

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

Variance Request  
BZZ-4328

**Date:** April 9, 2009

**Applicant:** Robert McVay

**Address of Property:** 4401 Washburn Ave S

**Contact Person and Phone:** Robert McVay, 612-991-6968

**Planning Staff and Phone:** Aly Pennucci, 612-673-5342

**Date Application Deemed Complete:** March 4, 2009

**Publication Date:** April 3, 2009

**Hearing Date:** April 9, 2009

**Appeal Period Expiration:** April 20, 2009

**End of 60 Day Decision Period:** May 2, 2009

**Ward:** 13      **Neighborhood Organizations:** Linden Hills Neighborhood Council

**Existing Zoning:** R1A Single-family District

**Proposed Use:** A 12 ft. by 10 ft. shed.

**Proposed Variance:**

- A variance to reduce the minimum required distance from an accessory structure to the principal residential structure from 6 ft. to 4 ft.
- A variance to reduce the minimum required side yard setback from 5 ft. to 1 ft.

**Zoning code section authorizing the requested variance:** 525.520 (1) (22)

**Background:** A notice of violation was sent to the property owners and applicant (current tenant) on January 2nd, 2008 informing them that the location of the detached accessory structure (shed) violates the Minneapolis zoning code and must be moved or a land use application submitted by July 7, 2008. The applicant then moved the shed to a new location on the site. After a second inspection by Zoning Enforcement Staff on July 24<sup>th</sup>, 2008, they identified that the new location of the shed was still in violation of the zoning code. An incomplete land use application was submitted on October 24, 2008 and was returned to the applicant on December 3, 2008. A final notice of violation was sent to the

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property owner and the applicant on January 15<sup>th</sup>, 2009. The application was resubmitted on February 24, 2009 and deemed complete on March 4<sup>th</sup>, 2009.

The subject property is approximately 44 ft. 6 in. by 93 ft. (4092 sq. ft.) and consists of an existing single family dwelling, built in 1914. The property is located at the corner of Washburn Avenue South and 44<sup>th</sup> Street West. The adjacent property to the east fronts 44<sup>th</sup> Street West, making the subject site a reverse corner lot. The applicant has constructed a 12 ft. x 10 ft (120 sq ft) shed to the rear of the existing single family home. The shed is located in the required yard along the east property line and is 4 ft. from the principal structure.

Per section 535.250(f) of the Minneapolis Code of Ordinances, detached accessory structures on a reverse corner lot cannot be located within 5 ft. of a rear lot line that coincides with the side lot line of an adjacent residential property. In addition, all detached accessory structures must be at least 6 ft. from a dwelling of any type. On the subject site, due to the reverse corner lot, the rear lot line is also the side lot line for the adjacent property to the east located at 2915 44<sup>th</sup> Street West and therefore a variance is required to reduce the required yard to 1 ft. In addition, the shed is located within 6 ft. of the dwelling.

### **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.**

Strict adherence to the regulations would not allow for this shed to the rear of the existing single-family dwelling and would cause undue hardship. The applicant is seeking a variance to reduce the required yard from 5 ft. to 1 ft. along the eastern property line and a variance to reduce the minimum required distance from an accessory structure to the principal residential structure from 6 ft. to 4 ft. Due to the reverse corner lot configuration and the size of the lot the zoning code limits the area where any detached accessory structure may be placed on this lot without seeking a variance. A shed to the rear of a single family dwelling is a reasonable use for residential districts.

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 are unique to this parcel of land due to the reverse corner lot configuration. The existing single family home is positioned towards the back of the lot (14 ft. from the rear property line) which makes it unworkable to locate a 120 sq. ft. shed on this site while still maintaining the required yard and the required distance from the dwelling. The home was built in 1914, prior to ownership by the current homeowner and prior to the occupancy by the applicant. The above circumstances have not been 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.**

Granting the variance will be in keeping with the spirit and intent of the ordinance. The variance request is required in order to allow a shed to the rear of a single family dwelling. The shed will not be injurious to the use or enjoyment of other property in the vicinity. The shed is located to the rear of the existing single family home on the subject site and to the side of the adjacent home. The property owner of the adjacent property to the east has submitted a letter of support (see Appendix J).

- 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.**

The proposed variance would likely have no impact on congestion of area streets or fire safety, nor would the shed 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 variance requests to reduce the minimum required distance from an accessory structure to the principal residential structure from 6 ft. to 4 ft. and to reduce the minimum required setback from 5 ft. to 1 ft. to allow for an existing shed to the rear of a single-family dwelling on a reverse corner lot subject to the following conditions:

1. CPED–Planning Division review and approve the final site plan.

#### Attachments:

Appendix A.	Map of Area
Appendix B.	Aerial Photo
Appendix C.	Statement of proposed use and variance findings from applicant
Appendix D.	Authorization letter from property owner
Appendix E.	Letter to Council Member
Appendix F.	Letter to Neighborhood Group
Appendix G.	Site plan
Appendix H.	Photo provided by applicant
Appendix I.	Communications and photos from Zoning Enforcement staff
Appendix J.	Public comment