

Department of Community Planning and Economic Development – Planning Division Report

Variance Request
BZZ-3833

Date: November 8, 2007

Applicant: Neal Cuthbert and Louise Robinson

Address of Property: 2605 40th Avenue South

Contact Person and Phone: Neal Cuthbert and Louise Robinson, 612-729-4473

Planning Staff and Phone: Molly McCartney, 612-673-5811

Date Application Deemed Complete: October 9, 2007

Publication Date: November 1, 2007

Hearing Date: November 8, 2007

Appeal Period Expiration: November 19, 2007

End of 60 Day Decision Period: December 7, 2007

Ward: 2 **Neighborhood Organization:** Seward Neighborhood Group

Existing Zoning: R1A Single-family District, SH Shoreland Overlay District, and the MR Mississippi River Critical Area Overlay District

Proposed Use: Second story addition and front porch expansion

Proposed Variance: A variance to reduce the front yard setback along 40th Avenue South from 20 ft. to 7 ft. 6 in. to allow for a second story addition and front porch expansion at 2605 40th Avenue South in the R1A Single-family District, SH Shoreland Overlay District, and the MR Mississippi River Critical Area Overlay District.

Zoning code section authorizing the requested variance: 525.520 (1)

Background: The subject property is a single-family home with an attached garage on a triangular lot along 40th Avenue South in the Seward neighborhood. The property is 5,055 sq. ft. with dimensions of 139 ft. by 100 ft. by 101 ft. To the east and north of the subject site is land owed by the Minneapolis Park and Recreation Board land along West River Parkway and the property to the south is adjacent to a house. The applicants are proposing to add a second story and a new front porch, both of which will project into the front yard setback along 40th Avenue South.

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The subject home, built in 1960, is L-shaped to fit within the triangular lot. The attached garage, a portion of the home, and a deck on the north side of the home projects into the front yard setback. The attached garage is located approximately 2 ft. from the front property line, the portion of the home is 7 ft 6 in. from the front property line, and a portion of the deck projects in to the public right of way. While the garage is location very near the front property line, the living space of the house is further away from the front property line. The proposed second story addition will be over this existing living space. A new entry and deck is proposed for the north side of the home and will be 17 ft. from the front property line.

The subject site is in the Shoreland Overlay (SH) District and the Mississippi River Critical Area Overlay (MR) District due to the proximity to the Mississippi River. Typically, development close to steep slopes in these overlay districts requires a conditional use permit (CUP). In this situation, the proposed site is not within 50 ft. of a steep slope and does not require additional land use applications.

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 of the zoning code prevents the second story addition and deck expansion. Due to the shape of the property and the existing home's location, the house is currently is in the front yard setback. Second story additions are a reasonable use of residential property and the code prevent the proposed addition.

- 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 are unique to parcel of land due to the triangular shape of the lot and location of the house on the property. The property was built prior to the currently owners and the lot is shaped in a way that prohibits most construction on the site. These circumstances are not created by the applicants.

- 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 be in keeping with the spirit and intent of the ordinance. The proposed addition will add a second story to the existing home, but not expand the enclosed building footprint. The surrounding homes are a combination of one and a half and two story homes, some with unique lot configurations due to the diagonal nature of the surrounding streets, such as West River Parkway. The impact of the addition on the home to south will be minimized due to

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face that the subject home is set back further in the lot than the neighboring home as well as being adjacent to a very large open park along West River Parkway. The addition will have a visual impact from the parkway and park land, but that impact will be no greater than the existing surrounding homes.

- 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.**

The proposed variance would likely have no impact on congestion of area streets or fire safety nor would it be detrimental to the public welfare or 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 reduce the front yard setback along 40th Avenue South from 20 ft. to 7 ft. 6 in. to allow for a second story addition and front porch expansion at 2605 40th Avenue South in the R1A Single-family District, SH Shoreland Overlay District, and the MR Mississippi River Critical Area Overlay District, subject to the following conditions:

1. CPED–Planning Division review and approve the final site plan, floor plans, and elevation. All drawings will be measured to an architect or engineer’s scale.