

**Department of Community Planning and Economic Development – Planning Division Report****Variance Request  
BZZ-1930****Date:** September 15, 2004**Applicant:** August and Patricia Foss**Address of Property:** 636 22<sup>nd</sup> Avenue NE**Date Application Deemed Complete:** August 18, 2004**End of 60 Day Decision Period:** October 17, 2004**End of 120 Day Decision Period:** December 16, 2004**Appeal Period Expiration:** September 27, 2004**Contact Person and Phone:** August and Patricia Foss, 612-781-1094**Planning Staff and Phone:** Carrie Flack, 612-673-3239**Ward:** 3      **Neighborhood Organization:** Holland**Existing Zoning:** R2B District, Two-family District**Proposed Use:** Construction of a detached accessory structure.

**Proposed Variance:** A variance to increase the maximum permitted floor area for detached accessory structures from 1,000 sq. ft. to 1,560 sq. ft. and a variance to increase the maximum permitted height of a detached accessory structure from 12 ft. to 16 ft. where the proposed roof pitch of the detached accessory structure does not match the roof pitch of the principal dwelling to allow for the construction of a 832 sq. ft. detached accessory structure on property located at 636 22<sup>nd</sup> Avenue NE.

**Zoning code section authorizing the requested variance:** 525.520 (8) (8)

**Background:** The subject site is approximately 11,569 sq. ft. and consists of a 2-story single family dwelling with a 26 ft. x 28 ft. (728 sq. ft.) detached accessory structure. The applicant is proposing to construct a second detached accessory structure on the property. The new detached accessory structure will be 32 ft. x 26 ft. (832 sq. ft.) bringing the total amount of detached accessory structure floor area on the property to 1,560 sq. ft. In addition, a parking pad approximately 20 ft. x 20 ft. exists between the existing detached accessory structure and the new detached accessory structure. The parking pad does not count towards the total amount of accessory structure floor area unless a roof is constructed over the slab of concrete. The applicant has stated that the existing detached accessory structure is used for storage. The applicant would like to utilize the new detached accessory structure as a garage.

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The proposed height of the new detached garage is 20 ft. The roof pitch of the principal dwelling and the existing detached accessory structure is a shed roof with a 4/12 pitch. The new detached garage is proposed to have a hip roof with a 4/12 pitch. The maximum allowable height for a detached accessory structure is 12 ft. when the roof pitch does not match the principal dwelling or 16 ft. if a variance is obtained. The maximum allowable height of a detached accessory structure with a matching roof pitch is also 16 ft. The zoning ordinance does not allow for a detached accessory structure to be over 16 ft. in height. Therefore, a variance cannot be obtained for a detached accessory structure over 16 ft. in height. The maximum height the detached garage can be with a variance is 16 ft. when the roof pitches do not match or 16 ft. without a variance if the roof pitches do match.

In addition, the plans submitted by the applicant show a new dwelling unit above the new detached garage. The subject property is zoned R2B and is over 10,000 sq. ft. in size which allows for a second dwelling unit on the property. However, a second dwelling unit is not permitted in a separate detached structure. This creates two principal structures on a property and is prohibited in the zoning ordinance. There are no variances that allow for the second dwelling unit above a detached garage. Therefore, the applicant will not be able to construct this portion of the project. A second dwelling unit may be added to the existing principal structure on the property however.

The applicant began construction of the project in March 2004 and was sited by Inspections to obtain building permits on March 3, 2004. On March 10, 2004 the applicant met with Zoning staff to begin the variance process. The permit history for the property is attached.

**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.**

**Maximum permitted floor area:** The applicant is seeking a variance to increase the maximum permitted floor area for detached accessory structures from 1,000 sq. ft. to 1,560 sq. ft. to allow for the construction of a second detached accessory structure on the property that is 32 ft. x 26 ft. (832 sq. ft.). A 728 sq. ft. detached accessory was previously constructed on the property. The zoning ordinance would allow for an additional 272 sq. ft. of accessory structure floor area on the property. The applicant has stated that the existing detached accessory structure is used for storage. The applicant would like to utilize the new detached accessory structure as a garage. Strict adherence to the regulations would not allow for the second detached accessory structure. The ordinance allows for a total of 1,000 sq. ft. of accessory structure floor area, which has been deemed a reasonable amount of accessory structure floor area by the City Council. Based on the existing detached accessory structure, staff believes that the proposed second structure is unreasonable and that reasonable use of the property exists without the new detached accessory structure.

**Maximum permitted height:** The applicant is requesting a variance to increase the maximum permitted height of a detached garage from 12 ft. to 16 ft. where the proposed roof pitch of the

detached garage does not match the roof pitch of the principal dwelling. The applicant has stated that although the roof types are different they are maintaining the same pitch. Strict adherence to the regulations does not allow for the proposed hip roof at a maximum height of 16 ft. The desire to construct a roof pitch that does not match the principal dwelling is not considered a hardship and does not prevent reasonable use of the 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.**

**Maximum permitted floor area:** The conditions upon which the variance is requested are not unique to the parcel. The zoning ordinance recognizes that larger lots can accommodate a larger amount of accessory structure floor area. However, the ordinance caps the total amount of accessory structure floor area at 1,000 sq. ft. to avoid constructing excessively large amounts of accessory structure space within the city limits. The property already consists of a detached accessory structure that is large enough to be used as a garage (728 sq. ft.) with two existing garage doors. An additional 272 sq. ft. of accessory structure floor area can be added to the property in compliance with the ordinance to accommodate storage on the property. Staff can find no circumstance that is unique to the parcel of land to exceed the ordinance requirement. The circumstances on which the second accessory structure is being requested have been created by the applicant.

**Maximum permitted height:** The circumstances upon which the variance is requested are not unique to the parcel of land. The house and existing detached accessory structure consist of a shed roof with a 4/12 roof pitch. The new detached accessory structure consists of a hip roof with a 4/12 pitch. The desire to construct a roof pitch that does not match the principal dwelling is not a unique circumstance of the parcel of land but is a design issue that has been proposed by the applicant. Staff believes that the applicant has created this circumstance.

- 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.**

**Maximum permitted floor area:** Granting the variance will alter the essential character of the surrounding neighborhood and will not be in keeping with the spirit and intent of the ordinance. The ordinance does allow for larger properties within the city to accommodate larger amounts of accessory structure floor area. The subject property already consists of a detached accessory structure that is significant in size (728 sq. ft.) with two garage doors. Staff could find no other properties in the surrounding area that consist of two detached accessory structures. The area consists of several other large properties. Staff believes that the second structure will establish a precedent in the neighborhood that is uncharacteristic.

**Maximum permitted height:** Granting the variance will alter the essential character of the surrounding area and will not be in keeping with the spirit and intent of the ordinance. The

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intent of the ordinance allows for an increase in height when the roof pitch of an accessory structure matches the roof pitch of the dwelling. The purpose of this requirement is to allow for the construction of an accessory structure that matches a dwelling with a steep roof pitch. Staff believes that the proposed design of the garage is not exceptional and would not be dramatically impacted by incorporating a shed roof with a 4/12 pitch to match the dwelling and existing detached accessory structure.

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.**

**Maximum permitted floor area:** Granting the variance would likely have no impact on the congestion of area streets or fire safety, nor would the proposed structure be detrimental to the public welfare or endanger the public safety.

**Maximum permitted height:** Granting the variance would likely have no impact on the congestion of area streets or fire safety, nor would the proposed 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** the variance to increase the maximum permitted floor area for detached accessory structures from 1,000 sq. ft. to 1,560 sq. ft. and **deny** the variance to increase the maximum permitted height of a detached accessory structure from 12 ft. to 16 ft. where the proposed roof pitch of the detached accessory structure does not match the roof pitch of the principal dwelling to allow for the construction of a 832 sq. ft. detached accessory structure on property located at 636 22<sup>nd</sup> Avenue NE.