

Department of Community Planning and Economic Development – Planning Division
Variance and Minor Subdivision Application
BZZ-4564 and MS-199

Date: October 13, 2009

Applicant: Tad Carter

Address of Property: 5536 and 5540 Clinton Avenue

Project Name: Not Applicable

Contact Person and Phone: Tad Carter, 612-669-5906

Planning Staff and Phone: Janelle Widmeier, 612-673-3156

Date Application Deemed Complete: September 8, 2009

End of 60-Day Decision Period: November 7, 2009

Ward: 11 **Neighborhood Organization:** Hale Page Diamond Lake Community Association

Existing Zoning: R1 Single-family District, SH Shoreland Overlay District, and AP Airport Overlay District

Proposed Zoning: Not applicable for this application.

Zoning Plate Number: 37

Legal Description: Please see attached survey.

Existing Use: Two single-family dwellings.

Concurrent Review:

- Variance to reduce the interior side yard requirement from three feet to two feet to allow the existing garage located at the property of 5540 Clinton Ave S.
- Minor subdivision for a lot line adjustment.

Development Plan: Please see attached survey. Two single-family dwellings, each with a detached garage, exist on the sites. The applicant proposes to adjust the common lot line.

Applicable Code Provisions: Chapter 525, Article IX Variances, specifically Section 525.520(1) “To vary the yard requirements, including permitting obstructions into required yards not allowed by the applicable regulations.”; and Chapter 598 Subdivisions.

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Background: A single-family dwelling exists at the property of 5540 Clinton Ave S. A detached garage and slab was built that does not comply with the minimum interior side yard setback of 6 feet (information on the history of the new garage and slab is included below). After obtaining a survey, the applicant discovered that the garage and slab did not meet the approved 3 foot setback previously granted by the Board of Adjustment and the eave overhang extended over the property line, both of which do not comply with the zoning code and building code. In order to allow the garage to remain in its current location and to allow a future addition, the applicant is proposing to adjust the lot line located between 5540 and 5536 Clinton Ave. The lot line adjustment would create an approximately 2 foot wide yard between the garage and the side lot line at the property of 5540 Clinton Ave and a one foot wide yard between the garage and the side lot line at the property of 5536 Clinton Ave. Where the open slab is located, the applicant has indicated he intends to expand the garage in the future.

A minor subdivision application is required to adjust the location of a lot line when not more than two lots result.

In the R1 district, the minimum interior side yard for a garage is 6 feet when it is not located within the rear 40 feet or 20 percent of the lot. The Board of Adjustment approved a variance to reduce the interior side yard to 3 feet. The setback between the garage and slab/future garage expansion and the proposed lot line location would be less than what was previously approved, therefore a variance to reduce the interior side yard is needed. The lot line adjustment would also result in the garage setback from the interior lot line of the neighboring property being reduced from the previously approved 2 feet to 1 foot. A variance is being requested in a separate application (BZZ-4565) to reduce the interior side yard of 5536 Clinton Ave.

In addition to applying for these applications to address the zoning code requirements, the applicant will need to alter the garage at 5540 Clinton Ave to address the building code requirements. These changes include reducing the eave overhang to four inches and installing fire-rated materials on the north side of the garage.

As of writing this staff report, staff has not received any correspondence from the Hale, Page, Diamond Lake Community Association. Staff will forward comments, if any are received, at the City Planning Commission meeting.

For reference, the history for this site pertaining to the detached garage at 5540 Clinton Ave is as follows:

The house originally had an attached one-stall garage on the north side. In 2004, the applicant submitted a land use application to the zoning office for a proposal to build a detached garage and convert the attached garage to a carport (BZZ-2006). The proposal required an increase of the maximum floor area allowed for detached accessory structures and attached structures used for the parking of vehicles. The application was approved administratively to allow the floor area to increase from 676 square feet to 934 square feet for the combined floor area of the existing attached garage/carport and a new 26 foot by 26 foot detached garage. One of the conditions of approval required that the new garage meet the minimum interior side yard setback of 6 feet because it would not be located within the rear 40 feet or 20 percent of the lot. In 2005, the applicant obtained a building permit for a 26 foot by 26 foot and 16 foot by 20 foot cement slab and foundation. The permit plans were not

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available as of writing this report, therefore the setback that the garage was approved at could not be verified.

The applicant demolished the existing attached garage, installed the slab and foundation, and continued to construct the detached garage structure. Inspections staff identified that the applicant had not received the appropriate approvals and required that the owner cease construction and apply for the building permit for the garage structure. The applicant was unable to apply for a building permit to allow for the continued construction of the garage due to the location. A variance application was then submitted by the applicant to reduce the interior side yard from 6 feet to 3 feet (BZZ-4440). In July of this year, the Board of Adjustment approved the variance with conditions. Later when a survey was obtained, it identified that the garage was located closer than 3 feet from the side lot line. The application is now before the Planning Commission because all subdivisions are reviewed by the Planning Commission.

VARIANCE:

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 applicant is seeking a variance to reduce the north interior side yard setback from 3 feet to 2 feet to allow a detached garage for an existing single-family dwelling. The lot depth is approximately 225 feet along the north property line. The site is not adjacent to a public alley with access to a public street; therefore, the only allowed access to the garage would be through a curb cut on Clinton Avenue South. Detached structures accessory to dwellings are allowed to be located closer to interior side lot lines than the district side yard requirement when located in the rear 40 feet or 20 percent of the lot, whichever is greater, because there is typically little effect on an adjacent property. The subject property is more than two times as large and almost twice as deep as a typical Minneapolis residential lot (40 feet by 125 feet). If the garage were to be constructed in the rear 20 percent of the lot, the garage would be built almost 100 feet away from the existing single family dwelling and the driveway would increase from approximately 125 feet to 180 feet in length. Strict adherence to the regulations would require relocating the existing garage to comply with the 3 foot yard requirement or moving the garage to the rear of the lot which would increase the amount of impervious surface on the lot. This would be impractical. The garage located on the adjacent property to the north, 5536 Clinton Ave, is currently located 2 feet from common lot line (proposed to be set back one foot with the lot line adjustment) and is located between the new garage and the neighboring house. Most of the garage at 5540 Clinton Ave is located behind the neighboring garage. For these reasons, the request is reasonable.

- 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.**

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The site does not have public alley access and the depth of the lot is almost twice the depth of an average sized lot in Minneapolis. If the garage were to be constructed in the rear 20 percent of the lot, the garage would have to be built approximately 100 feet away from the existing single family dwelling and the driveway would be approximately 180 feet in length. The garage on the neighboring property adjacent to the new garage is also located closer than six feet from the side lot line and is not located in the rear 20 percent of the lot. These circumstances have not been created by the applicant and are unique to the property.

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.

In general, yard controls are established to provide for the orderly development and use of land and to minimize conflicts among land uses by regulating the dimension and use of yards in order to provide adequate light, air, open space and separation of uses. Detached structures accessory to dwellings are allowed to be located closer to interior side lot lines (up to one foot) than the district side yard requirement when located in the rear 40 feet or 20 percent of the lot, whichever is greater, because there is typically little effect on an adjacent property. The subject property is more than two times as large and almost twice as deep as a typical Minneapolis residential lot (40 feet by 125 feet). Placing the garage at the rear of the subject property would be impractical because of its size and the location of the home. The adjacent property to the north is similar in size. It also has a garage that is currently located 2 feet from the interior side lot line. Both garages are located to the rear of both dwellings and adjacent to each other. However, staff is concerned that stormwater runoff will increase to the adjacent property. As part of the subdivision review, the following finding is required: "To the extent practicable, the amount of stormwater runoff from the site after development will not exceed the amount occurring prior to development." On the north side of the garage, the garage roof and the existing grades slope down to the adjacent property. Installing gutters, or another effective means of stormwater management, and directing the stormwater away from the adjacent property should minimize run-off from the development. Staff is recommending that the Planning Commission require the applicant to provide stormwater management.

The administrative review to increase the permitted floor area requires that the primary materials of the accessory structure match the materials used on the dwelling in order to maximize the compatibility between the garage and the home.

Reducing the north interior side yard to allow the garage and future garage expansion meets the intent of the ordinance and will have little effect on surrounding property with the adoption of the staff recommendations.

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.

Granting the side yard setback variance would likely have no impact on the congestion of area streets, fire safety, the public welfare or safety.

SUBDIVISION:

Findings Required by the Minneapolis Land Subdivision Regulations:

- 1. The subdivision is in conformance with these land subdivision regulations, the applicable regulations of the zoning ordinance and policies of the comprehensive plan.**

Both parcels will be in conformance with the requirements of the zoning ordinance and comprehensive plan. The applicant is requesting zoning code variances to reduce the interior side yard requirements to allow the garage and future garage expansion at 5540 Clinton Avenue and the garage at 5536 Clinton Avenue as a result of the lot line adjustment. Staff is recommending approval of the variance. Both lots are in conformance with the standards of the subdivision regulations, with the exception of required lot width. The R1 zoning district requires a lot width of 50 feet. In addition to this zoning code requirement, Section 598.240(2)(a) of the subdivision regulations require that lot width be increased by 10 feet when an alley is not provided. The two lots do not have access to an alley, so the lot width is required to be increased from 50 to 60 feet. Parcel A will have a width of 63.16 feet. Parcel B will have a lot width of 54.75 feet. Parcel B requires a variance from the minimum lot width provision because it is becoming narrower. To grant a variance from the lot width requirement of the subdivision ordinance the following findings are required:

598.310. Variances. Where the planning commission finds that hardships or practical difficulties may result from strict compliance with these regulations, or that the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances to any or all of the provisions of this chapter. In approving variances, the planning commission may require such conditions as it deems reasonable and necessary to secure substantially the objectives of the standards or requirements of these regulations. No variance shall be granted unless the planning commission makes the following findings:

- (1) There are special circumstances or conditions affecting the specific property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of land.
- (2) The granting of the variance will not be detrimental to the public welfare or injurious to other property in the area in which the property is located.

The purpose of the lot width requirement is to provide room for driveways on lots where there is no alley access. Lot widths are required to be increased to allow for a driveway on the side of a house. The existing single-family dwelling has curb cut access and a driveway from Clinton Avenue on the south side of the dwelling. The curb cut and driveway will remain for access to Parcel B. The 54.75-foot-wide lot width is sufficient to meet access needs. The granting of the lot width variance should have little effect on the surrounding properties.

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2. **The subdivision will not be injurious to the use and enjoyment of other property in the immediate vicinity, nor be detrimental to present and potential surrounding land uses, nor add substantially to congestion in the public streets.**

The proposed subdivision will adjust a lot line between two existing parcels. Both will remain suitable for the existing single-family homes. It will have no effect on surrounding uses and will not add congestion to the public streets.

3. **All land intended for building sites can be used safely without endangering the residents or users of the subdivision or the surrounding area because of flooding, erosion, high water table, soil conditions, improper drainage, steep slopes, rock formations, utility easements, or other hazard.**

The site does not present the above noted hazards.

4. **The lot arrangement is such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits and in providing driveway access to buildings on such lots from an approved street. Each lot created through subdivision is suitable in its natural state for the proposed use with minimal alteration.**

Each lot would retain its existing driveway access. The subdivision would not require alteration of the topography.

5. **The subdivision makes adequate provision for storm or surface water runoff, and temporary and permanent erosion control in accordance with the rules, regulations and standards of the city engineer and the requirements of these land subdivision regulations. To the extent practicable, the amount of stormwater runoff from the site after development will not exceed the amount occurring prior to development.**

Existing utility provisions are adequate. On the north side of the garage, the garage roof and the existing grades slope down to the adjacent property. Through the variance, staff is recommending that the Planning Commission require the applicant to install gutters, or another effective means of stormwater management, and direct the stormwater away from the adjacent property to minimize run-off from the development.

RECOMMENDATIONS:

Recommendation of the Community Planning and Economic Development Department – Planning Division—Variance:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance application to reduce the interior side yard from three feet to two feet for the property located at 5540 Clinton Ave S, subject to the following conditions:

1. Community Planning and Economic Development Department – Planning Division staff review and approval of the site and building elevation plans before building permits are issued.
2. The applicant shall install gutters, or another effective means of stormwater management, and direct the stormwater away from adjacent property to minimize run-off from the development.
3. The exterior materials of the garage shall match the existing dwelling, as required by section 537.60(b)(1) of the zoning code.

Recommendation of the Community Planning and Economic Development Department – Planning Division—Subdivision:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the minor subdivision application for properties located at 5536 and 5540 Clinton Ave S.

Attachments:

1. Statement and findings from applicant
2. Correspondence
3. Hennepin County and zoning maps
4. Aerial view
5. Survey
6. Garage elevations
7. Photo