5,142 sq. ft. (40 ft. x 128 ft.), which conforms to the Zoning District lot area and lot width requirements. The property is an interior lot that contains a 2½ story, single-family dwelling constructed in 1908. The lot also contains a 1 ½ car, detached garage that is 348 sq. ft. (18 ft. x 19.3 ft.). Vehicles access the garage via the alley. The garage was built in 1996 prior to the applicant purchasing the property. It is located 1 foot from the south interior lot line and 2.5 feet from the west, rear lot line (see Appendix B: Site Plan). The existing garage is conforming to the Minneapolis Zoning Code setback requirements because it meets the requirements of provisions 535.280 (d) and (e) (see below).

535.280(d) Interior side yards for detached buildings accessory to dwellings. The interior side yard requirement for a detached accessory building may be reduced to one (1) foot when the entire accessory building is located in the rear forty (40) feet or rear twenty (20) percent of the lot, whichever is greater, provided that the principal structure on the adjoining lot has its rear wall at least forty (40) feet from the rear lot line. Further, the required side yard for a detached accessory building may be eliminated where adjoining property owners construct detached garages sharing a common wall and which are located in the rear forty (40) feet. Where the interior side yard is reduced, eaves, including gutters, shall not be less than six (6) inches from the property line, except where a common wall is allowed.

535.280 (e) Rear yards for detached buildings accessory to dwellings. The rear yard requirement for a detached accessory building may be reduced to one (1) foot, except where vehicle access doors face the rear lot line, in which case no reduction of the required yard is permitted. Further, where a rear yard abuts a required side yard no reduction of the required yard is permitted unless the entire accessory building is located in the rear forty (40) feet or rear twenty (20) percent of the lot, whichever is greater, and is located behind the rear wall of the principal structure on the adjacent property to the rear. The required yard along such adjacent property may be eliminated where adjoining property owners construct detached garages sharing a common wall and which are located in the rear forty (40) feet of both properties. Where the rear yard is reduced, eaves, including gutters, shall not be less than six (6) inches from the property line, except where a common wall is allowed.

Proposal: The applicant is proposing to expand the existing garage to accommodate two vehicles. The garage is proposed to be 576 sq. ft. (18 ft. x 32 ft). With the expansion, the applicant is proposing to have the vehicle access doors face the alley at a distance of 2.5 feet from the rear property line. The Minneapolis Zoning Code requires that a detached garage's access doors, when they face the rear property line, be located at the zoning district setback, which is 5 feet in the case of the subject property.

Public Comment: CPED notified property owners within 350 feet of subject property of the variance request. As of January 15, 2008, one letter of support was received (see Appendix D). The applicant attended the January 9th Lowry Hill East Neighborhood Association to explain the proposal, but CPED has not received a copy of the neighborhood recommendation.

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 rear yard setback from 5 feet to 2.5 feet to allow for a detached garage with vehicle access doors that face the rear property line. Strict adherence to the zoning code would require the applicant to have a detached garage, with vehicle access doors facing the alley be located 5 feet from the rear property line. CPED does not recognize a hardship on this lot, and believes that design alternatives exist that would not require this 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 subject property does not contain unique circumstances for which the variance is sought. It conforms to the Zoning District lot area and lot width requirements. The lot also contains alley access.

The applicant's garage expansion proposal creates the need for the variance. CPED believes that design alternatives exist that would not require this 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.**

Granting of the variance will not be keeping with the spirit and intent of the ordinance. The Zoning Code establishes a greater rear yard setback for detached garages that open up to the alley in large part for safety concerns. CPED and Public Works believe that when this setback distance is reduced it may diminish site lines to a point of being unsafe when cars back out of their garage into the alley. In addition, when the distance from access doors that open up to the alley to the other side of the alley is less than 18 feet it may create a greater likelihood that a multiple-point turn will be required for vehicles to access a garage and/or it creates the need for driving on a neighboring property to access a parking area. In this case, the distance from the proposed operational doors to the other side of the alley is 14.5 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.**

The proposed variance will not increase congestion of the public streets, or increase the danger of fire. However, the variance may be detrimental to public welfare and endanger public safety. The Zoning Code requires a rear yard setback to be increased for detached garages that open up to the alley to improve site lines for alley traffic, which is a safety concern. The setback is also increased to provide adequate room for vehicles accessing a garage/parking space without needing to make multiple-point turns or drive onto a neighboring property.

Recommendation of the Department of Community Planning and Economic Development:

CPED Planning Division
BZZ-3906

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment **deny** the variance to reduce the rear yard setback from 5 feet to 2.5 feet

Attachments:

Appendix A: Zoning map

Appendix B: Application

Appendix C: Aerials

Appendix D: Public Comments