

Department of Community Planning and Economic Development – Planning Division
Variances, Minor Subdivision
BZZ-3391 & MS-165

Date: February 5, 2007

Applicant: Curt Fretham

Address of Property: 4005 Xerxes Ave S

Project Name: 4005 Xerxes Ave S

Contact Person and Phone: Curt Fretham (952) 930-3000

Planning Staff and Phone: Tara Beard, (612) 673-2351

Date Application Deemed Complete: January 9, 2007

End of 60-Day Decision Period: March 10, 2007

End of 120-Day Decision Period: Not applicable

Ward: 13 **Neighborhood Organization:** Linden Hills Neighborhood Council

Existing Zoning: R1 Single Family District

Zoning Plate Number: 29

Legal Description: See Survey

Lot area: 11,766 square feet

Proposed Use: Demolish existing single family home, subdivide into two lots, and build two new single family homes.

Concurrent Review:

- Variance to reduce the minimum lot widths of the two proposed lots from 50 to 40 and 41.2 feet wide
- Variance to reduce the minimum lot sizes of the two proposed lots from 6,000 sq. ft. to 5,967 and 5,799 sq. ft.
- A minor subdivision to divide one lot into two lots

Applicable zoning code provisions: Chapter 525: Article IX Variances – Chapter 546: Residential District – Chapter 598 Land Subdivision

Development Plan: See Survey.

Background: Curt Fretham has submitted a request to subdivide the property at 4005 Xerxes Ave S into two lots for the purpose of demolishing the existing single family home and building two new single family homes. The two lots created would require a variance to reduce the minimum width and lot area in the R1 District.

The site area is a corner lot that currently has two curb cuts; one off 40th St W that leads to a detached two-car garage and one off Xerxes Ave S that leads to an attached garage. Behind the lot is a public right-of way that has not been paved as alley; the slope is steep in this location and there is a large (higher than 6 feet) retaining wall separating the subject site from the two lots to its rear. The existing alley for the block dead ends just before the subject site.

The applicant is proposing to remove the curb cut facing Xerxes Ave S, keep the curb cut facing 40th St W for access to the new house proposed on the northern-most of the two lots proposed. The applicant is proposing to construct the existing alley further into the right of way (though not all the way to 40th St W) to allow access to a rear driveway for the southern-most lot of the two lots proposed. This proposal was heard at the January 22nd meeting of the Capital Projects Task Force (CPTF) where Public Works staff determined that extending the alley, within City specifications and with City approval, was a possible option if it were completed all the way to 40th St W, rather than just extending a dead end. Extending the alley all the way through the block would allow alley access for both proposed parcels, not just the southernmost proposed parcel.

At this time staff has received no written comments from the Linden Hills Neighborhood Council. A letter from a property owner within 350 feet that does not support the subdivision or variance is attached to this report.

VARIANCE – to reduce the minimum lot widths of the two proposed lots from 50 to 40 and 41.2 feet wide.

Findings Required by the Minneapolis Zoning Code for the Proposed Variance:

- 1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

The majority of lots on the same side of the block as the subject site are 40.7 feet wide, although the majority of lots in the surrounding area have conforming lots of 50 feet wide or greater. Allowing this property to be split to lots of 40 and 41.2 feet wide would allow development similar to the other lots on the same side of the block.

- 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.**

It is unique that this block-side is comprised of lots narrower than the surrounding area and smaller than the zoning district allows. The applicant did not create the narrow lots that exist south of the subject site.

- 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 spirit and the intent of the ordinance are to regulate density and ensure adequate lot width for single family dwellings. Both proposed lots could support dwellings that meet the minimum width standards while observing all yard setbacks. The character of the area largely includes houses wider than what could be built on the two proposed lots without setback variances, however, many of those houses are within the yard requirements of their own properties. The dwelling footprints shown on the survey do not observe all yard setbacks, and approval of this variance does not infer support of such variances as would be required. However, because dwelling units of appropriate size could be built on the site without setback variances, the granting of the minimum lot width variance will keep with the intent and spirit of the ordinance.

- 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 applicant is proposing to extend the existing dead end alley to allow rear access to the proposed southerly lot. Public Works staff has indicated that fully extending the alley to 40th St W is the only option that would be supported in the existing right of way. Fully extending the alley would mean that rear access to both proposed lots would be possible which would serve to reduce congestion of the public streets.

The two lots are proposed at widths that will not increase the danger of fire or endanger the public if single family homes meeting all zoning and building code requirements are constructed.

VARIANCE –to reduce the minimum lot sizes of the two proposed lots from 6,000 sq. ft. to 5,967 (0.5%) and 5,799 sq. ft. (3.5%)

Findings Required by the Minneapolis Zoning Code for the Proposed Variance:

- 1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

The majority of lots on the same side of the block as the subject site are less than 6,000 square feet in area, although the majority of lots in the surrounding area have conforming lots of 6,000 square feet or more. Allowing this property to be split to lots of 5,967 and 5,799 square feet would allow development similar to the other lots on the same side of the block.

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.**

It is unique that this block-side is comprised of lots smaller than the surrounding area and smaller than the zoning district allows. The applicant did not create the smaller lots that exist south of the subject site.

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 intent of minimum lot area requirements is to provide a reasonable size lot that allows for adequate room for the principal and accessory structures, sidewalks and drives, and yards. The proposed parcels are just under the requirement by 33 and 201 square feet. This is not a significant difference that would make developing the lot more difficult than if they were 6,000 square feet. Granting this variance will not circumvent the intent of the ordinance.

The lot as it is presently is wider and larger than most lots in the vicinity. Subdividing the lot as proposed would create two lots slightly smaller than many lots in the vicinity, but not to such a degree that the character of the neighborhood would be compromised.

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 applicant is proposing to extend the existing dead end alley to allow rear access to the proposed southerly lot. Public Works staff has indicated that fully extending the alley to 40th St W is the only option that would be supported in the existing right of way. Fully extending the alley would mean that rear access to both proposed lots would be possible which would serve to reduce congestion of the public streets.

The two lots are proposed at widths that will not increase the danger of fire or endanger the public if single family homes meeting all zoning and building code requirements are constructed.

MINOR SUBDIVISION - Required Findings:

- (1) **The subdivision is in conformance with these land subdivision regulations, the applicable regulations of the zoning ordinance and policies of the comprehensive plan.**

Both parcels will be in conformance with the requirements of the subdivision ordinance and comprehensive plan; although a variance of the zoning code requirements for lot width and lot area are sought. The northerly parcel will be 8.8 feet short of the 50 foot required lot width and 33 square feet short of the required lot area of 6,000 square feet. The southerly parcel will be 10 feet short of the 50

foot required lot width and 201 square feet short of the required lot area of 6,000 square feet. The applicant has applied for a variance to reduce both lots' minimum width and area requirements. Staff is recommending approval of the variance.

Although presently there is no alley access behind either lot, the applicant is proposing to extend the alley somewhat and Public Works has indicated support of the project only if the alley is fully extended to 40th St W. Staff is recommending the completion of the alley to 40th St. W as a condition of approval which would eliminate the need for a subdivision variance for 10 additional feet of lot width when there is no alley access. This condition of approval would also allow alley access to the southerly parcel, eliminating the need for the existing curb cut off Xerxes Ave S. Corner lots in the area often have curb cuts from 40th St W, and although the applicant is being required to complete the alley to 40th St W, grading and sloping issues may make alley access to the northerly parcel difficult.

- (2) The subdivision will not be injurious to the use and enjoyment of other property in the immediate vicinity, nor be detrimental to present and potential surrounding land uses, nor add substantially to congestion in the public streets.**

Although the area consists of single family lots that generally have at least 50 feet in width, the side of the block of the subject site is unique in the immediate area in that most lots are only 40.7 feet wide. Subdividing the property into two lots, one 41.2 feet wide and one 40 feet wide, should not be detrimental to present or potential surrounding land uses.

Extending what is now a dead end alley will close two curb cuts and allow access from the rear for the two proposed lots and the two lots across the alley, which should reduce congestion and parking on the public streets.

- (3) All land intended for building sites can be used safely without endangering the residents or users of the subdivision or the surrounding area because of flooding, erosion, high water table, soil conditions, improper drainage, steep slopes, rock formations, utility easements or other hazard.**

The site is not level, and the extension of the alley will require significant attention to slope, drainage, and the grade at which the alley will meet the subject site. Considerable back fill and engineering specifications may be necessary. Any alley construction must be done to City standards. Approval of extending the alley does not indicate that its construction will be paid for with City funds.

The subject site is significantly lower than adjacent properties. Raising grade on the subject site should not create hazards to the surrounding area.

- (4) The lot arrangement is such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits and in providing driveway access to buildings on such lots from an approved street. Each lot created through subdivision is suitable in its natural state for the proposed use with minimal alteration.**

The applicant's survey shows building footprints that would not be allowed on the proposed lot without setback variances. While the proposed lots widths are wide enough to build viable single family homes

while meeting setback requirements, approval of this subdivision does not indicate any recommendation of approval for the setbacks that would be required for the proposed footprints on the survey.

The lot width reductions requested in the variance finding above and the fact that the majority of houses on the block with alley access do not have front curb cuts further indicates that alley access for the dwelling units should be provided. Access to the northerly parcel can remain as is from the curb cut facing 40th St W or, if possible, also be provided from the newly constructed alley.

There are significant topography issues that must be dealt with for the alley to be constructed and the two proposed sites to have vehicular access off the alley. However, a survey of the property and the construction of the alley has been reviewed by public works staff, and was determined to be viable.

- (5) The subdivision makes adequate provision for stormwater runoff, and temporary and permanent erosion control in accordance with the rules, regulations and standards of the city engineer and the requirements of these land subdivision regulations. To the extent practicable, the amount of stormwater runoff from the site after development will not exceed the amount occurring prior to development.**

Stormwater runoff and erosion control will need to be addressed for the construction of the alley and any grade changes to the site. The applicant will need to work closely with Public Works staff to produce a final plan that does not allow stormwater runoff to significantly exceed the amount occurring prior to development.

RECOMMENDATION:

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the variance:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the application for a variance to reduce the minimum lot width for the two parcels proposed at 4005 Xerxes Ave S to 41.7 feet for the northerly parcel and 40 feet for the southerly parcel, subject to the following condition:

1. All conditions of approval for the minor subdivision are met.

Recommendation of the Department of Community Planning and Economic Development – Planning Division for the variance:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission and City Council adopt the above findings and **approve** the variance to reduce the minimum lot width for the two parcels proposed at 4005 Xerxes Ave S to 5,967 sq. ft. for the northerly parcel and 5,799 square feet for the southerly parcel, subject to the following condition:

1. All conditions of approval for the minor subdivision are met.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the minor subdivision:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the minor subdivision application for property located at 4005 Xerxes Ave S, subject to the following conditions:

1. The existing dead end alley will be constructed to extend into the existing right of way all the way to 40th St. W, in accordance with City standards for public alleys.
2. The City shall not release the minor subdivision resolution for recording and the lots shall not be split until the alley improvements are made or an agreement approved by the City guaranteeing the improvements will be complete is recorded against the properties.
3. The existing curb cut off Xerxes Ave S will be removed and access to the southerly parcel will be via the newly constructed alley.
4. Any grading changes to the site to provide vehicular access from the newly constructed alley will be approved by the City Engineer.

Attachments:

- 1) Zoning map.
- 2) Hennepin County map.
- 3) Correspondence
- 4) Survey.
- 5) Photos.