

Department of Community Planning and Economic Development – Planning Division Report

Variance Request
BZZ-3218

Date: October 5, 2006

Applicant: Jim Moras

Address of Property: 4108 Chowen Avenue South

Contact Person and Phone: Jim Moras (952) 882-8904

Planning Staff and Phone: Brian Schaffer, (612) 673-2670

Date Application Deemed Complete: September 13, 2006

Public Hearing: October 5, 2006

Appeal Period Expiration: October 16, 2006

End of 60 Day Decision Period: November 12, 2006

Ward: 13 Neighborhood Organization: Linden Hills Neighborhood Council

Proposed Use: A new two car 22 x 22 foot detached garage.

Proposed Variance: A variance to increase the maximum height of an accessory structure from 12 feet to 14 feet to allow for the construction of a detached two car garage at 4108 Chowen Avenue South in the R1A, Single-Family District and SH Shoreland Overlay District.

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

Background: The subject property is 40 ft x 128 ft (5,120 sq. ft.). The property currently contains a new two story single family dwelling constructed by the applicant. The roof pitch of the dwelling is 3/12 and the exterior material of the dwelling is stucco.

The applicant constructed a 22 x 22 foot detached garage with an 8/12 roof pitch. The height of the constructed garage was 14 feet at the midpoint. Staff approved the garage with a stipulation that the garage not exceed 12 feet in height measured from the midpoint of the roof to the natural grade at a point 10 feet in front of the detached garage towards the home. Section 520.160 of Zoning Ordinance defines height:

Height, structure or building. The vertical distance from the natural grade measured either at the curb level or at a point ten (10) feet away from the front center of the structure or

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building, whichever is closer, to the top of the highest point of the structure, or to the top of the highest point of the roof on a flat or shed roof, the deck line on a mansard roof, or the average distance between the eaves and the ridge level for gable, hip and gambrel roofs.

The applicant indicated on the survey that the natural grade was 102.9 feet at this point. This allowed the garage to be 13 feet 6 inches tall at the midpoint when measured from the slab which was proposed at 101.0 feet. The resulting height would have been under the 12 foot height.

The applicant has indicated to Staff that there was some error involved with the construction of the garage as well as providing the following statement in regards to the soil conditions.

“The soil conditions and ground water levels were tested by American Testing and Engineering prior to permitting and construction. This report stated that bottom of footing is to be at 93.0 feet and that ground water level was at 90.0 feet. During excavation and soil correction phases of construction, it was determined that ground water level is 2 feet higher than originally tested. Therefore the lowest slab elevation was raised by 2 feet to be within accordance to HUD requirements. This change directly affected the first floor elevation by 2 feet, our rear door leading to the garage requires 3 more risers. Because the alley elevation is set at 101.0 feet the garage cannot be raised accordingly with the house. The creates a situation where our garage height needs to raise with the house.”

The maximum height allowed by the Zoning Ordinance for accessory structures is 12 feet. In 2003, the Zoning Ordinance was amended to allow for accessory structures to have a maximum height of 16 feet if the proposed structure matched the exterior material and primary roof pitch of the principle dwelling. The subject garage is under the 16 foot maximum height requirement and the applicant is matching the exterior materials of the garage to the dwelling. However, the applicant is not matching the 3/12 primary roof pitch of the dwelling and constructed the garage with an 8/12 roof pitch. The roof pitch of the garage does not match the dwelling and does not qualify for the maximum height to be increased from 12 feet to 16 feet.

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 increase the maximum accessory structure height from 12 feet to 14 feet to allow for the garage. Strict adherence to the Zoning Ordinance limits accessory structure height to 12 feet. The applicant states that the “request of the variance is to keep with the design integrity of the home as planned by allowing for the 8/12 roof versus change the pitch to match the main roof pitch of 3/12. By changing to a 3/12 roof pitch we would (be) adversely affecting the design and integrity of the home and the ability to have attic storage would be lost.” Staff believes that alternative designs exist that will not require a variance. In particular, if the building wall of the garage was lowered from the approximately ten

(10) feet to eight (8) feet the structure or if a 6/12 roof pitch was used the garage would meet the 12 foot height maximum measured from natural grade. Staff also understands the difficulty with soil conditions but does not believe that it presents an undue hardship to justify the increased height. Staff believes that the property can be put to reasonable use and does not believe there is undue hardship caused by strict adherence to the Zoning Ordinance.

- 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 upon which the garage height variance is requested are unique to the parcel of land. The soil and water level conditions and grade issues create a unique circumstance on the parcel. However, the applicant built the new dwelling with a 3/12 roof, built the garage with the maximum building wall allowed by the Zoning Ordinance and constructed the garage with an 8/12 pitch. The applicant has created the circumstances that require the variance.

- 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.**

Staff believes that the construction of the proposed garage will not alter the essential character of the surrounding neighborhood. The garage height would be allowed by the Zoning Ordinance if the roof pitch matched the dwelling. Staff believes that the proposed garage will not 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.**

Granting the variances would likely have no impact on the congestion of area streets or fire safety, nor would the variances 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 **deny** the variance to increase the maximum height of an accessory structure from 12 feet to 14 feet to allow for a detached two car garage at 4108 Chown Avenue South in the R1A, Single-Family District and SH Shoreland Overlay District.