

Department of Community Planning and Economic Development – Planning Division Report**Variance Request
BZZ-1966****Date:** October 7, 2004**Applicant:** Robert Knox**Address of Property:** 1108 25th Avenue North**Date Application Deemed Complete:** September 9, 2004**End of 60 Day Decision Period:** November 8, 2004**End of 120 Day Decision Period:** January 7, 2004**Appeal Period Expiration:** October 18, 2004**Contact Person and Phone:** Robert Knox, 763-753-1301**Planning Staff and Phone:** Carrie Flack, 612-673-3239**Ward:** 3 **Neighborhood Organization:** Jordan**Existing Zoning:** R1A, Single-family District**Proposed Use:** Construction of a 6 ft. tall fence in the front yard**Proposed Variance:** A variance to increase the maximum permitted height of a fence in the front yard from 3 ft. to 6 ft. along 25th Avenue and Emerson Avenue North to allow for the construction of a fence.**Zoning code section authorizing the requested variance:** (5) (5)

Background: The subject site is a reverse corner lot that is 50 ft. x 157 ft. (7,850 sq. ft.) and consists of a single family dwelling with a single car detached garage. The applicant has constructed a 6 ft. tall fence in the front yard along 25th Avenue and Emerson Avenue North to provide screening and privacy for the property and was sited by the Inspections Department. The applicant has stated that a 6 ft. tall privacy fence previously existed along Emerson Avenue North and 25th Avenue on the property. This fence would not have been grandfathered under the previous ordinance as the previous ordinance also limited the height of fences in the front yard to 3 ft. In 1998 the fence was damaged by a vehicle and the fence was removed. The applicant installed a new 6 ft. tall privacy fence in June 2004.

Fences located in the required front yard shall not exceed 3 ft. in height. The maximum fence height may be increased by one (1) foot if constructed of open, decorative, ornamental fencing materials that are less than 60 percent opaque.

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 from 3 ft. to 6 ft. along Emerson Avenue North and 25th Avenue North to screen the subject site. The applicant has stated that a 6 ft. high fence is necessary to provide privacy for the property due to crime in the area. Strict adherence to the regulations would not allow for the proposed 6 ft. high fence. Staff believes that based on the submitted information a fence in compliance with the ordinance is a reasonable use of the property and would adequately screen the property without entirely blocking the views around the intersection of Emerson Avenue North and 25th Avenue North.

- 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 not unique to the parcel of property. The subject site does not consist of unusual topography, or unusually large boulevards that would help preserve views along the sidewalks. Staff believes that a fence in compliance with the ordinance will adequately provide screening for the property. Staff could not establish any circumstances unique to the parcel or a precedent in the area that would warrant a 6 ft. high fence in the front yards along Emerson Avenue North and 25th Avenue North. Staff believes that the applicant is creating the circumstances by proposing a fence higher than allowed by the ordinance.

- 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 not be in keeping with the spirit and intent of the ordinance and will alter the essential character of the area or be injurious to the use or enjoyment of other property in the vicinity. As previously mentioned, staff does not believe that the area consists of similar types of fences and cannot establish a hardship or unique circumstance that would allow for a fence to exceed the ordinance requirements. Staff believes that due to the existing tree vegetation on the property and the 6 ft. tall fence, the property is completely screened from the surrounding area. As this is a highly visible intersection, views along both Emerson Avenue North and 25th Avenue North have been completely removed as well. This creates a 'fortress' like environment at the intersection adjacent to two public sidewalks, blocking all views of the property, which is not consistent with other properties on the block or

in the neighborhood. Furthermore, while the applicant has stated that the fence is necessary due to crime in the area, Crime Prevention Through Environmental Design would suggest that a fence in compliance with the ordinance requirements would promote pedestrian safety by the elimination of visual barriers along sidewalks and streets. Crime Prevention Through Environmental Design principals also clearly demonstrate that tall fences and walls along pedestrian routes reduce a person's physical safety and sense of wellbeing because they diminish the perceived value of the public realm.

- 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 congestion of area streets or fire safety. The proposed variance may be detrimental to the public welfare or public safety as views into and out of the property are completely cut off which does not contribute to Crime Prevention Through Environmental Design guidelines. Crime Prevention Through Environmental Design would suggest that a fence in compliance with the ordinance requirements would promote pedestrian safety by the elimination of visual barriers along sidewalks and streets. Crime Prevention Through Environmental Design principals also clearly demonstrate that tall fences and walls along pedestrian routes reduce a person's physical safety and sense of wellbeing because they diminish the perceived value of the public realm.

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 increase the maximum permitted height of a fence in the front yard from 3 ft. to 6 ft. to allow for the construction of a fence along Emerson Avenue North and 25th Avenue North subject to the following conditions:

1. That the fence be modified to comply with the current fence ordinance: Fences located in the required front yard shall not exceed 3 ft. in height. The maximum fence height may be increased by one (1) foot if constructed of open, decorative, ornamental fencing materials that are less than 60 percent opaque.