

**Department of Community Planning and Economic Development – Planning Division Report****Variance Request  
BZZ-2053**

**Date:** November 18, 2004

**Applicant:** Harold Fagley

**Address of Property:** 5109 Harriet Avenue South

**Date Application Deemed Complete:** October 25, 2004

**End of 60 Day Decision Period:** December 24, 2004

**End of 120 Day Decision Period:** February 22, 2005

**Appeal Period Expiration:** November 29, 2004

**Contact Person and Phone:** Mark Reichel, 612-729-2992

**Planning Staff and Phone:** Carrie Flack, 612-673-3239

**Ward:** 11      **Neighborhood Organization:** Tangletown

**Existing Zoning:** R1, Single-family District

**Proposed Use:** Construction of an 8 ft. tall lattice fence in the interior side yard

**Proposed Variance:** A variance to increase the maximum permitted height of a lattice fence in the interior side yard from 6 ft. to 8 ft.

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

**Background:** The subject site is a through lot that is 70 ft. wide along Highview Place which is the rear of the property and is 100 ft. in width along Harriet Avenue South which is the front of the property (12,700 sq. ft.). The site consists of a single family dwelling with a two car detached garage accessed from Harriet Avenue South. The applicant is proposing to reconstruct an existing deck and install a new 8 ft. tall trellis on the deck for a distance of 10 ft. in the interior side yard.

**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 interior side yard from 6 ft. to 8 ft. in height for a distance of 10 ft. on the side of a deck. The applicant has stated that the 8 ft. high lattice fence is necessary in order for the main cross beam to be at or below eye level. Strict adherence to the regulations would not allow for the proposed 8 ft. high lattice fence. Staff believes that based on the submitted information this request seems 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.**

**Fence height:** The circumstances upon which the setback variance is requested are unique to the parcel of property. The property slopes up in height from the front of the property to the rear. The side and rear portions of the property where the lattice fence will be located consists of heavy vegetation and thus the trellis will not block views from adjacent properties.

- 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 property slopes up in height from the front of the property to the rear. The side and rear portions of the property where the lattice fence will be located consists of heavy vegetation and thus the trellis will not block views from adjacent properties.

- 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.**

**Fence height:** Granting the variance would likely have no impact on the congestion of area streets or fire safety or 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 **approve** the variance to increase the maximum permitted height of a lattice fence in the interior side yard from 6 ft. to 8 ft.