

Department of Community Planning and Economic Development – Planning Division**Variance Request
BZZ-3041**

Date: July 6, 2006

Applicant: Marguerite Sullivan

Address of Property: 1787 Humboldt Avenue South

Contact Person and Phone: Marguerite Sullivan, (612) 381-2442

Planning Staff and Phone: Brian Schaffer, (612) 673-2670

Date Application Deemed Complete: May 30, 2006

Public Hearing: July 6, 2006

Appeal Period Expiration: July 31, 2006

End of 60 Day Decision Period: July 30, 2006

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

Existing Zoning: R2B, Two Family District

Proposed Use: A 24 x 20 (480 sq. ft.) garage with a roof top deck.

Proposed Variance: A variance to reduce the corner side yard from 8 feet to 2 feet 6 inches to allow for a new detached garage and a variance to reduce the rear yard setback from 5 feet to 1 foot to allow for a deck on top of the proposed detached garage.

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

Background: The subject property is a single family home located on a corner side lot that is approximately 50 ft. by 135 ft. (6750 sq. ft.). The applicant is proposing to construct a 24 by 20 (480 sq.ft.) garage with a roof top deck. The property currently has a 12 by 20 ft garage located 2.7 feet from the south corner side property line and 1.2 feet from the rear property line on the east. A new garage is proposed to be built matching the approximate setback of the existing garage along Summit Avenue at 2.5 feet from the property line. The required setback for a corner side yard is eight (8) feet.

The required rear yard setback is five (5) feet. However, there is a provision in the Zoning Ordinance that allows a garage to be one foot to a rear property line when it is located entirely in the rear forty (40) feet of the property. The proposed garage is located entirely in the rear 40 feet of the property and is

allowed to be constructed up to one foot to the property line. However, this provision in the Zoning Ordinance only applies to garages and not decks. For a deck to be permitted in the required rear yard setback it must be less than 50 square feet. The proposed deck is roughly the footprint of the garage, which is 480 square feet.

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.**

Corner Side Yard: The applicant has requested a variance to reduce the corner side yard setback from 8 feet to 2 feet 6 inches to allow for the construction of a two car 24 x 20 foot garage. The existing one car garage at this location is setback at 2.7 feet from the corner side property line. Strict adherence to the Zoning Ordinance prohibits a garage to be located less than eight feet from the corner side property line. Staff believes the proposed garage is a reasonable use of the property.

Rear Yard: The applicant has requested a variance to reduce the rear yard setback from 5 feet to 1.2 feet to allow for a roof top deck on the proposed garage. The applicant currently has 261 square foot porch located on the front, west, of the home and 166 square foot deck located on the south of the home. Staff believes the property can be put to reasonable use without the proposed deck and does not believe there is undue hardship caused by strict adherence to the Zoning Ordinance.

- 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.**

Corner Side Yard: The parcel is a corner lot and is subject to an increased side yard setback compared to an interior lot. The parcel is roughly three to four feet higher than the adjacent grade along Summit Avenue. The existing garage was located at its current distance of 2.7 feet to the property line to minimize excavation and maximize yard space. This is a circumstance that is unique to this parcel and not created by the applicant.

Rear Yard: The parcel is a corner lot and is subject to an increased side yard setback compared to an interior lot. The parcel is roughly three to four feet higher than the adjacent grade along Summit Avenue. The existing garage was located at its current distance of 2.7 feet to the property line to minimize excavation and maximize yard space. This is a circumstance that is unique to this parcel and 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.**

Corner Side Yard: Staff believes that the 24 feet wide garage in the required corner side yard will not alter the essential character of the surrounding neighborhood. The current garage is 12 feet wide and the expansion to 24 feet would match both the setback and relative width of the attached two car garage located directly across Summit Avenue from the subject property. Staff does not believe that the proposed garage will be injurious to the use or enjoyment of other property in the vicinity.

Rear Yard: Staff believes that the roof top deck will not alter the essential character of the surrounding neighborhood. The added bulk of having a garage with a flat roof and roof top deck is still dwarfed by the height and scale of the attached garages across Summit Avenue. Staff is concerned that the roof top deck located at 1.2 feet from the rear property line could be injurious to the use or enjoyment of the property in the vicinity, especially the property abutting the rear property line, 1788 Girard Avenue South. The intent of the Zoning Ordinance in limiting the area of a deck to 50 square feet is to reduce the noise and the possible invasion of privacy that comes from having a large deck next to a property line. The property owner at 1788 Girard Avenue South has provided a letter indicating support for the garage location, however in this letter and the accompanying statement of purpose provided by the applicant there is no mention of the roof top deck.

- 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.**

Corner Side Yard: Granting the setback variance would likely not have a negative impact on the congestion of area streets nor would it be detrimental to the public welfare or endanger the public safety.

Rear Yard: Granting the setback variance would likely not have a negative impact on the congestion of area streets nor would it 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 corner side yard from 8 feet to 2.7 feet to accommodate the 24 by 20 foot garage and **deny** the variance to reduce the rear yard setback to 1.2 feet to allow for the approximately 480 square foot roof top deck on the proposed garage at 1787 Humboldt Avenue South.