

BOARD OF ZONING APPEALS STAFF REPORT
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TYPE OF APPLICATION: Minor Variance **FILE #**11-253290
APPLICANT: Paul Ormseth
HEARING DATE: August 8, 2011
LOCATION: 1075 LOMBARD AVENUE
LEGAL DESCRIPTION: Slaytons Add To Ridgewood Pk Ex E 25 Ft Lot 12 And All Of Lot 11 Blk 1
PLANNING DISTRICT: 16
PRESENT ZONING: R4 **ZONING CODE REFERENCE:** 66.231
REPORT DATE: August 1, 2011 **BY:** Yaya Diatta
DEADLINE FOR ACTION: August 30, 2011 **DATE RECEIVED:** July 21, 2011

A. **PURPOSE:** A variance of the required rear yard setback in order to build a new garage attached to the back of the house by a deck and arbor. A rear yard setback of 25 feet is required and a setback of 8 feet is proposed for a variance of 17 feet.

B. **SITE AND AREA CONDITIONS:** This is a 120 by 83-foot lot with alley access and attached garage.

Surrounding Land Use: Mainly single family dwellings.

C. **BACKGROUND:** The applicant is requesting a variance of the required rear yard setback in order to build a new garage attached to the back of the house by a deck and arbor.

D. **CODE CITATION:**

Sec.66.231. Residential District Dimensional Standards table requires a minimum rear yard setback of 25 feet.

Sec.63.312. Setback

Except as otherwise provided in section 66. 442(c) or section 66.431(b) off-street parking spaces shall not be within a required front or side yard and shall be a minimum of four (4) feet from any lot line.

Sec. 63.501(b)(2). Accessory buildings. Off-street parking spaces shall not be located within the front yard.

Sec.63.501(b)(5). Accessory buildings
Passenger vehicles may be parked on an approved driveway in front or side yards provided the driveway leads to a legal parking space.

E. FINDINGS:

- 1. The variance is in harmony with the general purposes and intent of the zoning code.*

Finding 1, which states that the variance is in harmony with the general purposes and intent of the zoning code is met. This is a single family dwelling with two existing sidewalks in the front yard. Off-street parking is available in the one-car tuck under garage and there is a walkout basement off the rear yard. The applicant states that the existing tuck-under garage which is only 8 feet by 16 feet is not sized for current vehicle standards. The existing garage will no longer be used for parking. The front driveway will be disconnected from the existing garage by removing a section of the driveway and the remaining section left for front yard parking. Front yard parking is not allowed under the code.

The applicant is proposing to construct a new two-car garage attached to the back of the house by a deck and arbor with access from the alley. The applicant is proposing to remove the existing driveway in the rear and replace it with the proposed deck connecting the house to the new garage. A small bathroom addition to the principal structure is being constructed as part of the garage building permit, but it is not part of this variance. The proposed new garage will not be used for living space or commercial purposes.

The property has some unique topography. There is a retaining wall supporting the elevated grade of the alley and a driveway running from the front of the property to the alley through the existing tuck-under garage. The alley and the front of the property are at the same elevation but the rear yard is basically a large depression. The rear yard which sits one story below the front entrance and main floor of the building can be best put to use as proposed by the applicant.

The surface of the proposed deck with arbor is 8 feet above the grade of the rear yard and would serve as a bridge connecting the two structures with stairs provided under for structural support. The applicant states that without the deck, going back and forth between the garage and the house would require descending one story to the rear yard and climbing back up one story to reach the main floor of the house, which can be difficult especially during the winter months.

53

There are several garages on this block that are located in the rear yard with access from the alley. The proposed garage will reinforce the existing pattern of the block. The exterior of the house is constructed with wood shingles with a tiled roof. The proposed garage is designed to match the exterior finish of the house and will have a tiled roof also. It will be a great improvement of the property and will have a positive impact in the neighborhood. Conserving and improving properties is in keeping with the general intent and purposes of the code.

- 2. The variance is consistent with the comprehensive plan.*

Finding 2, which states that the variance is consistent with the comprehensive plan is met. The proposed garage would be replacing the existing tuck-under garage and its location in the rear yard is consistent with existing garages in the neighborhood. Providing off-street parking to lessen congestion in the public street is a goal of the comprehensive plan.

- 3. The applicant has established that there are practical difficulties in complying with the provision, that the property owner proposes to use the property in a reasonable manner not permitted by the provision. Economic considerations alone do not constitute practical difficulties.*

Finding 3, which states that the applicant has established that there are practical difficulties, other than only economic considerations, in complying with the provision and that the property owner proposes to use the property in a reasonable manner not permitted by the provision is met. Because of the unique physical condition of the lot due to the depression in the rear yard, the applicant is proposing to connect the garage to the house with a deck. The slope in the back makes it difficult to move back and forth between both structures especially during the winter months. Constructing the garage in the rear yard to follow the pattern of existing garages creates continuity in the neighborhood. The proposed garage with a deck is a creative way of putting the rear yard to use and it is a reasonable request that cannot be accomplished under the strict application of the code.

- 4. The plight of the landowner is due to circumstances unique to the property not created by the landowner.*

Finding 4, which states that the plight of the landowner is due to circumstances unique to the property not created by the landowner is met. The depression of the lot in the rear yard makes it difficult to construct a garage that meets current code requirements without a variance. This is not a circumstance created by the current land owner.

- 5. The variance will not permit any use that is not allowed in the zoning district where the affected land is located.*

Finding 5, which states that the variance will not permit any use that is not allowed in the zoning district where the affected land is located is met. Garages are allowed in all zoning districts and the proposed garage even though attached to the house with a deck will not change the zoning classification of the property.

6. *The variance will not alter the essential character of the surrounding area.*

Finding 6, which states that the variance will not alter the essential character of the surrounding area is met. The new garage will be located in the rear yard in consistence with the location of several garages in the neighborhood. Provided that the garage is not used as an additional living space or for commercial purposes, the requested variance will not change or alter the essential character of the area.

F. **DISTRICT COUNCIL RECOMMENDATION:** Staff has not received any recommendation from district 16.

G. **CORRESPONDENCE:** Other than a phone call from a resident inquiring about the variance application and the application documents submitted by the applicant, staff did not receive any additional correspondence.

H. **STAFF RECOMMENDATION:** Based on findings 1 through 6, staff recommends approval of the variance subject to the conditions that: 1) The exterior finish of the proposed new garage matches the exterior finish of the house. 2) The proposed new garage is not used as a living space or for commercial purposes. 3) The existing driveway and curb cut in the front yard must be completely removed and replaced with a new curb and gutter. All work on curbs, driveways, and sidewalks within the public right of way must be done to City Standards and Specifications by a licensed and bonded contractor under a permit from Public Works Sidewalk Section (651-266-6120). The front yard must then be sodded with grass.

57