

Department of Community Planning and Economic Development - Planning Division Report
Variance
BZZ-4440

Date: July 16, 2009

Applicant: Tad Carter

Address of Property: 5540 Clinton Avenue South

Project Name: 5540 Clinton Avenue South

Contact Person: Tad Carter, (612) 801-1155

Planning Staff: Shanna Sether, (612) 673-2307

Date Application Deemed Complete: June 15, 2009

End of 60-Day Decision Period: August 14, 2009

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

Existing Zoning: R1 Single Family District

Zoning Plate Number: 37

Legal Description: Not applicable

Proposed Use: A detached garage accessory to an existing single-family dwelling.

Variance: to reduce the north interior side yard setback from 6 feet to approximately 3 feet to allow for a new detached garage.

Zoning code section authorizing the requested variance: Chapter 525, Article IX Variances, Specifically Section 525.520(1) "to vary the yard requirements, including permitted obstructions into required yards not allowed by the applicable regulations."

Background: The subject property is an irregular interior lot, approximately 60 ft. by 217 ft., on average, (13,020 sq. ft.). The property consists of an existing one and a half story dwelling. A garage was approved through an administrative review to increase its maximum area from 676 sq. ft. to 934 sq. ft. through a combination of an existing attached garage and a new 26 ft. by 26 ft. detached garage in 2004. The conditions of approval required that the new garage meet the minimum interior side yard setback of 6 ft., because it was not located within the rear 40 feet of the lot. The applicant applied for a permit for a 26 ft. by 26 ft. detached garage in 2004; however, the permit was never issued. The applicant applied for a new permit for a 26 ft. by 26 ft. cement slab and foundation in 2005, approximately 3 ft. to the interior side property line.

The applicant demolished the existing attached garage and continued to construct the detached garage, 3 ft. to the interior side property line. 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. The applicant was unable to apply for a building permit to allow for the continued construction of the garage, due to the location. The minimum interior side yard setback for a detached accessory structure not located within the rear 40 feet or 20% of the lot, whichever is greater, in the R1 Single Family District is 6 ft. Therefore, the applicant is applying for a variance to reduce the south interior side yard setback from 6 ft. to 3 ft. to allow for the detached 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 Board of Adjustment meeting.

Findings Required by the Minneapolis Zoning Code - Variance:

- 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 6 ft. to 3 ft. to allow for the construction of a new detached garage to an existing single-family dwelling. The lot area is approximately 13,020 square feet and approximately 225 feet long along the north property. 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 along Clinton Avenue South. If the garage were to be constructed in the rear 40 feet of the lot, the garage would be built approximately 80 feet to the existing single family dwelling and the driveway would be approximately 135 feet in length. Strict adherence to the regulations requires a minimum of a 6 ft. interior side setback and would not allow for the existing garage on the property and increase the amount of impervious surface of the lot. The property owner received a permit to construct the slab and foundation approximately 3 ft. to the interior property line. Staff believes that the garage would allow for reasonable use and would otherwise cause undue hardship.

- 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 circumstances upon which the setback variance is requested are unique to the parcel of land due to the lack of a public alley and the depth of the lot. If the garage were to be constructed in the rear 40 feet of the lot, the garage would be built approximately 80 feet to the existing single family dwelling and the driveway would be approximately 135 feet in length. The property owner received a permit to construct the slab and foundation approximately 3 ft. to the interior property line. The applicant did not create these circumstances and the alternative to the variance would cause a hardship to the property owner by not allowing for adequate use of 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.

Staff believes the proposal of the new detached garage located 3 ft. to the north interior side will not alter the essential character of the surrounding neighborhood or be injurious to the surrounding property. The adjacent property to the north has a garage that does not meet the minimum interior side yard setback and is located on the shared property line. The administrative review to increase the permitted floor area requires that the primary materials of accessory structure match the materials used on the dwelling, which will maximize the compatibility between the garage and the home.

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 or fire safety, nor would the proposed garage addition to the existing single-family dwelling be detrimental to the public welfare or endanger the public safety.

Recommendation of the Department of Community Planning and Economic Development - Variance:

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 north interior side yard from 6 feet to 3 feet to allow for a detached garage for the property located at 5540 Clinton Avenue South in the R1 Single Family Residence District, subject to the following conditions:

1. Community Planning and Economic Development Department – Planning Division staff review and approval of the site and elevation plans.
2. The exterior materials of the attached garage shall match the existing dwelling, as required by section 5837.60(b)(1) of the zoning code.

Attachments:

- 1) Written descriptions and findings submitted by the applicant
- 2) Correspondence from neighbors, neighborhood associations, etc.
- 3) Copy of e-mail sent to neighborhood organization and CM Benson
- 4) Zoning map
- 5) Site plan
- 6) Building elevations
- 7) Floor plans
- 8) Photographs