

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

Variance Request  
BZZ-2664

**Date:** November 17, 2005

**Applicant:** Dave Park and Durabilt, on behalf of Alberto Bertomeu

**Address of Property:** 3706 Zenith Avenue South

**Contact Person and Phone:** Dave Park, (952) 938-9350

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

**Date Application Deemed Complete:** October 26, 2005

**End of 60 Day Decision Period:** December 25, 2005

**Appeal Period Expiration:** November 28, 2005

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

**Existing Zoning:** R1 Single-family Residential District and SH Shoreland Overlay District

**Proposed Use:** A 24 ft. x 26 ft. attached garage to an existing single-family dwelling.

**Proposed Variance:** A variance to reduce the south interior side yard setback from 6 ft. to 1 ft. to allow for the construction of a 2-story, attached garage to an existing single-family dwelling by means of a second story deck on property located at 3706 Zenith Avenue South in the R1 Single-family District and SH Shoreland Overlay District.

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

**Background:** The subject property is approximately 59 ft. by 130 ft. (7,670 sq. ft.) and consists of an existing single-family dwelling and an attached garage. The property is an interior lot. The applicant is requesting a variance to reduce the required south interior side yard setback from 6 ft. to 1 ft. to allow for the construction of a new 2-story, attached garage to an existing single-family dwelling by means of a second story deck. The proposed construction of the attached garage would replace the need for the existing attached garage. The existing attached garage would be converted to living space after the approval of the new garage.

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The applicant recently submitted an application for an administrative review of an accessory structure to increase the height of a proposed detached garage from 12 ft. to 16 ft. and square footage from 676 sqft to 732 sqft. This application was approved on September 20, 2005 and the building permit was issued on September 21, 2005. The applicant is now proposing to increase the height of the garage from 16 ft. to 21 ft. 3 5/8 in. and attaching it to the house instead. The added height is being requested in order to increase the amount of living space. By attaching the garage to the house, it is no longer subject the maximum height of 16 ft. granted by the administrative review, but instead will need a setback variance along the south interior side yard to meet the yard requirements for a structure in the R1 Single Family District.

**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:** The applicant is seeking a variance to the south interior side yard setback from 6 ft. to 1 ft. to allow for the construction of a new 2-story, attached garage to an existing single-family dwelling. There is an existing dwelling with attached garage on the subject property, which is located 11.5 ft. from the south interior side property line. Strict adherence to the code would not allow for the newly constructed 2-story, attached garage, but would still allow for a 16 ft. high, 732 sqft detached garage, as previously approved with the administrative review, which 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.**

**Side yard setback:** The conditions upon which the variance is requested are not unique to the parcel. The zoning ordinance allows for increased height and size of accessory structures, if approved, through an administrative process. The applicant has been granted both of these approvals; specifically, to construct a detached structure 16 ft. in height and 732 sqft in size. If the garage were to be attached directly to the existing dwelling without the separate stairs and second story deck, the entire structure would meet the required setbacks. A 16 ft. high, 732 sqft detached accessory structure can be constructed on the property that would maintain compliance with the ordinance and accommodate parking and storage on the property. Staff can find no circumstance that is unique to the parcel of land to exceed the ordinance requirement. The circumstances on which the 2-story, attached accessory structure is being requested have 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.**

**Side yard setbacks:** Staff believes the proposal of the new 2-story, attached garage to the existing single-family dwelling will substantially alter the essential character of the surrounding neighborhood. There are a number of properties in the neighborhood that similarly have attached garages; however, Staff could not find any examples where the existing dwellings were located closer than 3 ft. to the property line. Staff believes that the proposal could be injurious to the use or enjoyment of other property in the vicinity because it is will be located only 1 ft. to the shared interior side property line. Staff believes the proposal for the 16 ft. high, 732 sqft detached garage meets the intent of the ordinance, by allowing an accessory structure that meets the other requirements of the district and that is characteristic of the dwelling.

- 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 setbacks:** Granting the south interior side yard setback variance would likely have no impact on the congestion of area streets or fire safety, nor would the proposed addition to the existing single-family 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 **deny** the variance to reduce the required south interior side yard setback from 6 ft. to 1 ft. to allow for the construction of a 2-story, attached garage to an existing single-family dwelling at 3706 Zenith Avenue South in the R1 Single-family Residential District and SH Shoreland Overlay District.

