

**Department of Community Planning and Economic Development - Planning Division Report**  
Variance  
BZZ-4923

**Date:** September 16, 2010

**Applicant:** Chad Miller

**Address of Property:** 5648 Stevens Avenue South

**Project Name:** 5648 Stevens Avenue South Egress Window

**Contact Person:** Chad Miller, (612) 798-4308

**Planning Staff:** Shanna Sether, (612) 673-2307

**Date Application Deemed Complete:** August 12, 2010

**End of 60 Day Decision Period:** October 11, 2010

**Ward:** 11            **Neighborhood Organization:** Windom Community Council

**Existing Zoning:** R1A Single-Family District

**Zoning Plate Number:** 37

**Legal Description:** Not applicable

**Proposed Use:** An egress window to an existing single family home

**Variance:** to reduce the required north interior side yard from approximately 5 ft. to 1 ft. 4in. to allow for an egress window

**Zoning code section authorizing the requested variance:** Chapter 525, Article IX Variances, Specifically Section 525.520(1) “to vary the yard requirements, including permitted obstructions into required yards not allowed by the applicable regulations.”

**Background:** The subject site is currently 50.5 ft. x 128 ft. (6,464 sq. ft.). The property owner is proposing to legalize an existing basement bedroom within the existing single family dwelling. In order to allow for a legal bedroom in the basement an egress window will be required by the International Residential Code. The structure is located approximately 4 ft. 4 in. to the north interior side. A legal egress window is required to be 3 ft. in depth, per the building code. The applicant is proposing to locate the egress window well 1ft. 4in. to the north interior side property line. The minimum required yard for an egress window as a permitted obstruction in the interior side yard is 2 ft. Therefore, the applicant is applying for a variance to reduce the required north interior side setback from the district minimum of 5 ft. to 1 ft. 4 in. to allow for an egress window. The applicant started construction on the new egress

window and was cited for working without a building permit on June 16, 2010, by a City of Minneapolis Permit Compliance Officer.

The Minneapolis Code of Ordinances Table 535-1 Permitted Obstructions in Required Yards was amended in February of 2005 to include a provision for egress windows as a permitted obstruction in the required yard. Prior to the amendment to the ordinance, egress windows were a permitted obstruction under 535.280 (c) as provided below.

**535.280 Obstructions in required yards.** *(c) Additional limitations.* In no case shall any permitted obstruction be located closer than one (1) foot from the property line, except for driveways, walkways, fences, detached accessory buildings, the storage of firewood and containers for the removal of refuse, subject to the provisions of this section. In addition, notwithstanding Table 535-1 Permitted Obstructions in Required Yards, required interior side yards for nonresidential uses shall remain unobstructed from the ground level to the sky except that fencing shall be allowed.

One of the intentions for the change in the Ordinance was to allow for a walkway between the egress window well and the property line. The property currently has a sidewalk on the south side of the property that leads from the public sidewalk to the rear of the structure.

As of writing this staff report, staff has not received any correspondence from the Windom Community Council. Staff will forward comments, if any are received, at the Board of Adjustment meeting.

#### **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 has requested a variance to reduce the required north interior side yard setback from 5 ft. to 1 ft. 4 in. to allow for the projection of an egress window and well. The lot is 50.5 feet wide and meets the minimum lot width. However, the existing house is nonconforming to the north interior side yard, as it is located only 4 ft. 4 in. to the property line. The building code requires the egress window well be at least 3 ft. in depth. An egress window is a permitted obstruction in the required interior side yard as long as the window well is not located closer than 2 ft. to the property line. Therefore, the distance between the well and the property line is deficient by 8 inches. The applicant has stated that the north interior side yard is the only location on the lot that will allow for the egress window due to the existing floor plan in the basement and the existing attached garage at the rear of the structure. The applicant would be required to move utilities in order to accommodate a legal bedroom in another location of the basement. Strict adherence to the regulations would not allow for the proposed egress window and bedroom in the basement of the existing single family dwelling. Staff believes that reasonable use of the property exists without the variance and that denial of the variance would not cause undue hardship. The intent of the ordinance is to allow for a walkway around the egress window, although staff recognizes there is sufficient area on the south side of the property for a walkway and principal entrances at the front and rear of the structure.

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 setback variance is requested are unique to the parcel. As previously mentioned, the variance is to allow for the projection of an egress window to an existing single family dwelling. The lot is 50.5 feet wide and meets the minimum lot width. However, the existing house is nonconforming to the north interior side yard, located only 4 ft. 4 in. to the property line. In addition, the basement floor plan, attached garage and mechanicals prohibit a basement in another location in the structure and are not circumstances 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.**

Granting the variance will not be in keeping with the spirit and intent of the ordinance; however, will not alter the essential character of the surrounding area or be injurious to the use or enjoyment of property in the vicinity. As previously mentioned, the minimum required distance between an egress window well and the property line was 1 ft. until the code was amended in February 2006, to recognize the need for a walkway around the egress window well. The intent of the ordinance is to allow for a walkway around the egress window, although staff recognizes there is sufficient area on the south side of the property for a walkway and principal entrances at the front and rear of the structure. Staff believes that the proposed egress window will not alter the character or be injurious to the use and enjoyment of others in vicinity. The adjacent property owner has a fence set 4 in. towards their property and would not interfere with the neighbors' ability to utilize their property.

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 side yard setback variance would likely have no impact on the congestion of area streets or fire safety, nor would the proposed egress window to the existing single-family dwelling be detrimental to the public welfare or endanger the public safety. The applicant must work with the Plan Review division of the Regulatory Services Department to ensure that the proposed egress window complies with the building code.

**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 north interior side yard from approximately 5 ft. to 1 ft. 4 in. to allow for an egress window well to an existing single-family dwelling located at 5648 Stevens Avenue South in the R1A Single-Family District.

CPED – Planning Division  
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**Attachments:**

- 1) Written descriptions and findings submitted by the applicant
- 2) Copy of e-mail sent to Windom Community Council and CM Quincy
- 3) Zoning map
- 4) Site plan
- 5) Floor plans
- 6) Photographs