

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

Variance Request  
BZZ-2385

**Date:** July 7, 2005

**Applicant:** William and Kim Walker

**Address of Property:** 4957 Thomas Avenue South

**Date Application Deemed Complete:** May 27, 2005

**End of 60 Day Decision Period:** July 26, 2005

**Appeal Period Expiration:** July 18, 2005

**Contact Person and Phone:** William Walker, 612-310-9511

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

**Ward:** 13      **Neighborhood Organization:** Fulton

**Existing Zoning:** R2B, Two-family District

**Proposed Use:** Construction of a single family dwelling and attached garage

**Proposed Variance:** A variance to reduce the required corner side yard setback along 50<sup>th</sup> Street West from 8 ft. to 6 ft. to allow for the construction of a new single-family dwelling and from 8 ft. to 3 ft. for an attached garage on property in the R2B, Two-family District.

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

**Background:** The applicants are proposing to demolish the existing single family dwelling and attached garage and build a new single-family dwelling with attached garage. The subject site is located at the northeast corner of Thomas Avenue South and 50<sup>th</sup> Street West and with dimensions of 40 ft. x 136 ft. (5,440 sq. ft.). The proposed dwelling will be the small width of the existing dwelling, but will move 1 ft. south in order to meet the north interior side yard setback. The existing dwelling is 30 ft. wide and projects into the north interior side yard 1 ft. and projects into the required corner side yard 1 ft. The proposed dwelling is 30 ft. wide and meets the 5 ft. interior side yard setback, but the dwelling and attached garage projects into the required corner side yard. The proposed dwelling projects 2 ft. into the required corner side yard and the proposed attached garage projects 5 ft. into the required yard. The new attached garage will be larger than the existing garage, which is not located within the corner side yard setback. The property line is located 2 ft. from the sidewalk along the corner side yard. There would be a total of 8 ft. between the sidewalk and proposed dwelling and 5 ft. between the sidewalk and the proposed attached garage.

The subject site has a curb cut and driveway in the rear of the property off 50<sup>th</sup> Street West that leads to the detached garage on site, and is used by the three properties to the north to access their detached garages. There is an existing retaining wall located along the sidewalk in the public right of way. The retaining wall does not have an encroachment permit from Public Works, Right of Way office, which is required for this type of encroachment.

The proposed dwelling will meet the Chapter 530 Site Plan Review requirements for a new single family dwelling. The proposed dwelling will have a basement (5 points), have stucco as the exterior material (4), have 20 percent windows on each floor facing both sides of the dwelling along Thomas Avenue South and 50<sup>th</sup> Street West (3), and have 10 percent windows on each floor of the dwelling that face the interior and rear lot lines (3) for a total of 15 points.

**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.**

The applicants have requested a variance to reduce the required corner side yard setback from 8 ft. to 6 ft. to allow for a single-family dwelling and from 8 ft. to 3 ft. to allow for an attached garage in the R2B, Two-family District. Strict adherence to the regulations would not allow for the applicant to construct a new dwelling closer than 8 ft. to the property line along the corner side yard. Staff believes the single family dwelling with a width similar to the existing dwelling is a reasonable use of 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.**

The conditions upon which the setback variance is requested are unique to the parcel of land and were not created by the applicant. The property is a standard size lot, 40 ft. by 136 ft., but has an increased setback on the south corner side yard. The property line is located 2 ft. from the sidewalk along the corner side yard, which is a typical interior boulevard between the sidewalk and property line. If the subject property was an interior lot, the proposed dwelling would meet the required interior side yard setbacks of 5 ft., but the attached garage would still project into the required side yard. The applicant is proposing a dwelling that is similar in width to the existing dwelling, 30 ft. The attached garage footprint is more than the existing garage and the applicant states that the garage is shifted toward the corner side yard in order to preserve some back yard space. The subject site has a driveway that is accessed by the three properties to the north, which occupies the rear 20 ft. of the property. Staff does not believe the lot size, corner lot status or existing driveway easement is a circumstance 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.**

**Corner side yard setback:** Staff believes that the construction of the single-family dwelling will not alter the essential character of the surrounding neighborhood or be injurious to the use or enjoyment of other property in the vicinity. The corner side yard setback of the proposed dwelling is similar to many of the surrounding homes, including the dwelling located to the east across the alley, which is located 4 ft. from the corner side property line. The proposed dwelling will be a full 2 stories, which is similar to many dwellings in the surrounding area. The proposed attached garage will project past the dwelling and will include windows; both features will help to break up the continuous building line of the dwelling and attached garage. Staff does not believe the construction of a new single family dwelling will alter the essential character of the neighborhood or be injurious to the use or enjoyment of other property in the vicinity.

- 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.**

**Corner side yard setback:** Granting the variance would likely have no impact on the 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:**

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 required corner side yard setback along 50<sup>th</sup> Street West from 8 ft. to 6 ft. to allow for the construction of a new single-family dwelling and from 8 ft. to 3 ft. for an attached garage on property located at 4957 Thomas Avenue South in the R2B, Two-family District, subject to the following conditions:

1. That the Planning Division review and approve the final site and elevation plans; and
2. Obtain an Encroachment Permit from Public Works – Right of Way Office for existing retaining wall along sidewalk prior to building permit issuance.