

Department of Community Planning and Economic Development – Planning Division Report

Variance Request
BZZ-3792

Date: October 11, 2007

Applicant: Faye Bernstein and Scott Gilbert

Address of Property: 452 Upton Avenue South

Contact Person and Phone: Faye Bernstein, 612-824-5114

Planning Staff and Phone: Molly McCartney, 612-673-5811

Date Application Deemed Complete: September 10, 2007

Appeal Period Expiration: October 22, 2007

End of 60 Day Decision Period: November 9, 2007

Ward: 7 Neighborhood Organization: Bryn Mawr Neighborhood Association

Existing Zoning: R1 Single-family District

Proposed Use: Construction of a rear, two story addition.

Proposed Variance:

- A variance to reduce the north interior property line from 6 ft. to 2 ft. 9 in. and
- A variance to allow for a detached accessory structure to be located not entirely to the rear of the principal dwelling for a rear, two story addition

Zoning code section authorizing the requested variance: 525.520 (1) (8)

Background: The subject property is an existing single family dwelling on an interior lot that measures 60 ft. wide by 80 ft. deep (4,800 sq. ft.) along Upton Avenue South. The applicant is proposing to construct a rear, two story addition that will house a first floor kitchen expansion and a second floor master suite. The proposed addition extends in the rear of the house and is in line with the existing building walls.

The proposed work requires two variances, one for the north interior side yard setback, and another for the location of the garage. The north side of the property is located 3 ft. from the north property line. While the addition is in line with the exterior walls of the existing house, the proposed corner of the addition will be 2 ft. 9 in. from the north property line. In some cases, when the home is not in compliance with the side yard setback, an addition is allowed as long as the house and addition are at

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least 3 ft. from the property line. Since the addition will be 3 in. closer to the property at the rear, a variance is required.

With the proposed rear addition that existing detached garage will no longer be located entirely to the rear of the principal dwelling, or house. The zoning code requires that detached garages be located entirely to the rear of homes (537.80). While the existing garage is located at the rear of the property, the lot is only 80 ft deep. The home meets all other zoning requirements, such as the maximum floor area ratio, building coverage, and height.

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.**

Side yard setback: Strict adherence to the setback requirements in the zoning code prevents the proposed addition from following the existing building wall to the rear. The setback of the proposed addition will be 3 in. less what is allowed. A building addition to a dwelling is a reasonable request, and due to the configuration of this home on the property and the small size of the setback variance for the building addition, the zoning code causes a hardship on the property.

Garage location: Strict adherence to the garage location requirements prevents the rear addition from projecting past the east elevation of the garage. Due to the length of the lot, the garage and home are not separated by a large space. A building addition to a dwelling is a reasonable request, and due to the lot size and the location of the home and garage, the zoning code causes a hardship on the property.

- 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.**

Side yard setback: The location of the home on the lot is a unique circumstance not created by the applicants. The home was built closer than the 6 ft. side yard setback currently required by the zoning code. In addition, the home does not run exactly parallel with the property line, so that the addition is 3 in. closer than the front of the home.

Garage location: The size of the lot a unique circumstance not created by the applicant. The lot depth is 80 ft., much less than the standard 125 ft. deep lot. The front of the home meets a standard front yard setback of 20 ft. and the garage is 28 ft. by 22 ft. The limited amount of room on the property is not a circumstance created by the applicant.

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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.**

Side yard setback: Granting the variance is in keeping with the intent of the ordinance. Side yard setbacks are intended to provide space, light and distance between properties. In this case, the proposed addition is not getting closer to the shared property line, but following the line of the home to the rear. The adjacent property is also a single family dwelling and detached garage. The garage is closest to this shared property line and the house is setback toward the other end of the property. The addition will not be injurious to other properties in the area.

Garage location: Granting the variance is in keeping with the intent of the ordinance. The intent of the garage location requirement is for garages to truly be accessory to the principal structure in appearance as well use and size. Locating garages is a consistent residential development pattern in Minneapolis and limits the visual impact of vehicles. In this case, the adjacent properties have shallow lot depths and detached garages are located much closer to the homes. Since the subject garage itself is not moving, but the house is expanding, the garage will have no more impact on surrounding properties and will not be injurious other properties

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.**

Side yard setback and garage location: The proposed variance would likely have no impact on congestion of area streets or fire safety, nor would the proposed addition 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 following variances

- A variance to reduce the north interior property line from 6 ft. to 2 ft. 9 in. and
- A variance to allow for a detached accessory structure to be located not entirely to the rear of the principal dwelling for a rear, two story addition, subject to the following conditions:
 1. CPED–Planning Division review and approve the final site plan, floor plans, and elevation. All drawings will be measured to an architect or engineer’s scale.