

**Department of Community Planning and Economic Development – Planning Division****Variance Request  
BZZ-2315****Date:** May 19, 2005**Applicant:** Valentine Vera**Address of Property:** 1722 Fremont Avenue North**Contact Person and Phone:** Jim Cope, (612) 366-0069**Planning Staff and Phone:** Tanya Holmgren, (612) 673-5887**Date Application Deemed Complete:** April 19, 2005**End of 60 Day Decision Period:** June 18, 2005**Appeal Period Expiration:** May 31, 2005**Ward: 5      Neighborhood Organization:** Northside Residents Redevelopment Council**Existing Zoning:** R2B, Two-family Residential District**Proposed Use:** A detached garage.**Proposed Variance:** A variance to reduce the north interior setback from 5 ft. to 2 ft. and a variance to reduce the distance between parking and a dwelling from 6 ft. to 2 ft. in order to maintain the detached garage constructed 2 ft. from the balcony of the adjacent dwelling.**Zoning code section authorizing the requested variance:** 525.520 (1)(8)**Background:** The subject site consists of an existing single-family dwelling. The subject property is approximately 47 ft. x 155 ft. (7,285 sq. ft.) lot. Two properties are located to the north of the subject property, one also addressing on Fremont Avenue North and one addressing on 18<sup>th</sup> Avenue North. The property at 1115 18<sup>th</sup> Avenue North is approximately 50 ft. by 48 ft. and consists primarily of a single-family dwelling. The adjacent dwelling is located approximately 4 ft. from its south rear property line, with a 4 ft. deep balcony that is constructed on or near the property line.

The applicant recently constructed a 24 ft. by 26 ft. detached garage. The applicant states they went through the correct procedures, by supplying information and constructing the garage according to the approved permit. The applicant received a building permit to construct the garage on November 15, 2004. The new garage was constructed approximately 2 ft. from the north property line, 18 ft. from the south property line, 60 ft. from the dwelling on the subject property, and 2 ft. from the adjacent dwelling. The applicant states they have constructed the garage 6 ft. 4 in. from the wall of the adjacent

dwelling. However, distance from a dwelling is measured from the closest extension of the dwelling which includes balconies, porches, and decks.

Garages must maintain a 6 ft. setback from any dwelling and may not receive a reduced setback when an adjacent dwelling is not constructed outside of the rear 40 ft. of the property. Due to the location of the adjacent dwelling, the building permit was approved in error. The adjacent dwelling was not identified on the site plan submitted by the applicant. Thus, the applicant has applied for a variance to reduce the north interior setback from 5 ft. to 2 ft. and a variance to reduce the distance between parking and a dwelling from 6 ft. to 2 ft. in order to maintain the detached garage constructed 2 ft. from the balcony of the adjacent dwelling.

**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.**

**Interior side yard setback and parking within 6 ft. of a dwelling:** The applicant has requested a variance to reduce the north interior setback from 5 ft. to 2 ft. and a variance to reduce the distance between parking and a dwelling from 6 ft. to 2 ft. in order to maintain the detached garage constructed 2 ft. from the balcony of the adjacent dwelling. The applicant states that due to the staff error the garage should remain in its location. Strict adherence to the regulations would not allow the detached garage in the current location due to the location of the adjacent single-family dwelling. A garage is a reasonable use of the property, however reasonable alternatives exist on the property to construct a garage without a variance. The garage could be constructed 2 ft. from the south property line and receive no variances. It could have also been constructed 5 ft. from the north property line and avoid the need for both variances. Staff does recognize the difficulty the permit issuance places on the property, however, the property can be put to reasonable use without granting the variance.

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.**

**Interior side yard setback and parking within 6 ft. of a dwelling:** The circumstances upon which the variance are somewhat unique to the parcel of land due to the fact that city staff issued a permit for the detached, which is a circumstance that was not created by the applicant. The garage was not constructed in compliance with the regulations. The applicant states that the permit, garage construction, and notice of violation have caused a hardship on them. The property is a 47 ft. wide interior city lot, the configuration on the lot poses no challenges to the construction of a detached garage on the property on the south side of the property or on the north 5 ft. from the property line, it is the applicant's desire to construct the garage 2 ft. from the

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north property line that places the hardship on the adjacent dwelling. There are no independently unique circumstances of the property, save the permit issued in error.

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.**

**Interior side yard setback and parking within 6 ft. of a dwelling:** Staff believes that the detached garage addition will alter the essential character of the surrounding neighborhood as it is not consistent with surrounding properties. Although garages in the area are located at the rear of their property, they are not constructed as close to adjacent dwellings as the subject garage. Staff believes the location of the garage is detrimental to the use and enjoyment of the adjacent dwelling that is now 2 ft. from a garage on another property. The intent of both of these ordinance provisions is to allow a reasonable separation from dwellings and garages, especially between a garage and a dwelling on an adjacent property. Staff does not feel the detached garage meets the intent 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.**

**Interior side yard setback and parking within 6 ft. of a dwelling:** Granting the variances would likely have no impact on the congestion of area streets or fire safety, nor would the garage be detrimental to the public welfare or endanger the public safety. The location of the garage 2 ft. from the adjacent residential structure could be detrimental to the adjacent dwelling due to the close proximity.

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

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 reduce the north interior setback from 5 ft. to 2 ft. and **deny** the variance to reduce the distance between parking and a dwelling from 6 ft. to 2 ft. in order to maintain the detached garage constructed 2 ft. from the balcony of the adjacent dwelling.