

**Department of Community Planning and Economic Development – Planning Division Report**

Variance Request  
BZZ-3043

**Date:** July 6, 2006

**Applicants:** Brian Wiessner, on behalf of Steve and Ellen Birch

**Address of Property:** 4401 Washburn Avenue South

**Contact Person and Phone:** Brian Wiessner, 952-334-2690

**Planning Staff and Phone:** Molly McCartney, 612-673-5811

**Date Application Deemed Complete:** May 26, 2006

**Public Hearing Date:** July 6, 2006

**Appeal Period Expiration:** July 17, 2006

**End of 60 Day Decision Period:** July 25, 2006

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

**Existing Zoning:** R1A Single-family District

**Proposed Use:** Construction of an attached garage with roof top deck

**Proposed Variances:**

- A variance to reduce the required front yard setback along West 44<sup>th</sup> Street from 20 ft. to 10 ft., and
- A variance to reduce the required east interior side yard setback from 5 ft. to 3 ft.

to allow for an addition that includes an attached garage with roof top deck to a single-family dwelling at 4401 Washburn Avenue South in the R1A Single-family District.

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

**Background:** The subject site is a reverse corner lot with dimensions of 44 ft. x 90 ft. (4,092 sq. ft.) and consists of a two story, single-family dwelling. There is no alley on this block and the dwellings on the block access garages from curb cuts off the street. The subject dwelling addresses and faces Washburn Avenue South, but the property is a reverse corner lot, and consequently the north elevation of the house has frontage on West 44<sup>th</sup> Street. The dwellings to the east of the subject site address off West 44<sup>th</sup> Street. The adjacent residential structure to the east is approximately 15 ft. from the front property line along West 44<sup>th</sup> Street. The property line along West 44<sup>th</sup> Street is 22 ft. from the curb with 8 ft. of public right of way between the curb and the sidewalk, a 6 ft. sidewalk, and 8 ft. of public

right of way inside of the sidewalk on West 44<sup>th</sup> Street. The dwelling to the south of the subject site addresses off Washburn Avenue South and is setback approximately 30 ft. from the front property line along Washburn Avenue South. There is a curb cut and parking area for one vehicle in the required front yard setback along Washburn Avenue South.

The applicant is proposing to construct an addition on the east side of the house for an attached garage with a roof top deck. The proposed two-stall garage would be 23 ft. by 29 ft. (667 sq. ft.) and would require a new curb cut on West 44<sup>th</sup> Street. The new addition would be in line or behind the north elevation of the structure which faces West 44<sup>th</sup> Street. The proposed addition would be 10 ft. from the front property line along West 44<sup>th</sup> Street and 3 ft. from the east interior property line. The proposed addition would extend 14 ft. past the east building wall, leaving a new 3' sideyard. The applicant is also proposing an entrance door to be located next to the garage doors. The proposed addition will be built into the slope of the property so that the east portion of the addition would project 2 ft. above grade and the deck railings would be approximately 4 ft. to 5 ft. above grade.

**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.**

**Front yard setback along West 44<sup>th</sup> Street:** Strict adherence to the zoning code requires that the proposed addition be constructed behind the required setback of 20 ft. along West 44<sup>th</sup> Street. A portion of the existing dwelling is in the required setback and the proposed addition is in line or behind the north elevation of the structure. Staff believes that constructing the proposed addition is reasonable because there is limited space to construct an attached or detached garage because of the reverse corner lot status, the small size of the lot, lack of an alley, and the location of the dwelling on the lot.

**East interior side yard setback:** Strict adherence to the zoning code requires that the proposed addition be constructed a minimum of 5 ft. from the east interior property line. The proposed addition allows for a 23 ft. wide attached garage with 18 ft. doors. Staff believes that a garage and deck could be designed in such a way so that it meets the minimum 5 ft. setback while still meeting the minimum parking requirement of one space.

- 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.**

**Front yard setback along West 44<sup>th</sup> Street and east interior side yard setback:** The conditions upon which the setback variances are requested are unique to the parcel of property due to the reverse corner lot status, the size of the subject lot, the lack of an alley, and the

location of the existing dwelling on the lot. The reverse corner lot creates an additional front to this property which is more restrictive for attached garages than a corner lot. The location of the dwelling toward the east and southern property lines prohibits building an attached or detached garage in these locations. The length of the property (90 ft.) and the lack of an alley limit the location of an attached or detached garage on the lot. These circumstances have not been 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.**

**Front yard setback along West 44<sup>th</sup> Street:** Granting the variance will be in keeping with the spirit and intent of the ordinance and will not alter the character of the surrounding area if the existing parking in the required front yard is discontinued, the curb cut along Washburn is closed, and the entrance to the dwelling on Washburn remains intact. A portion of the existing dwelling is in the required front yard setback along West 44<sup>th</sup> Street and the proposed addition is in line or behind the north elevation of the structure. There is a large 8 ft. interior boulevard behind the sidewalk, and the property line along West 44<sup>th</sup> Street is 22 ft. from the curb. The dwellings along West 44<sup>th</sup> Street have curb curbs with either attached or detached garages. The proposed addition will be constructed of brick which will match the existing brick on the dwelling.

The existing parking space in the required front yard setback along Washburn Avenue South is not permitted and should be discontinued. While the dwellings south of the subject dwelling have curb cuts and driveways off Washburn Avenue South, there are no other approved parking areas in the required front yard setback for these dwellings. Staff recommends that the existing curb cut on Washburn Avenue South be removed and the parking area be replaced with landscaping or turf.

In addition to the proposed attached garage, there are proposed modifications to the first floor entrance on the north elevation of the property. This is a permitted change, however, the property is platted toward Washburn Avenue South and the existing entrance, and access to it, must remain. Staff recommends that the Washburn Avenue South entrance remain intact.

**East interior side yard setback:** Granting the variance will not be in keeping with the spirit and intent of the ordinance and will alter the character of the surrounding area. The proposed addition will be set back 3 ft. from the east interior property line and the structure will be built into the slope of the property so the exposed portion of the structure will be only 2 ft. above the ground with wrought iron railings around the deck. Staff believes that a large roof deck that is only 3 ft. from the property line would create an unnecessary intrusion on the neighboring property to the east, that it would alter the essential character of the locality and could be injurious to the use or enjoyment of other property in the vicinity. The garage addition could be designed in such a way so that the structure meets the sideyard setback requirements, though the

deck would need to be smaller than what is currently proposed. The proposed addition could also be designed in such a way so that the entire roof of the new garage is not covered by a deck.

A third entry door is proposed for the basement level on the north (West 44<sup>th</sup> Street) elevation. With this door, there are two entries on West 44<sup>th</sup> Street. The inclusion of this entry door on the basement level means that the proposed garage must be shifted east toward the property line. Staff does not believe that this basement level entry door is a necessity, given that the home already has two other entry doors.

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.**

**Front yard setback along West 44<sup>th</sup> Street and east interior side yard setback:** Granting the front yard setback variance would likely have no impact on the congestion of area streets or fire safety, nor would the proposed dwelling be detrimental to the public welfare or endanger the public safety.

**East interior side yard setback:** Granting the front yard setback variance would likely have no impact on the congestion of area streets or fire safety. Due to the close proximity of the adjacent residential structure to the east, the proposed dwelling may 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 **approve** the variance to reduce the required front yard setback along West 44<sup>th</sup> Street from 20 ft. to 10 ft. and **deny** the variance to reduce the required east interior side yard setback from 5 ft. to 3 ft. to allow for an addition that includes an attached garage with roof top deck to a single-family dwelling at 4401 Washburn Avenue South in the R1A Single-family District., subject to the following conditions:

1. That the existing entrance to the dwelling on the Washburn Avenue South remain,
2. That the curb cut along Washburn Avenue South be closed and the existing parking area be landscaped, and
3. That CPED-Planning reviews and approves the final site and elevation plans that measure to an architectural or engineering scale.