

BOARD OF ZONING APPEALS STAFF REPORT
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TYPE OF APPLICATION: Major Variance **FILE #**16-109677
APPLICANT: Wayne Fischer
HEARING DATE: January 18, 2017
LOCATION: 1560 LINCOLN AVENUE
LEGAL DESCRIPTION: Summit View Lot 8 Blk 6 Macalester-Groveland
PLANNING DISTRICT: 14
PRESENT ZONING: R4
ZONING CODE REFERENCE: 63.501 (f)
REPORT DATE: December 27, 2016 **BY:** Sean Westenhofer
DEADLINE FOR ACTION: February 19, 2017
DATE RECEIVED: December 22, 2016

A. **PURPOSE:** The applicant is requesting a variance of the accessory building requirement in order to remove the existing two-car detached garage and construct a new, three-car detached garage in the rear yard. Accessory buildings cannot exceed 1,000 square feet in size; the applicant is proposing to construct a 1,251 square foot garage, requiring a variance of 251 square feet.

B. **SITE AND AREA CONDITIONS:** This is a 50 by 150-foot lot occupied by a legal nonconforming duplex with alley access to a two-car detached garage in the rear yard.

Surrounding Land Use: Mostly single family dwellings and Immanuel Lutheran Church parking lot to the west and Macalester College further to the west across Snelling.

C. **BACKGROUND:** On December 5, 2016, the Board of Zoning Appeals held a public hearing to consider a variance to construct a four-car, 1,540 square foot detached garage in the rear yard and the request was denied.

D. **ZONING CODE CITATION:**

63.501 – Accessory buildings and uses.

- (f) On zoning lots containing one- and two-family dwellings, there shall be a maximum of three (3) accessory buildings, the total of which shall not occupy more than one thousand (1,000) square feet of the zoning lot.

E. FINDINGS:

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

The building on this parcel is a legal nonconforming duplex with a two-car detached garage and surface parking next to the detached garage in the rear yard. The applicant is proposing to remove the existing garage and construct a new 1,251 square foot, three-car garage that would include space for storage. The proposed accessory structure would be located in the rear yard, with the garage doors facing south and would meet the three-foot setback requirement from the east and west property lines. However, it would be 251 square feet over the maximum 1,000 square feet is allowed under the zoning code for accessory buildings, hence the requested variance.

According to the applicant, the new accessory structure would be used for parking and storage, but it would have no heating, plumbing or amenities that would make it more easily converted for commercial purposes. Furthermore, the applicant has indicated that it will not be used for commercial purposes. The proposed accessory structure would be constructed to complement the existing house. Provided the proposed new attached garage matches the exterior finish of the house, provided gutters and downspouts are installed on the east and west side of the new attached garage to direct water runoff away from the adjacent properties and provided the new attached garage is constructed as shown on the plans submitted with this application, the proposed garage would be an improvement of the property consistent with the purpose and intent of the zoning code to conserve and improve property values. This finding is met.

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

The requested variance is consistent with the goals of the Comprehensive Plan by allowing the existing property owner in a "stable and affluent neighborhood" to reinvest in their property by maintaining its vitality, preserving and promoting an established neighborhood (Strategy 2.1 of the Housing Plan) and to provide off-street parking in order to lessen congestion in the public streets. This finding is met.

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.*

According to the applicant, there are two challenges in providing parking elsewhere. The first is that there is a two-hour parking restriction on both sides of Lincoln Avenue. The second is the existence of a boulevard bump-out in front of the house.

However, this property is a duplex, only three off-street parking spaces are required. Two spaces are available in the existing detached garage and a third space in the rear yard next to the garage. Therefore, there is no practical difficulty to support this finding. This finding is not met.

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

Building a larger accessory building is a choice not a circumstance unique to the property. This finding is not met.

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

An accessory structure is a use permitted in all zoning districts. The requested variance if granted would not change the zoning classification of this property. This finding is met.

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

The majority of properties on the block have two-car garages; two properties have three-car garages at 1539 Lincoln Avenue and 1545 Goodrich Avenue. A three-car garage would not change or alter the character of the surrounding area and this finding is met.

- F. **DISTRICT COUNCIL RECOMMENDATION:** Staff has not received a recommendation from District Council 14.
- G. **CORRESPONDENCE:** Staff has received an email from the owner of 1562 Goodrich Avenue in opposition of the requested variance due to design concerns. An email from the owner of 1561 Lincoln Avenue in favor of the requested variance.
- H. **STAFF RECOMMENDATION:** Based on findings 3 and 4, staff recommends denial of the requested variance.