

Department of Community Planning and Economic Development – Planning Division Report

Variance Request
BZZ-4087

Date: June 26, 2008

Applicant: Patrick Burns, on behalf of Tim Harmsen

Address of Property: 1120 8th Street Southeast

Contact Person and Phone: Patrick Burns, 952-564-6262

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

Date Application Deemed Complete: June 5, 2008

Publication Date: June 20, 2008

Hearing Date: June 26, 2008

Appeal Period Expiration: July 7, 2007

End of 60 Day Decision Period: August 4, 2008

Ward: 3 **Neighborhood Organization:** Marcy Holmes Neighborhood Association

Existing Zoning: R2B Two-family Residential District

Proposed Use: Construction of a new duplex and rear parking area

Proposed Variance: A variance to reduce the minimum lot area from 10,000 sq. ft. to 6,600 sq. ft. (34 percent reduction) to allow for a new two-family dwelling (duplex) in the R2B Two-family District.

Zoning code section authorizing the requested variance: 525.520 (2b)

Background: The subject property is an existing vacant property at 1120 8th Street Southeast that measures 80 ft. by 165 ft (6,600 sq. ft). An application for Site Plan Review for a new duplex was submitted and approved by CPED-Planning staff in early May, 2008. In addition, a demolition permit for a single-family dwelling was issued with CPED-Planning staff signing off on the Heritage Preservation portion of that review.

Once the building permit for new construction was issued, staff found that it had been issued in error, due to the fact that the property's lot size did not meet the minimum lot size in the R2B District of 10,000 sq. ft. for a new two-family dwelling. A stop-work order was issued for the construction site and

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the applicant is now applying for variance to reduce the lot size in order to proceed with the proposed duplex. A single-family dwelling could be built at this site with no lot area variance.

The proposed duplex meets the zoning code requirements for authorized use, lot width, building floor area ratio, height, setbacks, parking requirements and Site Plan Review. For the Site Plan Review, The proposed project received 18 points for including the following building features: basement (5 points), cement based siding (4 points), increase of minimum window on façade (3 points), increase of minimum window on sides and rear (3 points), roof pitch of 6/12 or greater (2 points), front porch (1 points).

The zoning code authorizes a limited number of types of variances, including lot area variances of up to a 30 percent reduction of lot area. The only exception to the 30 percent reduction is for new duplexes in the R2B District. A lot area variance of up to a 55 percent variance for newly construction duplexes in the R2B District may also be applied for, with the provision that the surrounding properties are also two-family dwellings on similarly sized lots. The current request is for a 34 percent variance.

Section 525.520 Authorized variances

(2) To vary the lot area or lot width requirements up to thirty (30) percent, except for the following uses, where the maximum variance of thirty (30) percent shall not apply.

a. To vary the lot area or lot width requirements up to fifty (50) percent for schools, grades K-12, located in the OR2, OR3 and commercial districts.

b. To vary the lot area or lot width requirements up to fifty-five (55) percent for newly constructed two-family dwellings located in the R2B District, provided the surrounding properties are primarily two-family dwellings developed on lots similar in size to the proposed development. (emphasis added)

There is no definition of “primarily” or “surrounding” in the zoning code. Staff has interpreted surrounding to mean the other properties on the same block face as well as those behind the site and across the street from the site. However, the inclusion of properties behind a site and across the street from a site has to be evaluated on a case by case basis depending on the street layout, lot platting, and zoning (commercial and industrial properties should not be included).

Staff consistently measures character by looking at the features of properties with 100 ft. distance of a subject property, a distance used in the zoning code to determine character for Site Plan Review purposes as well as in the floor area ration sections of the Residence Districts. There are a total of sixteen residential properties within 100 ft. of the subject site. There are four other properties on the same block face along 8th Street Southeast within 100 ft. There are five properties on the street face across the street with 100 ft. from the subject site. There are four properties in the rear of the subject site that within a distance of 100 ft.

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Table 1. Properties within 100 ft. of 1120 8th Street Southeast

Address	Zoning	Units	Lot area, sq. ft.
<i>subject site street face</i>			
1120 8th St SE	R2B	1	6,600
1108 8th St SE	R2B	13	11,550
1112 8th St SE	R2B	17	14,850
1122 8th St SE	R2B	1	2,520
1126 8th St SE	R2B	1	2,520
<i>across the street</i>			
721 12th Ave SE	R2B	1	4,800
715 12th Ave SE	R2B	2	3,280
1121 8th St SE	R5	2	5,453
1129 8th St SE	R5	2	5,453
1113 8th St SE	R5	3	5,486
1117 8th St SE	R5	3	5,453
1125 8th St SE	R5	3	5,453
<i>to the rear</i>			
705 7th St SE	R2B	2	12,622
1121 7th St SE	R2B	3	6,273
1117 7th St SE	R2B	10	9,333
1109 7th St SE	R2B	1	9,972

Of the sixteen properties, five of the sixteen are single-family homes and eleven properties have two or more units. Three of the properties are multi-family dwellings ranging in ten to seventeen dwelling units. Eight of the surrounding properties are either two- or three-unit structures on similarly sized lots. Therefore, the area is not mostly single-family dwellings and has primarily two-unit structure or greater on properties of similar size.

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 use of the property for a duplex or a single-family home would be reasonable in the R2B District. Strict adherence to the lot area requirements would limit the use of the lot to a single-family home, which does not allow for development of a new two-family dwelling, which is consistent with the surrounding area's properties. The lot area requirements of the code presents a hardship to development a new two-family structure, which is consistent with the other uses in the area.

- 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.**

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Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.

The code recognizes that properties in the R2B District that are surrounded primarily by duplexes on similar sized lots are a unique condition that may justify granting a lot size variance. The properties within 100 ft. of the subject site are primarily two and three unit buildings on similar sized lots. Because many areas zoned R2B have a mixture of both single- and two-family dwellings, there are unique circumstance of the subject site that are not 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.**

A variance being requested is to reduce the minimum lot size by 34 percent. The intent of the ordinance is to allow variances greater than 30 percent and up to 55 percent where the area is primarily duplexes. Since the area is primarily two- and three-unit buildings, granting the variance of 34 percent reduction in lot area would not violate the intent of the ordinance. Since there are many other duplexes and multifamily properties in the area an additional duplex is not out of character with the surrounding properties. The design of the structure meets Site Plan Review and is compatible with the existing homes in the area, especially in the height, materials, and backyard open space.

The Marcy-Holmes neighborhood is adjacent to the East Bank of the University of Minnesota and Dinkytown. Over time, the east side of the neighborhood had changed from originally a single-family area when many of the home were built at or before the turn of the 20th Century to a mixture of multi-family structures as well as single-family homes that have been converted to multi-family units.

- 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 providing six parking spaces on the site, four more than what is required by the zoning ordinance. The proposed development meets all other safety related requirements such as means of bedroom egress.

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 minimum lot area from 10,000 sq. ft. to 6,600 sq. ft. to allow for a new two-family dwelling (duplex) in the R2B Two-family District, subject to the following conditions:

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1. The project must meet the occupancy requirements of the R2B Two-family District of no more than three unrelated persons,
2. CPED–Planning Division review and approve the final site plan, floor plans, and elevation. All drawings will be measured to an architect or engineer’s scale.