

Department of Community Planning and Economic Development – Planning Division Report

Variance Request
BZZ-4236

Date: November 20, 2008

Applicant: Jane Lansing

Address of Property: 5405 Newton Ave South

Contact Person and Phone: Jane Lansing, 612-836-1803

Planning Staff and Phone: Aly Pennucci, 612-673-5342

Date Application Deemed Complete: October 14, 2008

Publication Date: November 14, 2008

Hearing Date: November 20, 2008

Appeal Period Expiration: December 1, 2008

End of 60 Day Decision Period: December 6, 2008

Ward: 13 **Neighborhood Organizations:** Armatage Neighborhood Association

Existing Zoning: R1 Single-family District and SH Shoreland Overlay District

Proposed Use: Portable hot tub surrounded by decking.

Proposed Variance: A variance to reduce the required interior side yard setback from 6 ft. to 0 ft. to allow for a hot tub surrounded by a deck at 5405 Newton Ave South in the R1 Single-family District and SH Shoreland Overlay District.

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

Background: The subject property is located on an interior lot that is approximately 50 ft. by 127 ft. (6350 sq. ft.) and consists of an existing single family dwelling, built in 1947, a detached garage and a rear deck (approximately 505 sq. ft.). The applicant is proposing to construct a ground level deck around a new portable hot tub off of the existing rear deck. The hot tub will be 2 ft. 5 in. tall and approximately 38 square feet in area. The proposed deck surrounding the hot tub will be 10 in. above grade and approximately 72 square feet. The hot tub will project 1 ft. 7 in. above the surrounding deck. The plans indicate that the deck will extend to the privacy fence along the interior side property line and to the existing detached garage.

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In the R1 single-family district the required interior side yard is 6 ft. Neither decks nor hot tubs are permitted obstructions in the required interior side yard. The existing detached garage is approximately 1 ft. from the interior side property line; detached buildings accessory to the principal structures are a permitted obstruction in the interior side yard if the entire structure is located in the rear forty feet of the lot. The existing garage is in compliance.

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.**

The applicant is seeking a variance to reduce the required interior side yard setback from 6 ft. to 0 ft. to allow for a hot tub surrounded by a deck at 5405 Newton Ave South in the R1 Single-family District and SH Shoreland Overlay. Staff believes that other design alternatives exist. The property can be put to reasonable use without a hot tub surrounded by a deck in the required interior side yard and strict adherence to the Zoning Ordinance does not cause undue 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 circumstance upon which the setback variance is requested is not unique to the parcel of land. The applicant has stated that the circumstances are unique because the lot is long, narrow and small. The lot is 6,350 square feet, which is slightly larger than the size of a standard lot in the R1 District (standard R1 lot is 50 feet x 120 feet, 6,000 square feet). The size of the lot would allow for the hot tub to be placed in other locations to the rear of the home.

- 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 construction of the hot tub surrounded by a deck to the property line will likely not alter the essential character of the area since the hot tub and deck will be entirely in the rear yard. However, staff believes granting the variance may be injurious to the use and enjoyment of the adjacent property owners (current and future) by allowing a hot tub surrounded by a deck to be constructed up to the interior side yard property line.

- 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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The proposed variance would likely have no impact on congestion of area streets or fire safety, nor would the deck 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** the variance to reduce the required interior side yard setback from 6 ft. to 0 ft. to allow for a hot tub surrounded by a deck at 5405 Newton Ave South in the R1 Single-family District and SH Shoreland Overlay District.

Attachments:

- Appendix A. Map of Area
- Appendix B. Aerial Photo
- Appendix C. Statement of proposed use and variance findings from applicant
- Appendix D. Letter to Council Member
- Appendix E. Letter to Neighborhood Group
- Appendix F. Site plan, deck rendering
- Appendix G. Photos provided by applicant
- Appendix H. Public comments.