

**Department of Community Planning and Economic Development – Planning Division****Variance Request  
BZZ-1989****Date:** October 21, 2004**Applicant:** Mark & Erin Arlinghaus**Address of Property:** 3717 5<sup>th</sup> Avenue South**Contact Person and Phone:** Rob Clapp, (612) 508-6350**Planning Staff and Phone:** Tanya Holmgren, (612) 673-5887**Date Application Deemed Complete:** September 23, 2004**End of 60 Day Decision Period:** November 22, 2004**End of 120 Day Decision Period:** January 21, 2004**Ward: 8      Neighborhood Organization:** Powderhorn Park Neighborhood Association**Existing Zoning:** R1A, Single-family District**Proposed Use:** Reestablish a platted lot with an existing nonconforming two-family dwelling.**Proposed Variance:** A variance to reduce the required lot area from 5,000 sq. ft. to 4,880 sq. ft. (2.5%) to allow for the re-establishment of a platted lot with an existing two-family dwelling.**Zoning code section authorizing the requested variance:** 525.520 (2)

**Background:** The subject property is the combination of two platted lots (Lot 9 and Lot 10) that total 80 ft. x 122.4 ft. (9,760 sq. ft.). The two combined lots consist of a legally non-conforming two-family dwelling and a detached garage. The applicant is proposing to reestablish a platted property line to allow for an existing nonconforming two-family dwelling. The existing two-family dwelling maintains a north setback of 2.9 ft, as this is an existing circumstance and the new property line would be along the south of lot 10, a variance is not required.

The lot area requirement for a single-family dwelling in the R1A District is 5,000 sq. ft. This requirement may be varied up to 30 percent. The applicant is proposing a 2.5 percent variance. The above referenced variance applies to Lot 9, which is 40 ft. x 122.4 ft. (4,860 sq. ft.). This lot consists of an existing nonconforming two-family dwelling. Lot 10 consists of an existing detached garage that maintains at least a 1.7 ft. setback on the property. Due to the separation of the two properties, Lot 9

will no longer have parking on the property. Lot 9 would be required to provide two parking spaces, as one space is required for each dwelling unit.

**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.**

**Lot area:** The applicant is seeking a variance to reduce the required lot area from 5,000 sq. ft. to 4,880 sq. ft. (2.5%) to reestablish a platted lot. The applicant is reestablishing an original platted line and returning the lots to the original platted sizes. Strict adherence to the regulations would not allow for the reestablishment of the platted lot. The new lot would be consistent with the adjacent platted lots on the block and surrounding streets. However, staff believes the lots should remain combined to accommodate the existing two-family dwelling, based on the combined lot area. Single-family dwellings in R1A districts require lot size of 5,000 sq. ft. Conforming two-family dwellings in R2B districts require 10,000 sq. ft. Combined the lots are 9,760 sq. ft. and would be considered a reasonable use, since the lot is an existing circumstance. Staff does not believe a variance is required to allow reasonable use of the subject property.

- 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.**

**Lot area:** The conditions upon which the variance is requested are unique to the parcel of land and were not created by the applicant. The proposed lot is 4,880 sq. ft. in area and was originally platted that size. The applicant would need to acquire an additional 120 sq. ft. of land to allow for the reestablishment of the platted lots without a variance. It would be difficult to acquire additional property without affecting the adjacent properties, because the lots are all similar in size. Staff does not believe the original platting of the property that established the lot size is a circumstance created by the applicant. Additionally, the applicant did not create the non-conforming two-family dwelling, it is an existing circumstance, as the property was built as a duplex.

The area surrounding the subject site does not appear to consist primarily of two-family dwellings. Staff determined that the area does consist of 30 of 228 properties zoned R1A with duplexes on similarly sized lots, 10 additional properties in the area that are either triplexes or other non-conforming uses. There are also a number of commercial and higher density residential zoning in the area. However, the majority of the properties are zoned R1A and are conforming single-family dwellings.

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Staff believes that while the lot area variance of 2.5% needed to accommodate the reestablishment of two platted lots and the construction of a new single-family dwelling does not appear to be significant, the existence of a duplex on a lot of less than 5,000 sq. ft. is an increase in density that is not consistent with the area. The variance is necessary because the property does not meet the minimum lot area of 5,000 sq. ft. which is required for any type of dwelling. The property is a legal nonconforming use consisting of two legal dwelling units on a lot zoned R1A. Staff believes allowing the reestablishment of two platted lots increases the nonconformity of the property by having a duplex on a property less than 5,000 sq. ft. and by not being consistent with the surrounding area.

- 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.**

**Lot area:** Although the property is being returned to the original platted size and is consistent in size with other platted lots in the area, staff believes that granting the lot area variance will alter the essential character of the surrounding neighborhood. Staff does not believe that allowing the reestablishment of the platted lot with the existing duplex meets the intent of the ordinance since the use is non-conforming and there are not a substantial number of duplexes in the area. Staff believes allowing the reestablishment of the platted lot increases the nonconformity of the property, which may negatively impact the surrounding area. Granting the variance may not be injurious to the use or enjoyment of other property in the vicinity, but is inconsistent with the majority of the properties 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.**

**Lot area:** Granting the lot area variance would likely have no impact on the congestion of area streets or fire safety, nor would the proposed variance be detrimental to the public welfare or public safety, because each of the lots will be providing parking on site.

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

The Department of Community Planning and Economic Development – Planning Division recommends that the Board of Adjustment adopt the finding above and **deny** the variance to reduce the required lot area from 5,000 sq. ft. to 4,860 sq. ft. (2.8%) to allow for the re-establishment of a platted lot with an existing two-family dwelling.