

**Excerpt from the
ZONING BOARD OF ADJUSTMENT MEETING
Community Planning & Economic Development (CPED)**
250 South Fourth Street, Room 300
Minneapolis, MN 55415-1385
(612) 673-3153 Phone
(612) 673-2526 Fax

The following actions were taken by the Zoning Board of Adjustment on June 11, 2015.

Board Members: Sean Cahill, Anja Drescher, John Finlayson, Eric Johannessen, Dan Ogiba, Matt Perry, Dick Sandberg, Jacob Saufley, Ami Thompson

Board members absent: Sean Cahill and Jacob Saufley

Committee Clerk: Fatimat Porter 612.673.3153

ITEM SUMMARY

Description:

Item #3- 5857 Washburn Avenue South (BZZ# 7183, Ward 13) (Andrew Liska)

The Department of Community Planning and Economic Development recommends that the Zoning Board of Adjustment adopt staff findings for the application(s) by Nick Reimler for the construction of a new single-family dwelling located at 5857 Washburn Avenue South:

A. Variance to reduce the required corner side setback along West 59th Street from 8 feet to 5 feet 8 inches.

Action: Notwithstanding staff recommendation, the Zoning Board of Adjustment **denied** the application, based on the following findings:

Finding #1: No practical difficulties exist. The zoning code allows the construction of a new single-family dwelling on the subject property without a variance.

Absent: Cahill, Saufley

Aye: Drescher, Finlayson, Johannessen, Thompson

Nay: Ogiba, Sandberg

Motion passed

TRANSCRIPTION

Staff Liska presented the report.

Chair Perry: Thank you Mr. Liska for your presentation. Are there board questions?

Board member Drescher: I have a question, thank you.

Chair Perry: Ms. Drescher.

Board Member Drescher: So, I think I have a principal question or trouble with being a complete new structure. Um, there are regulations set and regulations set for a purpose. So when I'm building a new structure, on empty lot where I don't have any obstruction, why would I build a larger house on a smaller lot? I do create actually, practical difficulties myself with that. So why are we approving variances, if I have a chance to avoid them in the first place.

Staff Liska: Staff finds that the property's width of 37 feet if I remember; the 36 feet in width is substandard as all parcels to the north are 40 feet in width so if there was a 40 foot wide lot, the proposal would be more aligned with those setbacks.

Board Member Drescher: But as well, we do have, there is still room between the minimum requirements between the 20 feet of the house?

Staff Liska: Correct

Board Member Drescher: So there is still an option to go by the regulations.

Staff Liska: They're still seeking that variance. I think the setbacks are too much for the substandard lot. It's too limiting in the development of the parcel. And again, the applicant might be a better one to ask about the variance request as well.

Chair Perry: Mr. Liska can you give us another, I'm going to ask you for another refresher, on why the minimum width for a home was reduced from 22 to 20 feet. What was that thinking behind that? And maybe that will help shed some light on Ms. Drescher's point that here's an opportunity to build, the City seems to think that, they've actually reduced the width that is required, so why would a variance be required?

Staff Liska: I believe this is a building code issue.

Staff Widmeier: It was related to allowing more flexibility for design options with people building new structures. The minimum 20 foot rule requires that the house be at least 20 feet for 80% of the width and some houses were just a little bit longer and didn't quite meet that, so this allows for more flexibility in design.

Chair Perry: So in fact City policy is 20 feet is fine.

Staff Widmeier: That is correct

Chair Perry: As Mr. Johannessen just pointed out, I will say this, it is minimum but it is still fine. The City has put it; in fact, I would say the City has put an emphasis on the fact that 20 feet is ok because they changed it from 22 feet down to 20 feet. So, logically it seems that they are endorsing having homes that are smaller if that's what is necessary. Any other questions of Mr. Liska? I see none, thanks. Is the applicant present? Yes sir. You may know the drill, if you'd give your name and address for the record please.

Applicant: The address for the property we're talking about or my address, personal address?

Chair Perry: Your address, your name and your address.

Nick Reimler (303 Pebble Rd N): My company, My Home Source, is proposing this project and like Andrew said, the lot width is a hindrance (.....) 36 feet. You know we did take into consideration neighbors and that kind of thing here and if there were neighbors on the south side we would definitely change our plan but we feel like we are not really encumbering anybody or causing anybody any hardships on the south side since it is street, it's a corner lot. And that the 25 foot width of the house is also a little less than most houses in the neighborhood. So it's not going to look like a huge house on a small lot. And we feel as though it will fit in well with the neighborhood; and the esthetics of the neighborhood.

Chair Perry: Any questions for the applicant? I see none. Thanks for coming down and giving testimony; appreciate it. Is there anyone else that would like to speak in favor of this application? Is there anyone who would like to speak against this application? I'll close the public hearing, board comment. Ms. Thompson.

Board Member Thompson: I'm glad Ms. Drescher pulled this item. I actually disagree with staff findings because, what I heard from staff, from Mr. Liska, was that, staff was recommending approval because they thought the current zoning for this size lot was too restrictive. And that's not really our role as a board to think whether or not, to rule based on whether or not we think the current laws are good. We need to make our findings based on what the current laws say and the current law says you can build a house on this lot and meet all the standards without a variance. You can build on this lot a reasonable house on this lot without requiring a variance. I don't think the proposed building is gigantic or awful or you know, unethical. I just think that the principle of what we're supposed to do as a board is work within the law. And not try and usurp the law because we think it's bad or good. So for those reasons I'm currently disagreeing with staff findings but I really would value hearing my other board members opinions.

Chair Perry: Thank you Ms. Thompson. And to, for the public, to underscore what Ms. Thompson said, we're not a policy board. We take the existing code; the people who are policy makers are you're council people. We take what the existing code is and we work with it. The code does say that there are 32 different; I think there are 32 different,

enumerated instances where you can vary what the code says. So it's not illegal to seek what people are doing, we're doing something here where the request is legal, it's within the code, it's within the law. Um, but again, we're not a policy making body. Mr. Ogiba. Board Member Ogiba: Thank you Chair Perry. I support staff findings on this. Just because something could be done differently it's not this board's responsibility to decide whether there's alternatives that could or couldn't be done. Our job is to determine if there is a practical difficulty. The lots 36 feet wide; standard lots 40, that's 10% less than what the standard lot is. To me that's a practical difficulty. It meets all the other findings that are necessary for us to support staff findings. So, I support what they've found in this variance.

Chair Perry: Thanks for those comments Mr. Ogiba, other comments from board members? Mr. Finlayson and then Mr. Sandberg.

Board Member Finlayson: I will go back to my earlier statement. It's new construction, it's a clean slate. They can follow the rules.

Chair Perry: Thank you Mr. Finlayson, Mr. Sandberg.

Board Member Sandberg: I'm tending to agree with staff findings here because I think just because the rules permit a 20 foot wide home, building one in a neighborhood full of houses that are not 20 feet wide might be a practical difficulty that could be considered by us. The rest of the neighborhood has houses that are 24 feet or wider and requiring this particular applicant to build a 20 foot wide house even though its permitted, could be considered a practical difficulty for this particular project.

Chair Perry: Thanks Mr. Sandberg for those comments. Anybody else would like to speak on this item? I'd entertain a motion. Mr. Sandberg.

Board Member Sandberg: I move staff findings.

Chair Perry: There's a motion to adopt staff findings.

Board Member Ogiba: Second.

Chair Perry: Mr. Ogiba is seconding that motion; any further discussion on the motion before us? I see none, clerk please call the roll.

Absent: Cahill, Saufley

Aye: Ogiba, Sandberg

Nay: Drescher, Finlayson, Johannessen, Thompson

Motion failed

Chair Perry: That motion fails so we need another motion. Presumably from one of the people that voted against the motion.

Board Member Finlayson: I move to deny.

Chair Perry: And a...

Board Member Finlayson: Because the....

Chair Perry: Thank you, you were going to do just what I was going to ask.

Board Member Finlayson: Because it is possible to build a legally permissible house on the lot within code.

Chair Perry: So you are not finding for the practical difficulties for that reason.

Board Member Finlayson: That is correct.

Chair Perry: Is there a second for that motion?

Board Member Johannessen: I'll second.

Chair Perry: Mr. Johannessen is seconding the motion. Is there any further discussion on that motion before us? I see none, will the clerk please call the role.

Absent: Cahill, Saufley

Aye: Drescher, Finlayson, Johannessen, Thompson

Nay: Ogiba, Sandberg

Motion passed