

Department of Community Planning and Economic Development – Planning Division Report**Variance Request
BZZ-2641****Date:** October 20, 2005**Applicant:** Benjamin Paley, on behalf of Yurig Froler**Address of Property:** 312 Lowry Avenue Northeast**Contact Person and Phone:** Benjamin Paley, 612-221-0205**Planning Staff and Phone:** Molly McCartney, 612-673-5811**Date Application Deemed Complete:** September 16, 2005**End of 60 Day Decision Period:** November 15, 2005**Appeal Period Expiration:** October 31, 2005**Ward: 3 Neighborhood Organization:** Bottineau Neighborhood Association**Existing Zoning:** C1, Neighborhood Commercial District**Proposed Use:** Refuse storage container for a automobile body repair shop**Proposed Variance:** A variance to reduce the required rear yard from 5 ft. to 1 ft. to allow for a refuse storage container located at 312 Lowry Avenue Northeast in the C1 Neighborhood Commercial District.**Zoning code section authorizing the requested variance:** 525.520 (1)

Background: The subject property is 3,432 sq. ft. (40 ft. by 85 ft.) and consists of an automobile body repair shop. The property is zoned C1 Neighborhood Commercial District and is adjacent to a R1A Single-family Residential District. In response to a complaint, Zoning Enforcement sent a letter in regards to the refuse storage container in the required rear yard on September 9, 2005. Usually, uses in the commercial districts do not have required setbacks, but because the subject site is adjacent to a residential district and use, the same setbacks for the residential use apply to the subject commercial site. The subject site has a required yard along the south property line facing the residential property, but not along the east property line facing the alley. Currently, the refuse storage container is located in the southeast corner of the property along the alley. Refuse storage containers are not a permitted obstruction in required yards for nonresidential uses.

The applicants have stated that the refuse storage container has been in place for more than 6 years. In 1999, a site plan (PR-548) was approved for the current business which did not include the refuse storage container. An additional landscaping plan was submitted for that application which included the

refuse storage container, but that plan was not the approved plan. The applicant is proposing to construct a 6 ft. fence around the refuse storage container, which is required by the zoning code (535.80).

535.80. Screening of refuse storage containers. Refuse storage containers shall be enclosed on all four (4) sides by screening compatible with the principal structure not less than two (2) feet higher than the refuse container or shall be otherwise effectively screened from the street, adjacent residential uses located in a residence or office residence district and adjacent permitted or conditional residential uses. Single and two-family dwellings and multiple-family dwellings of three (3) and four (4) units shall not be governed by this provision.

A 6 ft. fence could be built along or adjacent to the property line and would be a permitted obstruction in the required rear yard. Directly south of the property line is a detached garage accessory to a single-family dwelling. The detached garage appears to be less than 1 ft. from the property line.

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 applicant has requested a variance to reduce the required rear yard setback along the south property line from 5 ft. to 1 ft. to allow for a refuse storage container. Strict adherence to the code requires that the refuse storage container not be located in the required rear yard. There are no other areas along the alley that would allow for a container because of the building is built out to the property lines along the alley. In order to meet the required setback, the refuse storage container would have to be moved to another location in the parking lot area that is not accessible via the alley. Staff believes that a refuse storage that can be accessed from the alley and that is screened by a 6 ft. fence 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 property due to the location of subject building and the lack of access to the alley. The subject building is located approximately 5 ft. from the rear property line and adjacent the property line on the alley. The applicant has stated that the refuse storage container has been in the location for many years and there is no other space for it on the property.

- 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.**

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Staff believes that the variance for location of the refuse storage container will be keeping with the spirit and intent of the ordinance and will not alter the essential character of the surrounding neighborhood if the refuse storage container is screened by a 6 ft. fence. The refuse storage container is located in rear of the property along the alley. The adjacent use to the south is a detached garage accessory to a single-family dwelling. The adjacent use across the alley to the east is a gas station. The other surrounding uses are detached garage accessory to residential uses. The proposed location for the refuse storage container appears to be the location that would have the least impact on nearby residential properties and the proposed screening will reduce the visibility of the container to other uses in the alley.

- 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.**

Granting the rear yard setback for the refuse storage container would likely have no impact on the congestion of area streets or fire safety, nor would the proposed dwelling 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** variance to reduce the required rear yard from 5 ft. to 1 ft. to allow for a refuse storage container located at 312 Lowry Avenue Northeast in the C1 Neighborhood Commercial District, subject to the following conditions:

1. That the Planning Division review and approve the final site and elevation plans that measure to an architectural or engineering scale.
2. That the refuse storage container is screened from the alley and residential use with a 6 ft. solid fence as required by section 535.80 of the Minneapolis Zoning Code.