



Request for City Council Committee Action from the Department of Community Planning & Economic Development – Planning Division

Date: November 8, 2007

To: Council Member Gary Schiff, Chair, Zoning and Planning Committee
Members of the Committee

Referral to: Zoning and Planning Committee

Subject: Appeal of the Zoning Board of Adjustment action denying the following variances:

- A variance to reduce the corner side yard setback along 6th Avenue North from 8 feet to 3 feet.
- A variance to allow for eaves to project to the property line along 6th Avenue North to allow for a 3 foot wide eave on a new single family dwelling.
- A variance to reduce the required off-street parking from 1 to 0 parking spaces.

To allow for the construction of a new single family dwelling at 535 Sheridan Avenue North (BZZ-3782) by Barbara Lutz.

Recommendation: The Zoning Board of Adjustment adopted staff recommendation and:

- Denied a variance to reduce the corner side yard setback along 6th Avenue North from 8 feet to 3 feet.
- Denied a variance to allow for eaves to project to the property line along 6th Avenue North to allow for a 3 foot wide eave on a new single family dwelling.
- Denied a variance to reduce the required off-street parking from 1 to 0 parking spaces.

To allow for the construction of a single family dwelling located at 535 Sheridan Avenue North in the R1A Single Family District & SH Shoreland Overlay District.

Previous Directives: N/A

Prepared or Submitted by: Brian Schaffer, City Planner, 612-673-2670

Approved by: Jack Byers, Planning Supervisor, 612-673-2634

Presenters in Committee: Brian Schaffer, City Planner

Financial Impact (Check those that apply)

No financial impact (If checked, go directly to Background/Supporting Information).

Action requires an appropriation increase to the _____ Capital Budget or _____ Operating Budget.

Action provides increased revenue for appropriation increase.

Action requires use of contingency or reserves.

Business Plan: _____ Action is within the plan. _____ Action requires a change to plan.

Other financial impact (Explain):

___ Request provided to department's finance contact when provided to the Committee Coordinator.

Community Impact (use any categories that apply)

Ward: 5

Neighborhood Notification: Harrison Neighborhood Association was notified of the appeal on October 25, 2007.

City Goals: See staff report.

Comprehensive Plan: See staff report.

Zoning Code: See staff report.

Living Wage/Job Linkage: Not applicable.

End of 60/120-day Decision Period: The end of the 60 day decision period is November 16, 2007.

Other: Not applicable.

Background/Supporting Information Attached: Barbara Lutz filed an appeal of the Zoning Board of Adjustment decision denying a series of three variances to allow for the construction of a new home.

The Zoning Board of Adjustment voted 4-2 to deny all three variance application on October 11, 2007. The appellant filed an appeal on October 22, 2007. The appellant's statement is included in the attached supporting material.

Supporting Material

- A. Appellant statement of appeal with attachments
- B. October 11, 2007 ZBOA Meeting Minutes
- C. October 11, 2007 ZBOA Staff Report with attachments
- D. Letters of support provided to ZBOA members on October 11, 2007

Board of Adjustment Hearing Testimony and Actions

Thursday, October 11, 2007
4:30 p.m., Room 317 City Hall

Board Membership: Mr. Matt Ditzler, Mr. John Finlayson, Mr. Paul Gates, Ms. Marissa Lasky, Ms. Alissa Luepke Pier, Mr. Matt Perry, and Mr. Peter Rand

The Board of Adjustment of the City of Minneapolis will meet to consider requests for the following:

2. **535 Sheridan Avenue North (BZZ-3782, Ward 5):**

Richard Venberg, on behalf of Barbara J. Lutz, has applied for the following variances to allow for the construction of a single family dwelling located at 535 Sheridan Avenue North in the R1A Single Family District & SH Shoreland Overlay District:

- A variance to reduce the corner side yard setback along 6th Avenue North from 8 feet to 3 feet.
- A variance to allow for eaves to project to the property line along 6th Avenue North to allow for a 3 foot wide eave on a new single family dwelling.
- A variance to reduce the required off-street parking from 1 to 0 parking spaces.

Mr. Ditzler moved and Mr. Finlayson seconded the motion to **adopt** staff recommendation and:

- **Deny** a variance to reduce the corner side yard setback along 6th Avenue North from 8 feet to 3 feet.
- **Deny** a variance to allow for eaves to project to the property line along 6th Avenue North to allow for a 3 foot wide eave on a new single family dwelling.
- **Deny** a variance to reduce the required off-street parking from 1 to 0 parking spaces.

To allow for the construction of a single family dwelling located at 535 Sheridan Avenue North in the R1A Single Family District & SH Shoreland Overlay District.

Roll Call Vote:

Yeas: Ditzler, Finlayson, Luepke Pier and Perry

Nays: Lasky and Rand

Recused: None

Absent: None

TESTIMONY

Mr. Gates: Thank you Mr. Schaffer.

Mr. Rand: If in a year from now or six months from now or two years from now this site had ... (inaudible).

Mr. Schaffer (staff): Chair Gates, Board Member Rand, that is absolutely correct.

Mr. Rand: Inaudible.

Mr. Schaffer (staff): Chair Gates, Board Member Rand, that is correct, staff in the staff report encourages the applicant to wait until they have acquired this property and come back. None of the three variances would be required if that property was ...

Mr. Rand: Meanwhile they'll pay taxes on it.

Mr. Schaffer (staff): Yes.

Mr. Gates: Okay, thank you.

Mr. Ditzler: Is this currently a vacant lot?

Mr. Schaffer (staff): Chair Gates, Board Member Ditzler, it is a vacant lot. You can see from this aerial photo here that this is the driveway. The applicant has numerous photos and I'm sure has a power point with some more pictures to show today.

Mr. Ditzler: Obviously this has not been through the point system.

Mr. Schaffer (staff): Chair Gates, Board Member Ditzler, the staff has not evaluated this home for the point system at this point.

Mr. Ditzler: Is there a front door facing Sheridan?

Mr. Schaffer (staff): There is a front door facing the side or facing the interior property line, but it is within eight feet of the front entrance which would meet the zoning ordinance.

Mr. Gates: Within eight feet of the front entrance?

Mr. Schaffer (staff): The front building wall.

Ms. Lasky: It's just around the corner.

Mr. Schaffer (staff): The door is just cocked in; instead of facing front it faces the side.

Mr. Ditzler: It is considered okay?

Mr. Schaffer (staff): It still meets the zoning requirements, but staff will evaluate that long after this process is over.

Ms. Lasky: I want that other picture back up. So they have oriented the house so they could still get a driveway in on the southern portion and put parking in the back, correct?

Mr. Schaffer (staff): Chair Gates, Board Member Lasky, that is true, the applicant also states that in their application.

Mr. Gates: Further questions? I see none, thank you Mr. Schaffer. Is the applicant here? Care to speak?

Barb Lutz: Good evening everyone, my name is Barb Lutz and I'm the property owner. I bought this lot ...

Mr. Gates: Could we get your address Ms. Lutz?

Ms. Lutz: Right now I'm living at 5720 York Avenue South in Edina.

Mr. Gates: Thank you.

Ms. Lutz: I bought this lot in December 2006, after searching around for a house that I could buy and live here. I moved back here to live with my elderly mother and take care of her. I just couldn't find anything I wanted and something that could be converted to green, so I decided to start from scratch and build a green house. I'm very committed to green, I drive a Prius, recycle, all that kind of stuff, I'm just committed to that and reducing our carbon imprint on the world. I'm a big picture person, which is a little bit of a handicap here, because we're looking at not quite the big picture. I want to build a green house. I want to build a house that's energy efficient, it's got solar panels, but it's not just the house I want green, the whole landscaping and everything surrounding it I want to be green. I'm into growing my own organic vegetables and the more space I have to do that ... and have native plants to reduce run off. There's a living part of this roof, or part of the roof is actually going to be living between the two solar arrays. It's all to reduce run-off. There is a perfectly good driveway next door – right bordering on the property line. The former owner used that as the primary egress to his lot and his house. Those two lots were joined with the house next door. He bought the property in the 30's ... I think in 1939 there was a strip, that northern strip was taken by eminent domain for the purpose of building a frontage road for Highway 55, but it wasn't used. They built 6th Street and they didn't need to use that land, but of course the state still owned it and the city still had the platted alley. Now, I talked to the city before I even bought the land, they said yeah, there's an alley on there and you should be able to ... you know, we have no use for it, you should be able to eventually gain use of that land. I just didn't think it would take quite as long as it did. I applied in February for the vacation of alley. I was under the total understanding at that time that half of it would be vacated to me, but it wasn't and they lost my application for two months and then we kind of had to start from scratch...they cashed my check though, but you know they lost my application. I have to say Scott really did a good job of trying to expedite it after that point – the people in the right-of-way office were extremely helpful the whole way, same thing with the city planners' office. So I've got the alley vacated, it took all summer, but it wasn't vacated to me and I didn't know that that was going to happen until the July time frame. I hoped to start building this summer. I was told that I wasn't going to get half of the alley and actually nobody could really tell me until last week when it was vacated who was going to get it. If the state was really going to get it or, you know, I still held out a little hope that I would get half of it. So now it is in the process of the State has it, as you said you got the email from Jim Kirschner over at MN Dot that says that they are going to most likely release that to me, it's just that it is going to take a while and the City's going to have to go through their part and that's going to take a long time too. I do have something from...well, I think you've already got that in your packet too, from the Harrison Neighborhood Association; I spoke to them at length. They are totally in support of this green project. I want to address the things that Brian Schaffer has talked about in terms of reasonable use of the property and whether it would constitute a hardship for me. Yeah, the property is 49 feet wide, so you can build a 30 foot house and you can build a 10 foot wide driveway. That can be done. There is no question about that. The problem is that I think that we want to reduce run-off in this City, and putting a parallel 10 foot wide driveway to an existing 11 foot wide driveway I think is not the best thing to do for the neighborhood or the environment or my neighbor to the south. I put a 10 foot wide driveway in between 11 feet of the side yard and it's going to run-off into his basement. Especially with some of the torrential downpours we have had. Also we are right next to Theatre Wirth Park, the run-off goes right into the lake there and I just think that that's a hardship to expect to put a 10 foot wide driveway when there is one already there. I think everybody is in agreement that I'm eventually going to acquire at least seven feet of that land and that is going to make this all mute. It's just when is that going to happen? It could take up to two years, then I'm just sitting here for two years, the City's not getting property ... I mean they're getting \$200 a year in property taxes, but certainly not the property taxes I'd be paying if there was a house there. There is also an issue with having an empty lot there, and people congregating. There is a lot of garbage there that I pick up that...people are throwing pop cans that are walking by and so on and I'd just like to get started a lot sooner. I also have the idea that that side yard, I'd really like it to be 16 feet instead of 11, and like to move to the north. The solar array...there are going to be solar panels on the top of the house, the photovoltaic will be down along the bottom portion of the roof with the

possibility of adding more of those later as the price goes down, and in the winter when the sun is weakest and it's the lowest in the horizon, there will be some shading, not a whole lot, but there will be some shading of those solar panels on that side. If I add more along the bottom of the roof, the sun won't hit those for a good portion of the day in the winter time. The other thing is that because...to have a side yard that is green and grass and not a driveway and native plants and I plan to grow my own vegetables and so on, I don't want to put that stuff in the front yard, because it just doesn't look good. You want that by the setback of the house and further back. I think that this lot is unique in the fact that it already has this existing driveway next to it and most homes do not have a 35 foot wide stretch of unused government property...or state owned property next to it. It's not wide enough to develop. The State and the City have never taken care of it in any way, there is brush, and trees, and dead branches, and dead trees, all along that little strip between the driveway. It's a steep hill going down to the street and I'm perfectly willing to maintain that. But I think it is a unique piece of property in that that driveway exists. Let me just quick go through this slide show. This is on my block, these photos were you can see that there are a lot of houses that are almost right on the street and it doesn't look that great. This is actually on my block but on the back side, and then you come to where my lot is and this is ... you can see the driveway on the side there, you can see the lot, you can see that ... you're not going to be able to see the fact that I'm nearer to the side -0- five feet closer to the property line it's not going to make any difference to anybody. You won't even be able to tell. This is the driveway, which, actually it's in pretty good shape; it's just got a lot of brush on it. I have some handouts that I brought with me that kind of give a little bit of history on this driveway. Actually, there is some correspondence from Hubert H. Humphrey, because the guy who used to own this property was a prolific writer, he wrote everybody. But basically, what happened was there was a time when the City closed that little driveway and Mr. Cincotta actually fought with the City to regain use of that driveway. There are letters from the State and the City in here that are dated back in the 60's, where they actually had it repaved in 1989. So, there was a time when that was obviously used. It was still state owned property. The City still had the platted alley rights, the easement, but that driveway was used for that property, so it was used as an egress to that property. I'd like to continue using it; I'm not going to be parking on the street. There is nobody at this point ... nobody is going to come in and put a fence up there and say I can't park on that driveway while I'm trying to gain ownership of it. Again, I'm a big picture person, so I'm just looking at this green project, I can't see it's going to hurt anything or have an impact ... any negative impact to grant these variances to the ordinance, and in fact it's going to have a negative impact if I was forced to build the house and put in a driveway. That would have much more of a negative impact than ... it's kind of ironic when I read the report and it ... I mean, overall it looks very favorably on this, but, it comes down to rules are rules and I'd like to appeal to you to look at the big picture and knowing that I'm going to get ... you know I'm going to gain control of this. I just don't want to have to wait another year to start building on this. I'd really like to retire in this home, I'm going to move my mother in there, it's going to be handicapped assessable, and I'd like to get going.

Mr. Gates: All right Ms. Lutz, thank you very much. Are there questions for the applicant?

Mr. Ditzler: Forgive me if I'm having a tough time wrapping my head around this one, because it seems quite complex. If you move the project to the south a foot or two feet, I can't see how that prevents you from doing anything you want to do. Can you explain how moving this property to the south one or two feet changes what you want to do? Would it eliminate the ability for you to do one of the things you want to do?

Ms. Lutz: Well, it wouldn't, but the City wants me to move five feet to the south.

Mr. Ditzler: I understand that.

Ms. Lutz: Okay, would one foot or two feet make a big difference, that would give me that much less of a side yard, which in that area is kind of Precious because...

Mr. Ditzler: But considering the size of your lot, you would have more than the average person anyway because you have a wider lot than the standard. Or, to take the City's point of view, if you were to move it five feet, what would you not be able to do that you want to do right now? What would you not be able to do? Could you still do the solar panels?

Ms. Lutz: I could still do the solar panels ... they wouldn't receive so much sun.

Mr. Ditzler: Do you know how much sun would be affected?

Ms. Lutz: My designer is here, my architect is here and he can tell you that.

Mr. Ditzler: Okay.

Ms. Lutz: He is going to speak, so, he will answer any questions you have o that.

Mr. Gates: Are there further questions for the applicant? I see none, thanks very much. Is there anyone else here to speak in favor of the application?

Mr. Quince: 533 Sheridan Avenue North, I'm the neighbor to the south, I'm completely in support of Barb's plan. For one thing, the plan talks about there is no negative impact to her by not granting the variances. That may be, but there would be considerable negative impact to us. We bought the house a year and a half ago, we spent a lot of money, a lot of time grading a lot that had negative run-off. We had flooding all through in our basement; we finally resolved that, we've pulled up all the concrete that was around there. We are replacing it with, again, we're a very large green family ... we support green standards. We've gotten rid of a lot of our concrete on our lots, and forcing her to put in a 10 foot driveway right up to our property line basically negates all the work and money we've put in and we'll just end up with more flooding. The other thing is that we're in the midst of looking at saving money ... and depending on the zoning and everything, actually expanding the height of our house, we have a one-and-a-half story, so we have a legal living attic, it's finished, and we want to basically expand it as much as we can four our two young boys, which, if we do that at some point it could impact her ability to get the solar energy that she is requesting. The other thing that is a little confusing, is the way that the planning Commission talks about granting all of these variances would have negative...but actually more like positive impacts on the environment and not granting them would actually have a negative impact on the environment, but then they are still leaning towards actually denying the variances, or wanting to deny the variances. So once again, I completely support her plans. I bought a house next to Theatre Wirth because I want to live in a green area; I don't want to live downtown. The last thing we need is more concrete to have more run-off and trash going into the Mississippi and into Theatre Wirth, so I hope you approve this and continue to make the City a green place. Thank you.

Mr. Gates: Thank you. Is there anyone else here to speak in favor of the application?

Mr. Munnich: I live at 525 Sheridan, I'm the next house over ... and I want to speak in support of her proposal, I like the fact that it is a green house and I don't like the idea of having to have another driveway there. I can tell you what the driveway was used for. My parents built the house in the 50's - that I'm living in currently. The driveway was used by the City, they had a shed up there and they kept mowing equipment up there, so, it has been used by the City and it has been used by the previous resident that owned the entire property to access, what's now Devin's driveway next door was blocked off, and the resident used that entirely. I support the idea of having it further north because either the alley will be Barb's or it will be just vacant City space. I hope that she gets the space, because the City hasn't maintained it and it would be a much better use of it. I like the idea of having a green house in the neighborhood. As Devin mentioned, the neighbors are ... all the neighbors are in support of it, as it would keep it more open...better spacing and I think would work a little bit better. That's all I've got.

Mr. Gates: All right, thanks for your comments. Is there anyone else to speak in favor of the application?

Richard Venberg: I'm her designer for this house project, so if you have any questions without getting into the esthetics of the house, like maybe the location of the panels, I could clarify that for you. Particularly if the next home owner does increase the height of his house, which he has plans to do, it will definitely impact her house if we have to move it further south.

Mr. Ditzler: I guess I don't think we want to hear about what ifs...and who might do what in the future, but...I guess, because I'm more curious than anything...about moving the house five feet in relationship in being able to use solar power and I don't think we can justify a variance in relationship to a house in relationship to the sun, but I am curious as to what moving it five feet, how that will impact the availability of solar heat.

Mr. Venberg: Well, we are doing two types of solar on it. Towards the ridge of the house we're putting up flat plate thermal collectors, to supply 90-95% of her heating needs, and then there's about an eight foot section that's relatively flat where there will be a living roof and then below that on the eaves, there is a five foot tall section which will have photovoltaic panels on it, and those will be closest to the ground. So, with those panels set at a 35 degree angle, it is critical from the bottom of that eave how close that neighbor's house is and how tall that neighbor's house is. Now there are some cities and states, and I'm from Denver, and I know they have codes for solar accessibility. In other words, you can't put a building up to shade another building, because there's solar accessibility. I don't believe there are any codes like that in Minneapolis.

Mr. Ditzler: No, there's not.

Mr. Venberg: Again, what if...eventually there might be. But, so the PV panels which are the expensive ones will be in shadow as we move closer to the south. Granted it will only be shadowed for a couple of weeks in December. Really no big deal and we can live without it, but that's not the real issue, I think the real issue is the redundancy of the driveways. Having to put in a driveway to the south and put water into that gentleman's basement. I think that's a given issue. A 10 foot wide driveway on an 11 foot wide property is insane, and it's redundant.

Mr. Gates: Are there further questions for the designer? I see none, thank you. Is there anyone else to speak in favor of the application? I see no one. Is there anyone here to speak in opposition to the application? I see no one. Let's close the public hearing on this item and take comment from the Board.

Mr. Ditzler: I'm going to ... I support staff's recommendation on this. I think the project is great, it seems to me to be willing to put a little bit of a square into a round hole. It doesn't seem to fit with what lot ... They need about a lot and a half it seems to me, to do what they really want to do. It's a vacant lot, and all of these variances have been completely created by the applicant, because it's new construction, and one of the tests to being granted a variance is that needing a variance can not at all be created by the applicant, and in this case all of them have been. I think that moving the house to the south doesn't affect the driveway situation at all and I think it affects your solar heat on a very, very minimal basis. I'm also a little concerned ... the applicant seems like a great person and I believe her whole heartedly, but these variances are not tied in any way to you're requiring you to use any green methods in your construction at all. We'd be just granting variances for you to build whatever you want as long as it's within the building code, within those variances. So, the green and the variances, while it's part of your application, are not directly tied to the variance.

Ms. Lasky: You can.

Mr. Ditzler: Well, that's not what's before us and that's not...I don't have enough information to tie a variance to being able to use X type of solar power and X type of green roof and Y type of

this. I'm not an expert in that field and we don't have that information before us in our packet, enough detail. So, I think that there are alternatives and I'm going to support and make a motion that we adopt staff's recommendation on this.

Mr. Finlayson: I second it. For the following reasons, this is new construction; it's a blank slate it could conform. Secondly, even though there are offers from everyone that the granting of the land will take place, there are no guarantees that it will. I support staff recommendation.

Mr. Rand: I'm voting against the recommendation, because I think this is a ... every intention has been articulated here is a positive one for the community. There is no opposition from neighbors or the neighborhood group. There is nothing to the north of this site except an empty alley, which they would like to use as is and they're undoubtedly going to acquire the property or have the property. So the real issue to me is only that these variance requests are made now, so they can get started. Otherwise they will just have to wait a year or whatever to obtain the property next door, which is a totally under used, waste strip of land, for an effective use of their site. So, I'm voting in opposition to the motion.

Mr. Gates: Thank you Mr. Rand.

Ms. Lasky: I will concur with that, I think it's...they are taking a leap of faith, but I think it's a reasonable leap that this vacating will happen. My experience is that it will. I don't think MN Dot is a neighbor that is going to be objecting to this. The neighbors are in support. You certainly can tie the variance to the house having solar panels to keep the applicant honest, which I certainly think she is. I will not support the motion.

Mr. Gates: Thank you Ms. Lasky.

Mr. Perry: Again as has been said by some others, as much as I am drawn to the idea of reducing the carbon footprint, and I like the ideas that have been presented, we are...we have these constraints, as you heard in the first part of our hearing here that we have to conform to and I do not see a compelling argument at this point to ... if I had to come up with a hardship or something unique that wasn't created by the property owner, I would be hard pressed to do that, so I'm going to support the motion. Noting that I think what will end up happening is that the green house and the carbon footprint will be reduced because in a year that property will be the applicant's. Thank you.

Mr. Gates: Additional comment? We have a motion and a second to approve the staff recommendation which is to deny the variance. Please call the roll.

Ditzler: Yes

Finlayson: Yes

Lasky: No

Luepke Pier: Yes

Perry: Yes

Rand: No

Mr. Gates: The variance is denied, you can speak to staff about your options at this point.

**Department of Community Planning and Economic Development – Planning
Division**

Variance Request
BZZ-3782

Date: September 25, 2007

Applicant: Richard Venberg, on behalf of Barbara J Lutz

Address of Property: 535 Sheridan Avenue North

Contact Person and Phone: Richard Venberg (612) 331-3032

Planning Staff and Phone: Brian Schaffer, (612) 673-2670

Date Application Deemed Complete: September 17, 2007

Public Hearing: October 11, 2007

Appeal Period Expiration: October 22, 2007

End of 60 Day Decision Period: November 16, 2007

Ward: 5 **Neighborhood Organization:** Harrison Neighborhood Association

Existing Zoning: R1 Single Family District & SH Shoreland Overlay District.

Proposed Use: A new single family dwelling

Proposed Variance:

- A variance to reduce the corner side yard setback along 6th Avenue North from 8 feet to 3 feet.
- A variance to allow for eaves to project to the property line along 6th Avenue North to allow for a 3 foot wide eave on a new single family dwelling.
- A variance to reduce the required off-street parking from 1 to 0 parking spaces.

To allow for the construction of a single family dwelling located at 535 Sheridan Avenue North in the R1A Single Family District & SH Shoreland Overlay District.

Zoning code section authorizing the requested variance: 525.520 (1), (6)

Background: The subject site is 49 feet wide by 136 feet deep (6,534 square feet) and is located to the south of Highway 55.

The applicant recently received approval for the vacation of an unused 14 foot wide alley that runs along the north side of the subject property. The alley vacation, V-1521, was approved by the Planning Commission on June 25, 2007 and approved by the City Council on August 3, 2007. The purpose of the alley vacation was for the applicant to eventually acquire the land and use the existing alley curb cut and driveway for access to a future garage on the subject site.

The City vacated alley easement is actually located on MnDOT right-of-way for Highway 55. The vacated alley easement will need to be sold by MnDOT to the City of Minneapolis and then the applicant, Barbara Lutz, will acquire the vacated alley land from the City of Minneapolis.

Staff had conversations with both MnDOT Right-of-Way and Minneapolis Right-of-Way departments regarding the vacated alley easement. The process for the applicant to acquire the land could take anywhere from 6 months to well over a year. Both Right-of-Way departments stated that the acquisition of the land is not guaranteed and only a portion, 7 feet, of the 14 foot wide alley easement might be made available.

The applicant is proposing to construct a new single family dwelling on the property. The proposed dwelling will be 30 feet wide and 40 feet deep. The applicant is proposing to make the home LEED (Leadership in Energy and Environmental Design) certified and handicap accessible. The roof will have photovoltaic solar panels on the south side of the roof. The applicant is proposing to place the structure as far north on the property as possible to maximize the solar access for the photovoltaic panels on the south side of the dwelling. The applicant is proposing to place the structure 3 feet from the north corner side property line. The required corner side yard setback is 8 feet; the applicant is proposing 3 feet and requires a variance for the proposed dwelling location.

The proposed dwelling will have 3 foot wide eaves on the sides of the dwelling. The 3 foot wide eave will extend to the property line on the north corner side property line. A 3 foot wide eave is a permitted obstruction in the corner side yard, but a permitted obstruction must remain 1 foot from the property line. The proposed eave extends to the property line and requires a variance to be constructed as proposed.

The applicant is also requesting a variance to reduce the required off-street parking for a single family dwelling from 1 space to 0 spaces. The applicant intends to use the current driveway and curb cut that is located on the alley if it the land is acquired by the applicant. The applicant is asking to be exempt from the off-street parking requirement for a period of two years so that applicant can acquire all or some of the alley easement. The zoning ordinance does not offer extensions and the only way to not provide parking is to apply for a variance.

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.

Corner Side Yard Setback & Eaves: The applicant has requested a variance to reduce the corner side yard setback from 8 feet to 3 feet and a variance to allow for eaves to project to the property line to allow for a new single family dwelling. The subject site is 49 feet wide and the applicant is proposing to construct a 30 foot wide dwelling. The corner side yard setback is 8 feet. This leaves 11 feet for the south interior side yard setback, which is enough room to accommodate the required 5 foot interior side yard setback and a driveway to access parking on the lot.

The applicant states that the proposed location of the home is necessary because of the home located at 533 Sheridan Avenue will partially block the sun from reaching the solar panels if the propose home is built too close to the dwelling at 533 Sheridan Avenue. The applicant has included the angles of the sun during the summer and winter solstices on the elevations of the home. The applicant's intent to utilize alternative energy sources is consistent with City policies.

However, the applicant has not illustrated what portion, if any, of the proposed solar panels will be shaded by the neighboring dwelling to the south at 533 Sheridan Avenue. Staff encourages the applicant to utilize the sustainable practices stated in the project, but does not feel the applicant has shown undue hardship cause by strict interpretation of the zoning ordinance to justify the variance.

Staff believes the applicant has design alternatives that do not require a variance. The applicant could relocate the home to meet the corner side yard setback, diminish the width of the structure as to meet the setback, or wait to construct the proposed dwelling until she acquires the additional alley easement, at which point a variance will not be necessary.

Parking: The applicant has requested a variance to reduce the required off-street parking from 1 to 0 spaces. The subject site is 49 feet wide and the applicant is proposing to construct a 30 foot wide dwelling. The corner side yard setback is 8 feet. This leaves 11 feet for the south interior side yard setback, which is enough room to accommodate the minimum driveway width of 10 feet.

The applicant states that the parking variance is temporary until the fate of the vacated alley to the north is finalized. The applicant intends to use existing the driveway and curb cut if the she acquires the land. Staff believes that using the

existing driveway and curb cut is reasonable if the applicant acquires a portion of the right-of-way.

At this time the right-of-way land is not owned by the applicant. The subject lot has the width to accommodate a driveway and enough space to accommodate a parking area that meets the requirements of the zoning ordinance. Staff does not believe that strict interpretation of the zoning ordinance causes undue hardship. Staff encourages the applicant to finalize the acquisition of the land before pursuing the development of the subject 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.**

The conditions upon which the variances are requested are not unique to the parcel. The subject property is 49 feet wide and can accommodate the setbacks, proposed dwelling, and driveway needs of the applicant. Staff recognizes that the right-of-way, vacated alley and driveway located to the north of the subject property offer a situation for the applicant to maximize the efficiency of her property. Staff believes the applicant's desire to utilize this land is efficient and reasonable, but also creates the circumstances that require the variances.

- 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.**

Corner Side Yard Setback & Eaves: Staff believes that the proposed dwelling will not negatively alter the essential character of the neighborhood. The proposed setback of 3 feet and eaves on the property line will be unnoticeable with the 36 foot wide right-of-way adjacent to the north of the property. The city has already vacated the paper alley, which indicates that the land is not needed for future city needs. Staff believes granting the variance will be in keeping with the spirit and intent of the ordinance due this large right-of-way.

Parking: Staff believes the proposed parking variance will not negatively alter the essential character of the neighborhood. Parking one vehicle on the street will have an inconsequential visual effect on the area. Staff believes that a new curb cut and driveway will have a negative impact of the character of the neighborhood. The grade on the property will likely require that the driveway be cut into the hill, which will have a greater negative effect on the character of the neighborhood than not providing parking on the subject lot.

Staff believes that utilizing the existing curb cut and driveway would be in keeping with the spirit and intent of the ordinance. The zoning ordinance limits

the number of new curb cuts and utilizing an existing curb cut would be consistent with the ordinance. However, the applicant does not own the right-of-way, the existing driveway or curb cut.

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.**

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

Recommendation of the Department of Community Planning and Economic Development -Planning Division:

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the findings above and:

- **Deny** a variance to reduce the corner side yard setback along 6th Avenue North from 8 feet to 3 feet.
- **Deny** a variance to allow for eaves to project to the property line along 6th Avenue North to allow for a 3 foot wide eave on a new single family dwelling.
- **Deny** a variance to reduce the required off-street parking from 1 to 0 parking spaces.

To allow for the construction of a single family dwelling located at 535 Sheridan Avenue North in the R1A Single Family District & SH Shoreland Overlay District.

Attachments

1. Applicant's statement
2. Map of property and surrounding area
3. Site Plan and proposed elevations and floor plan of home
4. V-1521 Alley Vacation Staff Report June 25, 2007
5. Petition of support for project
6. Photographs