

**Department of Community Planning and Economic Development – Planning Division**  
Conditional Use Permit, Variances  
BZZ-2854

**Date:** March 27, 2006

**Applicant:** Susan Miller

**Address of Property:** 2012 James Ave S

**Project Name:** 2012 James Ave S

**Contact Person and Phone:** Jeff Lindgren, Streeter Associates, Inc, 11912 Tapestry Lane, Minnetonka  
MN 55305, (952) 525-1484

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

**Date Application Deemed Complete:** February 24, 2006

**End of 60-Day Decision Period:** April 25, 2006

**End of 120-Day Decision Period:** Not applicable

**Ward:** 7      **Neighborhood Organization:** Lowry Hill Residents, Inc.

**Existing Zoning:** R2 Two Family District, Shoreland Overlay District

**Zoning Plate Number:** 18

**Lot area:** 11,548 square feet

**Proposed Use:** Rebuild and expand attached garage

**Concurrent Review:**

- A Conditional use Permit to allow development within 40 feet of a steep slope
- A variance to allow development within 40 feet of a steep slope
- A variance to reduce the required front yard from a line connecting the two adjacent dwellings to 35 feet 6 inches for an attached garage addition at the nearest point
- A variance to place an attached garage more than five feet closer to the front lot line than the habitable portion of the dwelling

**Applicable zoning code provisions:** Chapter 525: Article VII Conditional Use Permits; Article IX Variances – Chapter 546: Residential District – Chapter 551: Article VI SH Shoreland Overlay District.

**Background:** Jeff Lindgren, on behalf of Susan Miller, has submitted a request to rebuild and expand an attached three-car garage within 40 feet of a steep slope at their property at 2012 James Ave S. The

existing garage is dilapidated and too small for some vehicles. This requires a variance and a conditional use permit. Because of the unique location of the adjacent home to the south, the established setback for the property is very large, and the applicant is requesting a variance to allow the new garage to remain the same distance from the front property line as the existing garage. This would put the front setback at 35 feet 6 inches where the established setback would be 97 feet 6 inches at its greatest discrepancy. Finally, locating the new garage the same distance from the front property line as the existing garage means that the garage would be over 12 feet in front of the habitable portion of the dwelling. The applicant is requesting a variance to the requirement that the garage be no more than 5 feet in front of habitable space.

The new garage would expand toward the rear and the side of the lot, but would not encroach on the required side and rear yard setbacks. The new garage is proposed to be 984 square feet; the existing garage is 627 square feet. Chapter 537.60 permits an attached garage to a single family home to be either 676 square feet or 10% of the lot area, whichever is greater, not to exceed 1,000 square feet. The lot area is 11,548 square feet; therefore a garage up to 1,000 square feet on the site would be permitted.

At this time staff has received no written comments from the Lowry Hill neighborhood.

### **CONDITIONAL USE PERMIT -**

#### **Required Findings for the Conditional Use Permit:**

- 1. Will not be detrimental to or endanger the public health, safety, comfort or general welfare.**

There is no evidence that the construction of a larger attached garage will adversely affect the public health, safety, comfort or general welfare. The new garage would be in approximately the same location as the existing garage, expanding only to the side and rear of the lot.

- 2. Will not be injurious to the use and enjoyment of other property in the vicinity and will not impede the normal or orderly development and improvement of surrounding property for uses permitted in the district.**

There is no indication that the proposed location and size of the new garage would negatively affect the use and enjoyment of other property in the vicinity. Relative to the size of the house and the lot the new garage will not have an impact on the development and improvement of surrounding properties.

- 3. Adequate utilities, access roads, drainage, necessary facilities or other measures, have been or will be provided.**

The roof of the garage would be generally flat (as is the existing garage's roof) but would slope very slightly to the west for water runoff. Once off the garage and on the site, the slope of the site would direct water further west toward the Lake. The applicant is proposing a trench drain at the bottom of the driveway to prevent pooling in a rain event. The driveway is greater than 25 feet wide, which is prohibited by the code. In the even of a garage that is wider than 25 feet,

planning staff have allowed a wider driveway within 20 feet of the garage. Staff recommends requiring the applicant to narrow the driveway to 25 feet where it is more than 20 feet from the garage. Utilities, access roads, and other measures would not be affected by the proposed garage.

**4. Adequate measures have been or will be provided to minimize traffic congestion in the public streets.**

The construction of a new, larger garage would encourage off-street parking and has the potential to reduce congestion in the public street.

**5. Is consistent with the applicable policies of the comprehensive plan.**

Although the site is zoned R2, it is designated as Single Family in *The Minneapolis Plan* land use policy. The proposed developments do not appear to conflict with any policies of *The Minneapolis Plan*.

According to other principles and policies outlined in *The Minneapolis Plan*, the following apply to this proposal:

*The Minneapolis Plan*, Chapter 4.11 states: “Minneapolis will improve the availability of housing options for its residents.” One of the implementation plans for this section of the plan is to “promote the development of housing suitable for people and households in all life stages, and that can be adapted to accommodate changing housing needs over time.” Allowing the expansion of the garage allows the applicant to take advantage of the enclosed parking that is in poor condition and is too small for some vehicles.

*The Minneapolis Plan*, Chapter 7.5 states: “Minneapolis will protect and sustain its water resources.” This section includes the implementation step to “preserve and restore wetlands for their irreplaceable contributions to water quality, control of floodwater rates and volumes, wildlife habitat and aesthetic purposes.” Review of the applicant’s minor additions to the home is necessary to ensure the protection of the neighboring steep slope and water body, Lake of the Isles. Because of the distance from the new construction to the Lake, the separation of the property from the lake by another private property and a public street, and the small scale of the addition, staff does not feel that this project would negatively impact the water quality, control of floodwater rates and volumes, wildlife habitat and aesthetic purpose of the Lake of the Isles and its steep shoreline.

**6. And, does in all other respects conform to the applicable regulations of the district in which it is located upon approval of this conditional use permit.**

In addition to the Conditional Use Permit, the applicant must obtain a variance to allow construction within 40 feet of a steep slope, a variance to reduce the front yard setback, and a variance to allow the garage to be more than 5 feet closer to the front property line than the habitable portion of the building to be in full compliance.

**Additional Findings for the Conditional Use Permit per the Shoreland Overlay District:**

**1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction.**

Soil erosion on the site is and will continue to be protected by landscaping and an existing retaining structure just west of the property. The proposed additions occur more than 300 feet from the Lake shore. The proposed addition is located within 40 feet of a steep slope as illustrated in attachment 5.

**2. Limiting the visibility of structures and other development from the protected waters.**

Because of the distance from the lake and that a portion of the garage is below grade, staff does not expect the new garage to be visible from the lake.

**3. The suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate.**

The proposed variances should have no impact on the types, uses, and numbers of watercraft that occupy the Lake.

**VARIANCE – to permit development in the SH Shoreland Overlay District on a steep slope or bluff, or within forty (40) feet of the top of a steep slope or bluff.**

**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 site is currently put to a reasonable use, and replacing a dilapidated, small garage with a more usable one is a reasonable request. The proposed additions should have little or no impact on the steep slope or Lake of the Isles.

**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.**

The steep slope conditions on the property were not created by any persons having an interest in the property. A steep slope is not uncommon to properties near Lake of the Isles.

**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 protect vulnerable watersheds and steep slopes. The proposed project does not negatively impact Lake of the Isles or the steep slope leading to it from the property. The granting of the variance will therefore be in keeping with the 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.

- 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 proposed project will have no impact on street congestion, danger of fire, or public welfare and safety.

**VARIANCE – to reduce the required front yard from a line connecting the two adjacent dwellings to 35 feet 6 inches for an attached garage addition at the nearest point**

**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 established setback creates a distinct hardship because of the location of the adjacent property to the south (see site plan attachment). The established setback limits developable area on the site to approximately a quarter of the site, and with the exception of the property directly south, the other properties fronting that block of James Ave S reinforce a front setback consistent with the applicant's proposal.

- 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.**

The established setback conditions on the property were not created by any persons having an interest in the property. The severity of the front yard setback limits the reasonable development for the 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 is in part to support consistent street walls and appropriate delineations of public, semi-public, and private space. The proposed project does not stray from this intent and is more or less in line with the majority of house frontages on the block. The granting of the variance will therefore be in keeping with the 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.

- 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 proposed project will have no impact on street congestion, danger of fire, or public welfare and safety.

**VARIANCE – to permit the attached garage to be located up to 12 feet 6 inches closer to the front lot line than the habitable portion of the dwelling.**

**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 new garage could be located further back to comply with the requirement that an attached garage not be located more than 5 feet closer to the front property line than habitable space; however, the applicant is proposing to keep the front location of the new garage the same as it is currently. Moving the new garage back the six feet further that would be required to be in compliance would result in significant re-grading and re-design efforts.

- 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.**

The applicant is not responsible for the current location of the garage. There is no other public access to the property than the front lot line; off street parking is limited to front-lot access.

- 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 is in part to ensure that the principal use of the site, in this case housing, is not dominated by an accessory use, i.e. parking, and to reduce the impact of vehicles on residential property frontage. The existing and proposed garages are set into the slope of the site and are somewhat underground, reducing their impact on the façade of the property. The existing and proposed garages will continue the stone exterior of the home and a screened porch above the garage mitigates its vehicle-oriented purpose. The granting of the variance will therefore be in keeping with the 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.

- 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 proposed project will have no impact on street congestion, danger of fire, or public welfare and safety.

**RECOMMENDATION:**

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the conditional use permit:**

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 conditional use permit to allow the replacement and expansion of a three-car garage at the single-family residential dwelling unit at 2012 James Ave S, subject to the following conditions:

1. As required by Chapter 551.490 (1), soil erosion or other possible pollution of public water, both during and after construction, will be prevented.
2. The driveway will be narrowed to a maximum of 25 feet except where it is 20 feet or closer to the garage.

**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 allow development within 40 feet of the top of a steep slope at 2012 James Ave S.

**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 required front yard from a line connecting the two adjacent dwellings to 35 feet 6 inches for an attached garage addition at the nearest point at 2012 James Ave S.

**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 allow an attached garage up to 12 feet 6 inches closer to the front lot line than the habitable portion of the dwelling at 2012 James Ave S.

**Attachments:**

1. Statement of use

Department of Community Planning and Economic Development – Planning Division  
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2. Findings
3. Correspondence
4. Site Plan, Floor Plans, Elevations, & Zoning map
5. Contour Map
6. Photos