



**Request for City Council Committee Action
From the Department of Community Planning & Economic Development**

Date: January 22, 2004

To: Council Member Gary Schiff, Zoning and Planning Committee

Prepared by: Carrie Flack, Senior City Planner

Presenter in Committee: Carrie Flack, Senior City Planner

Approved by: Blake Graham, Interim Director, Planning _____

Subject: Appeal of the decision of the Zoning Board of Adjustment by Webber Camden Neighborhood Organization

BZZ 1476 – 909 42nd Avenue North – Scott Freitag has applied for a variance to reduce the required lot area from 10,000 sq. ft. to 8,430 sq. ft. (15.7 percent) to allow for the conversion of a single family home to a duplex in the R2B zoning district.

RECOMMENDATION: The Board of Adjustment adopted the staff recommendation and approved the requested variance on the consent agenda at the December 10, 03 Board of Adjustment meeting.

Previous Directives:

Financial Impact (Check those that apply)

- No financial impact - or - Action is within current department budget.
(If checked, go directly to Background/Supporting Information)
- Action requires an appropriation increase to the Capital Budget
- Action requires an appropriation increase to the Operating Budget
- Action provides increased revenue for appropriation increase
- Action requires use of contingency or reserves
- Other financial impact (Explain):
- Request provided to the Budget Office when provided to the Committee Coordinator

Community Impact

Ward: 4
Neighborhood Notification: Webber Camden
City Goals: N/A
Comprehensive Plan: N/A
Zoning Code: Chapter 525 Administration and Enforcement
Living Wage/Job Linkage: N/A
Other: N/A

Background/Supporting Information

Roberta Englund on behalf of the Webber Camden Neighborhood Organization has filed an appeal of the decision of the Zoning Board of Adjustment. The appeal is associated with the decision of the Zoning Board of Adjustment to approve the requested variance to reduce the required lot area from 10,000 sq. ft. to 8,430 sq. ft. (15.7percent) to allow for the conversion of a single family dwelling to a duplex dwelling in the R2B zoning district located at 909 42nd Avenue North.

The appellant has stated that the decision is being appealed because there is no hardship involved with the property that justifies the approval of the variance request and the neighborhood group supports single family owner occupancy versus duplex rental units. The appellant's complete statement of the action being appealed and reasons for the appeal is attached.

At the December 10, 2003 Zoning Board of Adjustment meeting six (6) Board members were present. All six members present voted to adopt the staff recommendation and approved the requested variance on the consent agenda. The minutes from the December 10, 2003 Zoning Board of Adjustment meeting are not available due to technical difficulties. However, as no one in opposition to the staff recommendation attended the hearing, there was no public hearing discussion on this item and it was approved on the consent agenda. The Board of Adjustment hearing actions are included below and the Planning Department staff report is attached.

10. 909 – 42nd Avenue North (BZZ-1476, Ward 4)

Scott Freitag has applied for a variance to reduce the required lot area from 10,000 square feet to 7,663 square feet (15.7 percent) to allow for the conversion of a single family dwelling to a duplex dwelling in the R2B zoning district located at 909 42nd Avenue North.

BOARD OF ADJUSTMENT ACTION:

Mr. Gates motioned to adopt the staff recommendation and **approve** the variance application on the consent agenda. Ms. Bloom seconded the motion.

Roll Call Vote:

Yeas: Bloom, Fields, Finlayson, Gates, Rand, Von Bargaen

Nays: None

Absent: Johnson, Lasky, Morgan

The Board of Adjustment adopted the staff recommendation and **approved** the variance to reduce the required lot area from 10,000 square feet to 8,430 square feet (15.7 percent) to allow for the conversion of a single-family home to a duplex in the R2B zoning district.

Community Planning and Economic Development - Planning Division Report

Variance Request BZZ-1476

Date: December 10, 2003

Applicant: Scott Freitag

Address of Property: 909 42nd Avenue North

Date Application Deemed Complete: November 3, 2003

End of 60 Day Decision Period: January 3, 2003

Contact Person and Phone: Scott Freitag, 763-767-3280

Planning Staff and Phone: Carrie Flack, 612-673-3239

Ward: 4 **Neighborhood Organization:** Webber-Cambden

Existing Zoning: R2B, Two-family District

Proposed Use: Conversion of a single-family home to a duplex

Proposed Variance: A variance to reduce the required lot area from 10,000 square feet to 8,430 square feet (15.7 percent) to allow for the conversion of a single-family home to a duplex in the R2B zoning district located at 2224 17th Avenue South.

Zoning code section authorizing the requested variance: 525.520 (2b)

Background: The subject site is approximately 79 ft. x 106.7 ft. (8,430 sq. ft.). The applicant is proposing to convert an existing single-family dwelling to a duplex dwelling. The dwelling is currently a single family dwelling that has been finished with a bathroom and kitchen in the basement that was used by an additional family member. The lot is 8,430 square feet and does not meet the required 10,000 square ft. lot area requirement for the R2B zoning district.

The lot area requirement for a duplex in the R2B District is 10,000 square feet. This requirement may be varied up to 30 percent. The applicant is proposing a 15.7 percent variance. This requirement may be further varied up to a maximum of 55 percent for newly constructed two-family dwellings located in the R2B District, provided the surrounding properties are primarily two-family dwellings developed on lots similar in size to the proposed development. Although the variance request does not exceed 30 percent, staff did evaluate the surrounding uses. Ten of the nearest 18 properties consist of duplexes, 1 of which is immediately adjacent to the subject site. All 10 of these properties are nonconforming as to lot size.

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.

Lot area: The applicant is seeking a variance to reduce the required lot area from 10,000 square feet to 8,430 square feet (15.7 percent) to allow for the conversion of an existing single family home into a duplex in the R2B District. The applicant states the property was purchased with the intent to rent the property as a duplex because of the existing layout of the structure. Strict adherence to the regulations does not allow for a duplex dwelling on a lot zoned R2B, Two-family District with less than 10,000 sq. ft., which is a reasonable use of the property.

- 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.**

Lot area: The conditions upon which the variance is requested are unique to the parcel of land and were not created by the applicant. The lot is 8,430 square feet in size and is zoned R2B, Two-family District. The applicant would need to acquire an additional 1,570 square feet of land to construct a duplex on the subject site without a variance. Both adjacent properties consist of existing dwellings. Therefore, it would be difficult to acquire additional property without affecting the yard requirements for those properties. Staff believes that the overall surrounding area consists of a significant number of duplexes. Many of which are located on nonconforming lots as well. The area is zoned R2B which allows for predominantly low density, single and two-family dwellings and cluster developments. The applicant is seeking a variance of 15.7 percent. Staff believes that a duplex is a reasonable use of the site and the existing parcel size of 8,430 square feet with R2B zoning are circumstances that were not created by the applicant.

- 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.**

Lot area: Staff believes that granting the variance will not alter the essential character of the surrounding neighborhood or be injurious to the use or enjoyment of other property in the vicinity. The proposed duplex will not alter the existing structure, thus not altering the character of the neighborhood. Additionally, this site has appropriate off-street parking for two units, so it will not increase the number of vehicles on the street. By granting this variance, it would allow for the rental of both units.

- 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.**

Lot area: Granting the variance would likely have no impact on the congestion of area streets or fire safety, nor would the proposed duplex dwelling be detrimental to the public welfare or endanger the public safety.

Recommendation of the City Planning Department:

The City Planning Department recommends that the Board of Adjustment adopt the findings above and **approve** the variance to reduce the required lot area from 10,000 square feet to 8,430 square feet (15.7 percent) to allow for the conversion of a single-family home to a duplex in the R2B zoning district.

