

**Department of Community Planning and Economic Development –  
Planning Division Report**

Variance Request  
BZZ-3669

**Date:** August 23, 2007

**Applicant:** Andrew Wattenhofer

**Address of Property:** 526 8<sup>th</sup> Avenue NE (also 528 8<sup>th</sup> Avenue NE)

**Contact Person and Phone:** Andrew Wattenhofer, (612) 331-2488

**Planning Staff and Phone:** Erik Carlson, (612) 673-5348

**Date Application Deemed Complete:** July 24, 2007

**Hearing Date:** August 23, 2007

**Appeal Period Expiration:** August 15, 2007

**End of 60 Day Decision Period:** September 21, 2007

**Ward:** 3      **Neighborhood Organization:** Saint Anthony West

**Existing Zoning:** R2B/Two Family District

**Proposed Uses:** Two car attached garage with second floor living space, third story balcony and driveway

**Proposed Variances:**

- 1) To reduce the front yard setback along 6<sup>th</sup> Street NE from 20 feet to 13.75 feet
- 2) To reduce the side yard setback from 5 feet to 3 feet 9 inches
- 3) To increase the maximum driveway width from 25 feet to 30 feet, and
- 4) To increase the maximum impervious surface area from 65 percent to 69 percent

**Zoning code section authorizing the requested variance:** 525.520(1); 525.500(14); 525.520 (15)

**Background:**

This 2.5 story duplex is on a 42.5 feet by 92 feet (3,864 SF) reverse corner lot. The front yard setback along 6<sup>th</sup> Street NE is 20 feet. The existing structure exceeds this setback by 7 feet as the home is 13 feet from the front property line along 6<sup>th</sup> Street NE. An open front porch also extends 7.5 feet into this front yard setback. The front yard setback of the

dwelling to the south (718 6<sup>th</sup> Street NE) is setback 16.5 feet along 6<sup>th</sup> Street NE. It is therefore setback 3.5 feet further than the subject home.

The north interior side yard setback is 5 feet. The existing home is sited 3 feet from this property line.

No alleys border 526 8<sup>th</sup> Avenue NE and there is no garage on the lot. A 6 foot wide easement is located at the rear of the property and runs the width of the lot. This easement is used for a driveway to access a three-stall garage at 524 8<sup>th</sup> Avenue NE for the tenants at 718 6<sup>th</sup> Street NE and 524 8<sup>th</sup> Avenue NE. (This easement was established in 2003 after a legal settlement with the owner of 718 6<sup>th</sup> St and 524 8<sup>th</sup> Avenue NE, Mr. Ernest F. Bianchi.) This driveway is 8 feet in width because it extends 2 feet onto the lot at 718 6<sup>th</sup> Street NE. The existing curb cut is 8 feet.

An attached two-stall garage is proposed at the rear of the home at 526 8<sup>th</sup> Avenue NE. The applicant would like to construct an enclosed living space over half of the garage above the stall closest to the house. Above the living space is a proposed 275 SF third story balcony.

The existing 8 foot wide driveway and curb cut is proposed to be widened 22 feet to a total of 30 feet to allow for a driveway into the proposed two-stall garage. The driveways as designed would not be separate. The maximum width of a driveway and curb cut is 25 feet. Public Works has commented that they will not allow a curb cut greater than 25 feet at 526 8<sup>th</sup> Avenue NE and they would likely require (from left to right on the site plan) an 8 foot wide curb cut, a three foot bull nose, and a 16 foot curb cut.

The garage, living space and balcony (referred together as the addition) would be 13.75 feet from the front property line along 6<sup>th</sup> Street NE extending 6.25 feet into the front setback. The addition would be 3.75 feet from the north interior lot line extending 1.25 feet into the setback. The west and east walls of the proposed addition do not extend further into the setbacks than the existing home.

Balconies are not permitted in an interior side yard setback. Balcones are allowed in front yards provided they are less than 50 square feet in total and project no more than 4 feet into the setback. This proposed balcony is greater than 50 SF and extends more than 4 feet into the setback therefore it is not permitted to be in the front or side yard setback by right.

The proposed addition and driveway would increase the impervious surface coverage of the lot to 69 percent. The maximum allowed is 65 percent under the new infill text amendment. The addition would not surpass the thresholds for building size under this new amendment for R2B zoning.

## 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.**

### Garage

The proposed two-stall attached garage is a reasonable use for a two-unit residential structure zoned R2B. The garage is of a standard size. Not being able to construct the garage creates a hardship. The hardship is the inability to experience better living conditions that could be realized by making a fundamental improvement to the applicant's property. This fundamental improvement would be allowed as designed if the home were centered on a standard corner lot with an 8 foot setback. No design alternatives which would avoid the need for a variance for the garage were identified.

### Second Floor Living Space

Expanding a residential living space on the second floor of a home is also a reasonable use of a residential property. Not being able to do so is, on its face, a hardship for the same reason as stated for the garage. However, unlike the garage, there are second floor living space design alternatives which would meet setback requirements and provide relief from the hardship.

### Third Floor Balcony

The inability to construct a third story balcony outside the setbacks does not pose a hardship to the applicant. Design alternatives exist which obviate the need for the balcony variance.

### Driveway

The driveway is a critical component to the garage or off-street parking. It would be a hardship not to have a driveway. But, a driveway wider than 25 feet is not necessary to access the proposed garage. The applicant could design the proposed driveway to function separately from the existing driveway thereby reducing his driveway width to meet the code and eliminate the need for a variance. No hardship was identified for a 30 foot wide driveway.

### Impervious Surface Area

The impervious surface area hardship is related to the footprint of the garage and driveway. Hardship was established for the garage but not the driveway. Hardship for impervious surface area can be established by analyzing the driveway more fully.

Three percent or 116 SF of pavement would need to be removed from lot with the proposed changes for the proposed project to comply with the impervious surface area requirement. The driveway width would need to be reduced about 8.5 feet along its 13.5 foot length. A reduction in driveway width to this degree leaves no room to negotiate automobiles into a two-stall garage. Eliminating impervious surface area

(driveway) to the degree necessary to comply with the code makes the garage unusable and creates a hardship. No alternative to reduce impervious surface area which would allow access to the garage was identified.

- 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 unique circumstances of this lot are 1) it is a reverse corner lot so more stringent setback requirements are in place; 2) the lot area is smaller than most lots which limits design options for additions and increases the percentage of impervious surface on the lot; 3) there is a paved easement/driveway and on the applicant's property which increases the impervious surface area of the lot and limits expansion of the proposed driveway; and 4) the existing dwelling is not in conformance with setbacks. These circumstances have not been 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.**

#### Garage

The code requires one off-street parking space per dwelling unit. This residential structure has two units. Providing a two-stall garage not only meets the intent, but it meets the letter of the code for new construction.

Reducing the front yard and side yard setbacks for the garage as proposed would not be injurious to the use or enjoyment of other property in the vicinity. The proposed garage is 6 feet from the lot line that separates 718 6<sup>th</sup> Street NE from 526 6<sup>th</sup> Street NE—a foot greater than what is required. The space between the proposed garage and 718 6<sup>th</sup> Street NE is controlled by the owner of 718 6<sup>th</sup> Street NE and is used for automobile access. A garage adjacent this driveway is compatible with the auto-oriented use of the easement.

In regards to impacts to 524 8<sup>th</sup> Avenue NE, the proposed garage is similarly situated behind the dwelling and would be adjacent to another driveway and not to a living space. The proposed garage would not be injurious to 524 8<sup>th</sup> Avenue NE.

The garage would not alter the essential character of the locality because two and three stall garages are prevalent in the neighborhood, though there are more detached than attached. The footprint of the proposed garage (550 SF) is similar to the footprint of the existing detached garage at 524 8<sup>th</sup> Avenue SE (523 SF).

Second Floor Living Space

The two adjacent dwellings are duplexes. An expansion of a duplex would not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. The addition would not be adjacent to 524 8<sup>th</sup> Ave NE and is within the setback facing 718 6<sup>th</sup> St NE.

Third Floor Balcony

The balcony space would not be injurious to the enjoyment of property in the vicinity of the subject property because the balcony is located behind the principal structure at 524 8<sup>th</sup> Avenue NE. Privacy, which a third story balcony could compromise, would not do so in this case.

There is a precedent for second story balcony spaces as they exist on the homes at 526 and 524 8<sup>th</sup> Avenue NE and other properties in the neighborhood. However, no third story balconies on side yards were identified in the immediate vicinity. A third story balcony is a feature not prevalent in the neighborhood and it would alter the essential character of the locality.

Driveway

An intent of the driveway and corresponding curb cut width requirements is to limit impervious surfaces and control traffic by focusing the space into which an automobile can pull on or off the street. The applicant's proposed 30 foot wide driveway and curb cut do not meet the intent of the ordinance because the proposed driveway width and curb cut may function as one driveway with the existing driveway.

Impervious Surface

The intent of the ordinance is met in regard to impervious surface area. If the paved easement area, an area outside the control of the applicant, is removed from the equation, the impervious surface area is 62 percent, 3 percent below the maximum allowed. The applicant is not exceeding code requirements on land over which he has control. For this reason the applicant is meeting the intent of the ordinance.

- 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.**

No aspect of the project including the garage, additional living space or balcony or resultant impervious surface would negatively impact public street congestion, increase the danger of fire or be detrimental to the public welfare or endanger the public safety.

A 30 foot wide driveway and corresponding curb cut makes the pedestrian environment less safe. A driveway and curb cut restrict traffic flow to make automobile maneuvering on and off streets predictable, especially for pedestrians.

Driveways and curb cuts indicate where automobile traffic may cross sidewalks. A 30 foot wide curb cut that accesses five parking stalls endangers public safety. As designed, automobiles could cut across 30 feet of driveway and sidewalk at an angle. Automobile approach speeds from the street to the driveway may be increased.

### **Recommendation of the Department of Community Planning and Economic Development**

The Department of Community Planning and Economic Development recommends the Board of Adjustment **adopt** the findings above and

- 1) **Approve** the variance to reduce the front yard setback along 6<sup>th</sup> Street NE from 20 feet to 13.75 feet for the garage only;
- 2) **Approve** the variance to reduce the side yard setback from 5 feet to 3 feet 9 inches for the garage only;
- 3) **Deny** the variance to increase the maximum driveway width from 25 feet to 30 feet; and
- 4) **Approve** the variance to increase the maximum impervious surface area from 65 percent to 69 percent.

With the following conditions:

1. Variances related to the second floor living space and the third floor balcony are not approved.
2. CPED-Planning staff review and approve all site plan and elevation drawings.

**Appendix A:** Aerials and Photographs

**Appendix B:** Application Materials

## Appendix A

## Appendix B