

Minneapolis Planning Department

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MEMORANDUM

DATE: June 2, 2003

TO: Blake Graham, Planning Department
Phil Schliesman, Licenses
Clara Schmit-Gonzalez, Licenses

FROM: Neil Anderson, Planning Supervisor, Development Services

CC: Chuck Ballentine, Planning Director

SUBJECT: Planning Commission decisions of June 2, 2003

The following actions were taken by the Planning Commission on June 2, 2003. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued:

Gloria Perez for the Jeremiah Program - BZZ-536

3. **1510 Laurel Avenue South (5th Ward - BZZ-536, Variance)**
Application by Gloria Perez for the Jeremiah Program for a variance to increase the maximum allowable height of a fence in the 15 foot front yard setback along Hawthorne Avenue from four feet to six feet. (Staff, Jim Voll)

Motion: The City Planning Commission adopted the findings and **approved** the application on the consent agenda for the variance application to increase the maximum allowable height of a fence in the front yard setback from four feet to six feet for the Jeremiah Program located at 1510 Laurel Avenue.

4. **1510 Laurel Avenue South (5th Ward - BZZ-536, Variance)**
Application by Gloria Perez for the Jeremiah Program for a variance to allow two new piers to exceed the maximum allowable height of three feet in the front yard setback to approximately nine feet. (Staff, Jim Voll)

Motion: The City Planning Commission adopted the findings and **approved** the application on the consent agenda for the variance application to increase the maximum allowable height of two fence piers in the front yard setback from three feet to approximately nine feet for the Jeremiah Program located at 1510 Laurel Avenue.

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MEMORANDUM

DATE: June 12, 2003

TO: Council Member Gary Schiff, Chair, Zoning and Planning Committee
Zoning and Planning Committee members

FROM: Jim Voll - City Planning Department

SUBJECT: Appeal of the City Planning Commission's decision for property located at
2000 Nicollet Avenue South (BZZ-1138).

Gloria Perez Jordan, for the Jeremiah Program, has filed an appeal of the City Planning Commission's approval of a fence height variance at its meeting of June 2, 2003. The property is located at 1510 Laurel Avenue. The Commission voted to approve the application for a 6-foot fence on consent. The appeal was filed on June 6, 2003. Minutes from the meeting are not available and are not included in the packet.

There appears to have been a miscommunication between staff and the applicant regarding the original variance. The applicant was under the impression that they could not apply for a variance for an 8-foot fence, so they applied for a variance for a 6-foot fence. The majority of the existing fence is 8 feet. The variance would allow a small section of new fencing to match the existing fencing. If the Zoning and Planning Committee supports the appeal for an 8-foot fence, the following findings could support that position:

Findings Required by the Minneapolis Zoning Code:

- 1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

The applicant proposes to add a gate at the northeast corner of the site to match existing fencing. This is a reasonable use of the property. Requiring the fences to meet the code requirement would result in a fence that was at 8 feet for the majority of the site with only one small area at the lower requirement. Strict adherence would be impractical and would be a hardship.

- 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 site already has a legally nonconforming fence and the variance is necessary to allow the new fencing to match the existing fencing. The fencing is part of a larger campus that makes the height less out of scale with the property. These are not circumstances generally applicable to other properties in the area.

- 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.**

The intent of the ordinance is to prevent fences blocking views up and down the street in the front yard setbacks. Much of the large fence is already existing and the variance is only necessary for a small change to the site. Therefore, the proposed variance should not circumvent the intent of the ordinance.

- 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.**

Fence should have no impact on traffic. The fence should not effect the public safety or increase the danger of fire.

Minneapolis City Planning Department Report
Variance (BZZ-536)

Date: June 2, 2003

Date Application Deemed Complete: April 25, 2003

End of 60 Day Decision Period: June 24, 2003

Applicant: Gloria Perez Jordan for the Jeremiah Program

Address Of Property: 1510 Laurel Avenue

Contact Person And Phone: William Underwood – Faegre & Benson 612-766-7000

Planning Staff And Phone: Jim Voll 612-673-2587

Neighborhood Organization: Loring Park

Ward: 5 **Existing Zoning:** OR3 Institutional Office Residence District
DP Downtown Parking Overlay District.
B4H Downtown Housing Overlay District.

Existing Use: Supportive housing facility.

Variance: Variance to increase the maximum allowable height of a fence in the 15 foot front yard setback along Hawthorne Avenue from 4 feet to 6 feet and a variance to allow two new piers to exceed the maximum allowable height of three feet in the front yard setback to approximately 9 feet.

Previous Actions: The Planning Commission approved a conditional use permit (C-1787) for the Jeremiah Program to construct a 39-unit building on November 6, 1996. The Planning Commission approved a rezoning to the B4H Housing Overlay District and a conditional use permit (BZZ-536) to add 21 units of supporting housing (please see file for associated setback variances and parking lot approvals).

Appropriate Section(s) of the Zoning Code: Chapter 525, Article IX Variances, specifically Section 525.520(5) “to permit an increase in the maximum height of a fence.”

Background: The Jeremiah Program is an educational and career readiness program for single mothers that provides life skills training and coaching by qualified staff with affordable rent not to exceed a third of a woman’s total income. The zoning code defines this as supportive housing. This site has two front yards, one along Laurel Avenue and one along Hawthorne Avenue. There are fifteen-foot setbacks along these streets. There is an existing 8-foot tall wrought iron fence with approximately 9-foot tall piers that was constructed under the 1999 zoning code, which

allowed this arrangement. The new zoning code does not allow fences this tall in the setbacks. The existing fencing is grandfathered and does not need a variance.

There are a couple of changes to the fence that do require a variance. A new gate and fencing is being installed at the northeast corner of the site that will be six feet tall. The part that is in the 15-foot front yard setback can not exceed four feet. Fencing can not exceed three feet in a front yard setback unless it is wrought iron, then it may be 4 feet tall. Along Laurel Avenue a new curb cut is being installed that requires that two new piers be built to match the existing fencing and piers on this side of the site. The existing piers are approximately 9 feet and the proposed piers will match this design.

Findings Required by the Minneapolis Zoning Code:

- 1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

The applicant proposes to add a gate at the northeast corner of the site and two new piers, to match existing piers, at the new curb cut on Laurel. This is a reasonable use of the property. Requiring the fences to meet the code requirement would result in a fence that was at 8 feet for the majority of the site with only a couple of small areas at the lower requirement. Strict adherence would be impractical and would be a hardship.

- 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 site already has a legally nonconforming fence and the variances are necessary to allow the new fencing to match the existing fencing. The fencing is part of a larger campus that makes the height less out of scale with the property. These are not circumstances generally applicable to other properties in the area.

- 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.**

The intent of the ordinance is to prevent fences blocking views up and down the street in the front yard setbacks. Much of the large fence is already existing and the variances are only

necessary for small changes to the site. Therefore, the proposed variance should not circumvent the intent of the ordinance.

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.**

Fence should have no impact on traffic. The fence should not effect the public safety or increase the danger of fire.

RECOMMENDATION OF THE CITY PLANNING DEPARTMENT:

VARIANCE (to increase the height of a fence from four feet to six feet)

The City Planning Department recommends that the City Planning Commission adopt the above findings and **approve** the variance application to increase the maximum allowable height of a fence in the front yard setback from four feet to six feet for the Jeremiah Program located at 1510 Laurel Avenue.

VARIANCE (to increase the height of two piers from three feet to approximately nine feet)

The City Planning Department recommends that the City Planning Commission adopt the above findings and **approve** the variance application to increase the maximum allowable height of two fence piers in the front yard setback from three feet to approximately nine feet for the Jeremiah Program located at 1510 Laurel Avenue.