

Minneapolis City Planning Department Report

Variance Request
BZZ-1036

Date: February 26, 2003

Applicant: Darren Acheson

Address of Property: 2862 James Avenue South

Date Application Deemed Complete: January 13, 2003

End of 60 Day Decision Period: March 14, 2003

Contact Person and Phone: Darren Acheson, (612) 879-0295

Planning Staff and Phone: Hilary Watson, (612) 673-2639

Ward: 7 **Neighborhood Organization:** east Isles Residents Association

Existing Zoning: R1

Proposed Use: Sport court and associated fencing and lighting

Proposed Variance: A variance to reduce the south interior side yard setback from the required 6 feet to zero feet (please note that this was noticed to 1-foot) and a variance to reduce the rear yard setback from the required 6 feet to 1-foot to allow for an existing sport court to remain, a variance to increase the height of an existing fence from the permitted 6 feet to 10 feet that is located in the required south interior side yard and the required rear yard, a variance to reduce the required south interior side yard setback from the permitted 6 feet to 1-foot to allow for an existing lamppost to remain and a variance to increase the height of an existing lamppost from the permitted 8 feet to 15 feet that is located in the required south interior side yard.

Zoning code section authorizing the requested variance: 525.520(1), (1), (4), (1) and (4)

Concurrent Review: None

Background: The applicant installed a sport court in his back yard in July of 2002. The sport court is located in the required south interior side yard and the required rear yard. Please note that the applicant had a survey of the property done in January of 2003. As it turns out the sport court was built over the south interior property line. The applicant is working with Hennepin County in order to draft a lease agreement for usage of the land. The fence that is located on the west and south sides of the sport court is too tall and the lamppost that is located on the south side of the sport court is located in the required south interior side yard setback and is too tall.

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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.**

South interior side yard setback (sport court): The applicant is seeking a variance to reduce the south interior side yard setback from the required 6 feet to zero feet to allow for an existing sport court to remain. The applicant has indicated that located to the south of the property is the Midtown Greenway and located between the bike path and the applicant's property is a dense patch of landscaping (please see the attached photos). Because of the dense landscaping it makes it almost impossible to see the sport court from the public right-of-way. The applicant has also indicated that the sport court needs to be of a specific size to make it useable. The sport court is 28 feet wide and 45 feet long. Please note that according to the applicant's survey the sport court is located approximately 7 feet on Hennepin County's property.

Rear yard setback (sport court): The applicant is seeking a variance to reduce the rear yard setback from the required 6 feet to 1-foot to allow for an existing sport court to remain. The applicant has also indicated that the sport court needs to be of a specific size to make it useable. The sport court is 28 feet wide and 45 feet long.

Fence height: The applicant is seeking a variance to increase the height of an existing fence from the permitted 6 feet to 10 feet that is located in the required south interior side yard and the required rear yard. The applicant has indicated that the additional fence height is needed in order to keep balls and other play items from going out of the yard.

South interior side yard setback (lamppost): The applicant is seeking a variance to increase the height of an existing lamppost from the permitted 8 feet to 15 feet that is located in the required south interior side yard. The applicant has indicated that the lamppost is located in a position that provides the most light to the sport court.

Lamppost height: The applicant is seeking a variance to increase the height of an existing lamppost from the permitted 8 feet to 15 feet that is located in the required south interior side yard. The applicant has indicated that the lamppost is as tall as it is in order to provide the most light to the sport court.

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.**

South interior side yard setback (sport court): Staff is unable to identify a unique physical characteristic of the applicant's property that would warrant the need for the variance. The

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applicant could remove 13 feet (7 feet from Hennepin County's property and 6 feet from the applicant's property) from the sport court and still have a sport court that was 15 feet in width.

Rear yard setback (sport court): Staff is unable to identify a unique physical characteristic of the applicant's property that would warrant the need for the variance. The applicant could remove 5 feet from the sport court and still have a sport court that was 40 feet in length.

Fence height: Staff is unable to identify a unique physical characteristic of the applicant's property that would warrant the need for the variance.

South interior side yard setback (lamppost): Staff is unable to identify a unique physical characteristic of the applicant's property that would warrant the need for the variance.

Lamppost height: Staff is unable to identify a unique physical characteristic of the applicant's property that would warrant the need for 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.**

South interior side yard setback (sport court): Staff does not believe that the sport court would alter the essential character of the surrounding neighborhood as it is located on the back portion of the lot and is not visible from the public right-of-way.

Rear yard setback (sport court): Staff believes that the sport court could be injurious to the adjacent property to the west because of the noise that is produced by the various activities that take place on the sport court.

Fence height: Staff is generally concerned about the fortress-like quality that may be associated with the granting of fence height variations. However, staff does not believe that the fence would alter the essential character of the surrounding neighborhood as it is located on the back portion of the property and is screened from the public right-of-way by the adjacent dense landscaping.

South interior side yard setback (lamppost): Staff does not believe that the lamppost would alter the essential character of the surrounding neighborhood as it is located on the back portion of the lot and is screened from the public right-of-way by the adjacent dense landscaping.

Lamppost height: Staff is concerned that the lamppost produces glare that encroaches on to the adjacent properties. However, with the correct shielding staff believes that the lamppost would not alter the essential character of the surrounding neighborhood as there are lampposts located along the greenway that provide additional light in the area.

- 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.**

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South interior side yard setback (sport court): Granting the variance would likely have no impact on congestion of area streets or fire safety, nor would the sport court be detrimental to welfare or public safety.

Rear yard setback (sport court): Granting the variance would likely have no impact on congestion of area streets or fire safety, nor would the sport court be detrimental to welfare or public safety.

Fence height: Granting the variance would likely have no impact on congestion of area streets or fire safety, nor would the fence be detrimental to welfare or public safety.

South interior side yard setback (lamppost): Granting the variance would likely have no impact on congestion of area streets or fire safety, nor would the lamppost be detrimental to welfare or public safety.

Lamppost height: Granting the variance would likely have no impact on congestion of area streets or fire safety, nor would the lamppost be detrimental to welfare or public safety.

Recommendation of the City Planning Department:

The City Planning Department recommends that the Board of Adjustment adopt the findings above and **deny** the variance to reduce the south interior side yard setback from the required 6 feet to zero feet and **deny** the variance to reduce the rear yard setback from the required 6 feet to 1-foot to allow for an existing sport court to remain, **deny** the variance to increase the height of an existing fence from the permitted 6 feet to 10 feet that is located in the required south interior side yard and the required rear yard, **deny** the variance to reduce the required south interior side yard setback from the permitted 6 feet to 1-foot to allow for an existing lamppost to remain and **deny** the variance to increase the height of an existing lamppost from the permitted 8 feet to 15 feet that is located in the required south interior side yard.