

**Department of Community Planning and Economic Development – Planning Division Report****Variance Request  
BZZ-2018****Date:** November 4, 2004**Applicant:** Gloria Anderson**Address of Property:** 2941 43<sup>rd</sup> Avenue South**Date Application Deemed Complete:** October 5, 2004**End of 60 Day Decision Period:** December 4, 2004**End of 120 Day Decision Period:** February 2, 2005**Appeal Period Expiration:** November 15, 2004**Contact Person and Phone:** Michael Cronin, 952-941-7487**Planning Staff and Phone:** Carrie Flack, 612-673-3239**Ward:** 9      **Neighborhood Organization:** Cooper**Existing Zoning:** R1A, Single-family District**Proposed Use:** Construction of a 6 ft. tall fence**Proposed Variance:** A variance to increase the maximum permitted height of a fence from 3 ft. to 6 ft. in the required front yard to allow for the construction of a privacy fence.**Zoning code section authorizing the requested variance:** (5)**Background:** The subject site is 40 ft. x 12.23 ft. (5,169.2 sq. ft.) and consists of a single family dwelling with a two car detached garage. The applicant is proposing to construct a 6 ft. tall privacy fence in the front yard along a new alley segment to provide screening and privacy for the property from the adjacent commercial properties to the south. The fence will be located along the entire southern property line adjacent to a newly installed alley. The portion of fence in the side yard is in compliance with the ordinance. The fence will project 15 ft. past the front façade of the dwelling, but will be located 8 ft. from the front property line and approximately 10 ft. from the sidewalk. The fence will not be located within the site triangle of 43<sup>rd</sup> Avenue South and the new alley.

**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.**

**Fence height:** The applicant is seeking a variance to increase the maximum permitted height of a fence in the required front yard from 3 ft. to 6 ft. The applicant has stated that a 6 ft. high fence is necessary to provide privacy from the adjacent commercial uses located south of the property. Strict adherence to the regulations would not allow for the proposed 6 ft. high fence for a distance of 15 ft. past the front of the principal dwelling. Staff believes that based on the submitted information a 6 ft. high fence is a reasonable use of the property and would not entirely block the view of the front yard.

- 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.**

**Fence height:** The circumstances upon which the setback variance is requested are unique to the parcel of property. The property is located adjacent to a new alley segment along the south property line and commercial uses south of the alley. The fence will be located approximately 10 ft. from the sidewalk which will still provide views along 43<sup>rd</sup> Avenue South. In addition, the fence will provide a barrier between residential uses to the north and commercial uses to the south.

- 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.**

**Fence height:** Granting the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the area or be injurious to the use or enjoyment of other property in the vicinity. The intent of the ordinance is to maintain views of front yards along streets and sidewalks. The fence will not block views to the front of the dwelling. The fence will be located 10 ft. from the sidewalk and thus, views along 43<sup>rd</sup> Avenue South will also be maintained. The distance of the variance is for 15 ft. past the front of the dwelling in the side yard along a newly installed alley. Staff believes that the fence will serve as an adequate barrier between the residential uses to the north and the alley and commercial uses adjacent to the south.

- 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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**Fence height:** Granting the variance would likely have no impact on congestion of area streets or fire safety or be detrimental to the public welfare or endanger the public safety since the fence will not encroach into any site triangle.

**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 maximum permitted height of a fence from 3 ft. to 6 ft. in the required front yard to allow for the construction of a privacy fence subject to the following condition:

1. That the privacy fence not project more than 15 ft. past the front of the dwelling in the side yard.