

Department of Community Planning and Economic Development – Planning Division Report

Variance Request
BZZ-2931

Date: April 20, 2006

Applicant: Herve and Jennifer Sarteau

Address of Property: 1705 Emerson Avenue South

Contact Person and Phone: Herve and Jennifer Sarteau, 612-911-0638

Planning Staff and Phone: Molly McCartney, 612-673-5811

Date Application Deemed Complete: March 24, 2006

Public Hearing: April 20, 2006

Appeal Period Expiration: May 1, 2006

End of 60 Day Decision Period: May 23, 2006

Ward: 7 **Neighborhood Organization:** Lowry Hill Residents, Inc.

Existing Zoning: R1, Single-family District

Proposed Use: Construction of fence

Proposed Variance: A variance to increase the height of a fence from 6 ft. to 8 ft. in the side yard setback for a single-family dwelling at 1705 Emerson Avenue South in the R1 Single-family District

Zoning code section authorizing the requested variance: 525.520 (5)

Background: The applicants have a 4 ft. privacy fence in the rear of the subject property and are requesting that a portion of the fence be increased to 8 ft. The proposed 8 ft. section of the fence will be located only on the eastern side of the north property line and will be 3 ft. from the shared property line. The 8 ft. section of the fence will be solid up to 6 ft. and then 2 ft. of lattice. This section of the fence is adjacent to a carriage house on the property to the north, 1121 Mount Curve Avenue. The carriage house is a separate dwelling until from the carriage house and it located approximately 1 ft. from the shared property line. There are a number of windows on the carriage house that face the subject property. A building permit is required for fences that are greater than 6 ft. tall.

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.**

In most residential areas, a backyard has natural privacy because it surrounded by other backyards. In this case, the backyard of the subject site has the windows of a primary residential structure, the carriage house, approximately 1 ft. from the backyard of the subject site. Strict adhere to the fence height restrictions in the zoning code would not allow for the requested fence height. Staff believes that an 8 ft. fence in the proposed location is reasonable.

- 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 circumstances are unique to the parcel of land and have not been created by the applicants. The backyards of most residential properties are abutted by other backyards and not the windows of a dwelling unit. The location of the adjacent carriage house in the backyard of the subject site and approximately 1 ft. from the shared property line is unique and not a circumstance created by the applicants.

- 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 applicants are proposing to locate the 8 ft. section of the fence 3 ft. from the shared property line which will allow for access and maintenance around the adjacent carriage house. The majority of the fence in the subject rear yard is 4 ft. tall which is less than the maximum fence height. Granting of the variance will be keeping with intent of the ordinance and will not alter the character of the neighborhood.

- 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 front yard setback 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.

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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 **approve** the variance to increase the height of a fence from 6 ft. to 8 ft. in the side yard setback for a single-family dwelling at 1705 Emerson Avenue South in the R1 Single-family District, subject to the following conditions:

1. That the Planning Division review and approve the final site and elevation plans that measure to an architectural or engineering scale.