

Department of Community Planning and Economic Development – Planning Division**Variance Request
BZZ-3561****Date:** June 7, 2007**Applicant:** Thomas & Anna Marie Erbes**Address of Property:** 4737 Blaisdell Avenue South**Contact Person and Phone:** Thomas & Anna Marie Erbes, (612) 827-2268**Planning Staff and Phone:** Brian Schaffer, (612) 673-2670**Date Application Deemed Complete:** May 14, 2007**Public Hearing:** June 7, 2007**Appeal Period Expiration:** June 18, 2007**End of 60 Day Decision Period:** July 13, 2007**Ward:** 11 **Neighborhood Organization:** Tangletown Neighborhood Association**Existing Zoning:** R1A Single Family District.**Proposed Use:** A 675 square foot, two story detached garage**Proposed Variance:**

- A variance to increase the height of the building wall of an accessory structure from 10 feet to 14.5 feet
- A variance to increase the height of an accessory structure from 12 feet to 16 feet
- A variance to increase the floor area of an accessory structure from 675 square feet to 711 square feet

To allow for a 2 story detached garage located at 4737 Blaisdell Avenue South in the R1A Single Family District.

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

Background: The size of the subject site is 46 ft. x 125 ft. (5,750 sq. ft.) The applicants are proposing to construct a two story detached garage. The proposed detached garage will have a first floor area of 675 square feet and a second-floor floor area of 711 square foot. Since the second floor is cantilevered over the first floor, staff calculates the floor area at the largest foot print. The maximum footprint for an accessory structure is 676 square feet.

The building wall of the proposed structure will be 14.5 feet tall and the maximum building wall height allowed for an accessory structure is 10 feet. The proposed accessory structure will have a roof pitch of 8/12 to match the roof pitch of the dwelling. The height of the proposed accessory structure is 16 feet at the midpoint of the roof. The height of an accessory structure shall not exceed 12 feet at the midpoint; however the Zoning Ordinance allows the height to be increased to 16 feet administratively if:

“The maximum height may be increased to sixteen (16) feet or the height of the principal structures, whichever is less, where the primary exterior materials of the accessory structure match the primary exterior materials of the principal structure and the roof pitch matches the primary roof pitch of the principal structure, and provided the wall height shall not exceed ten (10) feet from the floor to the top plate.”

The applicants are proposing a 14.5 foot tall building wall and because of the building wall height are not eligible to increase the height of the structure administratively. A variance is required to increase the height to 16 feet at the midpoint.

The applicants currently have a single stall tuck-under garage facing the rear of their property. This garage is 7 feet tall, 12 feet wide by 18 feet deep. The applicants dwelling and rear yard experiences flooding as a result of a undersized storm sewer system. The catch basin that is located in the alley does not drain storm water in large storm events. The result is flooding of the alley and the applicant's property, garage, and basement. The City of Minneapolis Public Works Department suggests that the applicants raise the grade of the rear of their property approximately 2 feet and construct a detached garage to prevent further flooding of the applicant's dwelling and garage.

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.**

Wall Height & Accessory Structure Height: The applicants are proposing a garage with a building wall height of 14 feet 6 inches and a structure height of 16 feet. The applicants' yard and existing attached garage experience substantial flooding during large storm events. This is a direct result of City and State storm water management system capabilities. Staff recognizes that this creates substantial challenges to using the existing attached garage. The applicants have indicated that they plan to increase the grade of the rear of the property to reduce the risk of flooding.

Staff believes that there is no hardship caused by the zoning ordinance. Staff does not believe that the flooding or required grade alteration justifies the need for a variance to increase in the wall plate or height of the structure.

The applicant has alternative design options to provide the desired space in a detached garage. The zoning ordinance allows for a garage with a height of 16 feet, if the building wall does not exceed 10 feet in height. The applicant has stated that proposed height and building wall of the

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structure will allow for additional space for the pursuit of their hobbies without the need to place an addition on their home. Staff understands the desire to have more space to accommodate the applicants' pursuits, but believes that a garage with a 16 foot height and 10 foot building wall, which is allowed by the zoning ordinance, could accommodate a second floor space that could be utilized for much of the desired space proposed by the applicant.

Floor Area: The applicant is proposing a garage with a 675 square foot first floor – floor area. The second floor is cantilevered over the first floor an additional 4 feet and has a floor area of 711 square feet. The cantilevered portion is to accommodate a three season porch. The applicants currently have a deck on the rear of the dwelling. The applicants have alternative design options to have a three season porch on the existing dwelling and meet the 676 square foot floor area requirement of the zoning ordinance. Staff does not believe there is hardship caused by the strict adherence to the zoning ordinance.

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 flooding conditions caused by the grade and the storm water management systems are unique to this parcel and not created by the applicant. However, these conditions do not create a unique circumstance to seek a variance for increased garage height, building wall height or floor area. Staff does not believe there are unique circumstances to justify the variance applications.

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.**

Staff believes that a detached accessory structure with a 14 foot 6 inch building wall and height of 16 feet would not be in keeping with spirit and intent of the ordinance. The zoning ordinance allows for an accessory structure to have a height of 16 feet if the structure matches the roof pitch and external materials of the dwelling, and has a 10 foot building wall. The intent of the ordinance was twofold; first, it was created to allow for accessory structures to match the roof pitch of an existing dwelling with a steep roof where in matching the steep roof pitch would result in a garage with a height greater than 12 feet. Secondly, the intent of not allowing a building wall greater than 10 feet is to reduce the impact of a structure with a tall building wall on surrounding properties and to prevent two story garages.

Accessory structures are by nature accessory to the primary structure. The zoning ordinance defines an accessory structure as: "A structure detached from a principal structure, incidental and subordinate to the principal structure or use, including but not limited to garages, sheds and fences." The Minneapolis Assessor calculates the building area of the existing dwelling at the subject site to be 1,448 square feet. The building area of the proposed accessory structure will be 1,386 square feet. Staff does not believe the size of the accessory structure is truly subordinate to the principal dwelling and does not meet the spirit or intent of the ordinance.

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The applicants have included photos of properties within the neighborhood that have large accessory structures. All of the accessory structures seem to have a height of less than 16 feet and appear to have building walls of 10 feet or less in height. The proposed accessory structure will have a 14 feet 6 inch tall building wall and a full second story. The proposed accessory structure is not reflective of the character of the accessory structures in the area.

Staff believes the proposed accessory structure will negatively alter the essential character of the neighborhood. The increased building wall height, the structure height, and floor area will result in a structure that will tower over the adjacent accessory structures and create a walled off effect at the end of the subject property that will impact the adjacent neighbors greatly.

Staff believes the proposed accessory structure will be injurious to the use or enjoyment of the adjacent properties. The proposed accessory structure will be 2 feet away from the north property line and 5 feet from the south property. Staff is concerned about the impacts to the property to the north and south. The applicant has indicated that they have communicated with many of the neighbors, but staff has not been provided any letters of support from the adjacent neighbors.

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 variances would likely have no impact on the congestion of area streets or fire safety, nor would the proposed accessory structure 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** a variance to increase the height of the building wall of an accessory structure from 10 feet to 14.5 feet
- **Deny** a variance to increase the height of an accessory structure from 12 feet to 16 feet
- **Deny** a variance to increase the floor area of an accessory structure from 675 square feet to 711 square feet

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