

Department of Community Planning and Economic Development – Planning Division
Variance
BZZ 5229

Date: September 1, 2011

Applicant: Jim Jacoby

Address of Property: 17 Oliver Avenue South

Contact Person and Phone: Jim Jacoby, (612) 374-2727

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

Date Application Deemed Complete: July 15, 2011

End of 60-Day Decision Period: September 12, 2011

End of 120-Day Decision Period: November 11, 2011 (*Staff sent an extension letter August 16, 2011*)

Ward: 7 **Neighborhood Organization:** Bryn Mawr Neighborhood Association

Existing Zoning: R1A Single Family District and SH Shoreland Overlay District.

Proposed Use: New detached garage

Concurrent Review:

- Variance to allow for a new detached garage, not located entirely to the rear of the principal structure
- Variance to reduce the north interior side yard from 5 ft. to 3 ft. for the garage
- Variance to allow for development on or within 40 feet of the top of a steep slope in the SH Shoreland Overlay District

Zoning code section authorizing the requested variance: Chapter 525, Article IX Variances, Specifically Section 525.520(8) “to permit parking that cannot comply with the location requirement for on-site parking...”, 525.520(1) “to vary the yard requirements, including permitted obstructions into required yards not allowed by the applicable regulations” and 525.520(17) “to permit development in the SH Shoreland Overlay District...within forty (40) feet of the top of a steep slope or bluff.”

Background: The lot is approximately 90.5 ft. by 127 ft. (11,493 sq. ft.) and consists of an existing single-family dwelling with a detached garage. The detached garage is approximately 18 ft. 2in. by 12 ft. 6in. and is in disrepair. The applicant is proposing to build a new garage in approximately the same location, with an expanded footprint of 21 ft. 2 ½ in. by 15 ft. 6 in. The existing and proposed detached garages are both located directly adjacent to the single-family dwelling. Detached garages are required to be located entirely to the rear of the principal structure per section 537.80 of the zoning code.

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537.80. - Distance from dwelling. No detached accessory building or open parking space shall be located closer than six (6) feet from a dwelling of any type. Detached parking garages serving residential uses shall be located entirely to the rear of the principal residential structure.

Therefore, the applicant is requesting a variance to allow for the proposed location of the garage.

The existing detached garage is located 3 ft. to the north interior side yard at the closest corner and the proposed garage will be located in the same location. The minimum interior side yard in the R1A District for a detached garage is 5 ft., when it is not located in the rear 40 ft. of the zoning lot. The applicant is requesting a variance to allow for the proposed location.

Finally, the property is atop of a steep slope within the SH Shoreland Overlay District, adjacent to and created by the Burlington Northern Railroad corridor. The proposed garage is located approximately 12 ft. from the top of the steep slope and the property approximately 220 ft. to Bassett Creek. A variance is required for all development on or within forty (40) feet of the top of a steep slope. Therefore, the applicants have requested a variance to allow the proposed detached garage within 12 ft. of the top of a steep slope.

Staff has not received correspondence from the Bryn Mawr Neighborhood Association. Staff will forward comments, if any are received, at the Board of Adjustment meeting.

The proposed project area is located within 40 feet of the top of the bluff and requires a variance to allow for the development. To apply for a variance to allow for development on or within 40 feet of a steep slope or bluff the following four items must be met:

1. *Development must currently exist on the steep slope or within 40 feet of the top of a steep slope within 500 feet of the proposed development.*
The existing detached garage is located within 40 feet of the top of the steep slope and requires a variance to allow for the development.
2. *The foundation and underlying material shall be adequate for the slope condition and soil type.*
The proposed detached garage is planned to be rebuilt in the same location along the north property line. The project area is currently developed and the foundation and underlying material will be adequate for the slope condition and soil type.
3. *The development shall present no danger of falling rock, mud, uprooted trees or other materials.*
Staff does not foresee that the proposed development will present danger of falling rock, mud, uprooted trees or other materials. The proposed detached garage is planned to be rebuilt in the same location along the north property line.
4. *The view of the developed slope from the protected water shall be consistent with the natural appearance of the slope, with any historic areas, and with the surrounding physical contexts.*
The project area is located within 40 feet of the top of a steep slope and is approximately 220 feet from the edge of the Bassett Creek and is located in the SH Shoreland Overlay District. The existing garage will appear just as it does today.

Findings Required by the Minneapolis Zoning Code:

VARIANCES to allow for a new detached garage, not located entirely to the rear of the principal structure.

- 1. Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.**

The circumstances upon which the variance is requested are unique to the parcel of land due to the irregular shape of the property and the location of the existing garage and curb cut. The property is approximately 90.5 ft. wide along Oliver Avenue South and narrows to 27 ft. in the rear, due to the adjacent railroad. The applicant is proposing to reconstruct the garage at the same location. These circumstances have not been created by the applicant.

- 2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.**

The applicant is seeking variance to allow for the new garage in the same location as the existing garage, which is not entirely to the rear of the principal structure. Standards governing accessory uses and structures are established to provide for the orderly development and use of land and to minimize conflicts among land uses by governing the type, size, location and operational characteristics of accessory uses and structures. The proposed garage will be similar in size and in the same location as the existing garage. Staff believes that the applicant is proposing to use the property in a reasonable manner.

- 3. The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.**

Staff believes that the granting of this variance would not negatively alter the essential character or be injurious to the use or enjoyment of other property in the area. The proposed garage will be located 7 ft. to the house and be able to utilize the existing driveway and curb cut, as the existing garage. In addition, the proposed garage will have cedar siding, which will match the existing single-family structure. Further, granting of the variance will not increase the danger of fire safety or be detrimental to the public welfare or endanger the public safety.

VARIANCES to reduce the interior side yard from 5 ft. to 3 ft. for a new garage

- 1. Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.**

The circumstances upon which the variance is requested are unique to the parcel of land due to the irregular shape of the property, the location of the existing garage and curb cut and the adjacent neighboring property is a railroad corridor. The property is approximately 90.5 ft. wide

along Oliver Avenue South and narrows to 27 ft. in the rear, due to the adjacent railroad. The applicant is proposing to construct the garage at approximately the same location. These circumstances have not been created by the applicant.

- 2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.**

The applicant is seeking variance to allow for the construction of a new detached garage in the same location along the north property line as the existing detached garage. The purpose of yard requirements is to provide for orderly development and use of land and to minimize conflicts among land uses by governing the location of accessory uses and structures. The proposed garage will be located 3 ft., to the closest point along the north property line, which is shared with the Burlington Northern Railroad corridor. Staff believes that the applicant is proposing to use the property in a reasonable manner.

- 3. The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.**

Staff believes that the granting of this variance would not negatively alter the essential character or be injurious to the use or enjoyment of other property in the area. The proposed garage will be located in the same location, along the north property line, as the existing garage. The garage is only located within 5 ft. of the property line for approximately 2 ft. of the garage, based on the skewed property line, caused by the adjacent railroad corridor. The proposed garage will be located 3 ft., to the closest point along the north property line, which is shared with the Burlington Northern Railroad corridor. Further, granting of the variance will not be detrimental to the public welfare or endanger the public safety, as the garage is not located adjacent to another residential property.

VARIANCES to permit development in the SH Shoreland Overlay District within 40 feet of the top of a steep slope or bluff.

- 1. Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.**

The circumstances upon which the variance is requested are unique to the parcel of land due to the existing steep slope and the proximity to Bassett Creek. The steep slope is created by the Burlington Northern Railroad corridor. The applicant is proposing to construct a new detached garage in the same location as the existing garage, in relationship to the steep slope. These circumstances have not been created by the applicant.

- 2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.**

The applicant is seeking variance to allow for the construction of a new detached garage located within 40 feet of the top of a steep slope in the SH Shoreland Overlay district. The intent of the ordinance is to protect both the water body and other properties located below a steep slope from erosion and runoff. The applicant has demonstrated that the necessary precautions will be taken during the constructions of the garage and that the subject site will not be significantly altered to adversely affect the water quality of Bassett Creek. The proposed garage will be located in the same location as the previous garage. Staff believes that the applicant is proposing to use the property in a reasonable manner.

- 3. The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.**

Staff believes that the granting of this variance would not negatively alter the essential character of the area. The project area is located within 40 feet of the top of a steep slope and is intended to replace an existing deteriorated garage with a new, slightly larger garage. Further, granting of the variance will not increase the danger of fire safety or be detrimental to the public welfare or endanger the public safety. The applicant has demonstrated that the necessary precautions will be taken during the construction of the garage and that the subject site will not be significantly altered to adversely affect the water quality of Bassett Creek.

Findings required by the Minneapolis Zoning Code for development in the Shoreland Overlay District:

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

Staff believes the proposed project will prevent soil erosion and other possible pollution during and after construction. Permits will be reviewed and issued before any work may begin on the subject property. Any potential pollution hazards are reduced by the 220 feet of distance between the subject site and Bassett Creek and the fact that the site is separated from the creek by a railroad corridor.

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

Staff believes the proposed development allow for the same views previously from Bassett Creek, if any. The proposed detached garage will be located in the same location as the previous from the perspective of the Creek. If the structure is visible, it will only appear as it presently does from Bassett Creek.

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

The subject site does not have direct access to Bassett Creek and will not require the accommodation of any additional watercraft of any type on Bassett Creek.

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 a variance to allow for a new detached garage, not located entirely to the rear of the principal structure to allow for the construction of a new detached accessory structure for the property located at 17 Oliver Avenue South in the R1A Single-Family District and SH Shoreland Overlay District, subject to the following condition of approval:

1. CPED-Planning and all other applicable City departments review and approve the final plans.

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 a variance to reduce the north interior side yard from 5 ft. to 3 ft. for the garage to allow for the construction of a new detached accessory structure for the property located at 17 Oliver Avenue South in the R1A Single-Family District and SH Shoreland Overlay District, subject to the following condition of approval:

1. CPED-Planning and all other applicable City departments review and approve the final plans.

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 a variance to allow for the development on or within 40 feet of the top of a steep slope to allow for the construction of a new detached accessory structure for the property located at 17 Oliver Avenue South in the R1A Single-Family District and SH Shoreland Overlay District, subject to the following condition of approval:

1. CPED-Planning and all other applicable City departments review and approve the final plans.

Attachments:

- 1) Written descriptions and findings submitted by the applicant
- 2) Copy of e-mail sent to Bryn Mawr Neighborhood Association and CM Goodman
- 3) Zoning map
- 4) Shoreland Overlay District map
- 5) Site plan
- 6) Floor plans
- 7) Elevations
- 8) Photographs