

**Department of Community Planning and Economic Development – Planning Division Report****Variance Request  
BZZ-3791****Date:** October 11, 2007**Applicant:** John and Patricia Brogen**Address of Property:** 5112 Vincent Avenue South**Contact Person and Phone:** John and Patricia Brogen, 612-492-6686**Planning Staff and Phone:** Molly McCartney, 612-673-5811**Date Application Deemed Complete:** September 19, 2007**Appeal Period Expiration:** October 22, 2007**End of 60 Day Decision Period:** November 18, 2007**Ward:** 13      **Neighborhood Organization:** Fulton Neighborhood Association**Existing Zoning:** R1A Single-family District**Proposed Use:** Construction of a rear, third story dormer.**Proposed Variance:** A variance to increase the height of a single-family dwelling to three stories to allow for a rear dormer addition at 5112 Vincent Avenue South in the R1A Single-family District.**Zoning code section authorizing the requested variance:** 525.520 (4)

**Background:** The subject property is an existing single family dwelling on an interior lot that measures 40 ft. by 128 ft. (5,120 sq. ft.) along Vincent Avenue South. The applicants were cited by city inspectors for unpermitted construction work that including an addition to a rear dormer. The home is a 2.5 story home with front and rear shed dormers. The construction work that was cited by the inspector included an addition on the rear dormer. The addition to the rear dormer increases the height of the dormer so that the pitch of the dormer is about the same height as the peak of the roof. This dormer addition was also shed style with a pitch of 1/12, which is almost a flat roof.

Upon review of the new dormer construction, Planning staff determined that the dormer addition did not meet the definition of a half story and the dormer addition creates a third story in the rear of the house. The construction meets some of the tests of half stories, such as the floor area of the half story is less than half of the floor area of the floor below and the main roof is a gable or hip roof. However, the staff practice for measuring half stories with dormers is that a dormer must be half the length of the primary roof. In this case, the primary roof is 28 ft. wide and the dormer is 14 ft. 4 in. wide, more than half the

## CPED Planning Division Report

BZZ-3791

length of the roof. The intent of these measurements is to gauge the true nature of height of the home. The construction work that the applicants have undertaken involves an interior remodel of the home to include living space on the third story. The proposed work is within the footprint of the house and the footprint is not expanded. The height of the peak of the house is 29 ft., and the dormer extends from the peak with a roof slope of 1/12, so that the dormer would fall under the 30 ft. height limit for single-family homes.

### 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.**

Strict adherence to the setback requirements in the zoning code prevents a third story addition to a single family dwelling. The property can be used in a similar manner to other houses and the ordinance is not caused undue hardship on the property. The applicants state that obtaining addition living spaces is a reasonable use of the property and that redesigning the roof would include increasing the overall height of the home.

- 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 of the variance have been created by the applicants, mostly due to the construction being started without a building permit. The applicant states that the design of the addition was to retain a 2.5 story home and that the dormer is a similar height to the subject home and others in the surrounding area. However, staff does not find that there are unique circumstances that prevent the applicants from adhering to the zoning code

- 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 keeping with the spirit and intent of the ordinance. The height of single-family homes is limited to 2.5 stories to minimize the visual impact of residential buildings and for new construction to be similar to existing residential neighborhood character. In this case, the third story dormer increases the visual impact to the rear properties of the surrounding homes that has negative impacts, such as loss of privacy.

- 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.**

## CPED Planning Division Report

BZZ-3791

The proposed variance would likely have no impact on congestion of area streets or fire safety. Public welfare may be compromised with the potential loss of privacy caused by the additional habitable space of the third floor. The construction work was conducted without building permit approval, which ensures construction projects meet minimum zoning code standards as well as the minimum safety standards of the building code. Public safety is endangered when construction work is undertaken without these necessary city approvals.

### **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 height of a single-family dwelling to three stories to allow for a rear dormer addition at 5112 Vincent Avenue South in the R1A Single-family District.