

**Department of Community Planning and Economic Development**  
Variance  
BZZ 5787

**Date:** January 31, 2013

**Applicant:** Paul Gates Architect

**Address of Property:** 17 East 24<sup>th</sup> Street

**Contact Person and Phone:** Paul Gates, (612) 822-8878

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

**Date Application Deemed Complete:** December 20, 2012

**End of 60-Day Decision Period:** February 18, 2013

**Ward:** 6      **Neighborhood Organization:** Whittier Alliance

**Existing Zoning:** R4 Multiple Family District

**Zoning Plate Number:** 20

**Proposed Use:** A new trash enclosure accessory to an existing multiple family dwelling

**Variance:** to reduce the south interior side yard setback from 5 feet to approximately 1 foot 4 inches to allow for a new trash enclosure

**Zoning code section authorizing the requested variance:** Chapter 525, Article IX Variances, specifically Section 525.520(1) “to vary the yard requirements, including permitted obstructions into required yards not allowed by the applicable regulations”.

**Background:** This application was continued from the January 17, 2013, Board of Adjustment public hearing upon request by the applicant to allow attendance of the neighborhood meeting.

The subject property is approximately 91.25 feet by 125 feet (11,501 square feet) and contains a multiple family residential structure with 3 off-street parking spaces at the rear of the property. There are existing trash dumpsters at the rear of the property that are not enclosed. Refuse and recycling storage containers are required to be enclosed on all four sides in accordance with section 535.80 of the zoning code.

The applicants are proposing to enclose the trash and recycling containers at the rear of the site, approximately 1 foot 4 inches from the south interior side and rear yards. Containers for the removal of household refuse are a permitted obstruction 1 foot from the rear property line; however, they must meet the minimum setback required in the zoning district along the interior side yard. The minimum interior

side yard setback for the subject property is 5 feet. Therefore, the applicant is requesting a variance to reduce the south interior side yard setback from 5 feet to approximately 1 foot 4 inches to allow for a new trash enclosure.

Staff has not received correspondence from Whittier Alliance. Staff will forward comments, if any are received, at the Board of Adjustment meeting.

**VARIANCE:** to reduce the south interior side yard setback from 5 feet to approximately 1 foot 4 inches to allow for a new trash enclosure

**Findings Required by the Minneapolis Zoning Code:**

- 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 location of the structure and parking area. Staff finds that these circumstances have created practical difficulties in complying with the ordinance. The existing trash containers are located at the southwest corner of the property and are not enclosed. The applicant is proposing to add a 10 foot by 28 foot 2 inch trash and recycling area with an enclosure, 1 foot 2 inches from the south property line. The applicant explored alternative locations to allow for the trash enclosure on the property. To adjust it 7 feet 8 inches to the north would eliminate one of the existing off-street parking spaces and a variance would be required to further reduce the required parking. Adjusting the location to the west would eliminate the proposed children's play area and may require an additional variance to increase the maximum impervious surface of the property.

- 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.**

Staff finds that the proposed location of the trash and recycling area will allow for a reasonable use of the property that will be in keeping with the spirit and intent of the ordinance and comprehensive plan. Trash areas are required to be enclosed as visual screening and in order to avoid trash from blowing around and littering adjacent properties and public pathways. Trash areas are permitted to be located 1 foot from the rear property line and are often times located adjacent to a public alley for efficient trash pick-up. Further, the purpose of yard requirements is to provide for orderly development and use of land and to minimize conflicts among land uses in order to provide adequate light, air, open space and separation of uses. The proposed trash area will be located inside of a 6-foot high enclosure and adjacent to an existing 6-foot solid wood fence that runs along the south property line. Finally, alternative locations to meet the minimum 5 foot setback would most likely require additional variances to either reduce the required off-street parking or to increase the maximum impervious surface.

- 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 finds that the granting of this variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. As previously mentioned, the proposed trash area will be located inside of a 6-foot high enclosure and adjacent to an existing 6-foot solid wood fence that runs along the south property line. Staff finds that the proposed location of the trash enclosure will have a lesser impact on the adjacent property, which would be located entirely to the rear of the adjacent dwelling. Finally, alternative locations to meet the minimum 5 foot setback would most likely require additional variances to either reduce the required off-street parking or to increase the maximum impervious surface and would locate the trash enclosure next to the windows of the adjacent dwelling. Further, granting of the variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.

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

The Department of Community Planning and Economic Development recommends that the Board of Adjustment adopt staff findings and **approve** the variance to reduce the south interior side yard setback from 5 feet to approximately 1 foot 4 inches to allow for a new trash enclosure accessory to an existing multiple-family dwelling located at 17 East 24<sup>th</sup> Street in the R4 Multiple-Family District, subject to the following conditions of approval:

1. Approval of the final site and elevation plans by the Department of Community Planning and Economic Development.
2. All site improvements shall be completed by January 31, 2015, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

**Attachments:**

1. Written descriptions and findings submitted by the applicant
2. E-mails to Council Member Lilligren and Whittier Alliance
3. Zoning map
4. Survey
5. Site plan
6. Alternative site plan
7. Trash enclosure elevations
8. Photos