

Department of Community Planning and Economic Development – Planning Division**Variance Request
BZZ-3777**

Date: September 25, 2007

Applicant: Andrea Anastasi & Matthew Werder

Address of Property: 201 West Diamond Lake Road

Contact Person and Phone: Matthew Werder (612) 823-6092

Planning Staff and Phone: Brian Schaffer, (612) 673-2670

Date Application Deemed Complete: September 17, 2007

Public Hearing: October 11, 2007

Appeal Period Expiration: October 22, 2007

End of 60 Day Decision Period: November 16, 2007

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

Existing Zoning: R1 Single Family District

Proposed Use: An existing 6 foot tall cedar privacy fence

Proposed Variance: A variance to increase the height of a fence located in the required reverse corner yard along Pillsbury Avenue from 3 feet to 6 feet to allow for an existing 6 ft tall cedar privacy fence at 201 West Diamond Lake Road in the R1A Single Family District.

Zoning code section authorizing the requested variance: 525.520 (5)

Background: The subject site is a reverse corner lot that is approximately 51.6 ft by 132 ft (6,821 square feet). The applicant has an existing 6 foot tall privacy fence located along the south end of the property between the subject site and 5412 Pillsbury Avenue. This existing fence extended north along Pillsbury Avenue for 16 feet.

The subject property fronts West Diamond Lake Road and Pillsbury Avenue. Due to the configuration of the lots along Diamond Lake Road and Pillsbury Avenue the subject site is considered a reverse corner lot by the zoning ordinance and requires a larger setback along Pillsbury Avenue than a standard corner lot. The subject site is required to have the same front yard setback along Pillsbury Avenue as the adjacent properties to the south.

The applicant constructed a new 6 foot tall privacy fence along the east and west property lines that extends from the side and rear of the home to the existing fence. The new fence matches the height and style of the existing fence. However, the zoning ordinance has never permitted a 6 foot tall fence in the front yard. The existing fence was never constructed in compliance with the zoning ordinance.

The portion of the new fence that was constructed on the east property line along Pillsbury Avenue is located in the required front yard. The maximum height for a solid fence in the required front yard is 3 feet. A variance is required to increase the height of a fence from 3 feet to 6 feet.

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 increase the height of a fence from 3 feet to 6 feet to allow for a recently constructed fence along Pillsbury Avenue. Strict adherence to the Zoning Ordinance would prohibit a 6 foot tall fence in the required front yard. The subject site is a reverse corner lot and has a required front yard along both Diamond Lake Road and Pillsbury Avenue. The required front yard extends 37 feet into the subject property from Pillsbury Avenue. The subject site is 51 feet wide and would only be allowed to have 6 foot tall privacy fence for a 14 foot wide strip on the west of the property.

The applicant could construct a 3 foot tall privacy fence or a 4 foot tall open and decorative fence. Staff believes the applicant has alternative designs and that there is not undue hardship caused by strict adherence to the zoning ordinance.

- 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 due to the property having two required front yard setbacks. This is a circumstance created by the platting of the property and the location of the neighboring structures and not 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.**

Staff believes that the recently constructed 6 foot tall privacy fence will negatively alter the essential character of the locality. The subject site already has an existing 6 foot tall privacy fence located in the required front yard setback. Staff believes that the additional 48 feet of 6 foot tall fence in the front yard detracts from the character of the surrounding neighborhood and is not in keeping with the spirit and intent of the ordinance.

- 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 variance would likely have no impact on the congestion of area streets or fire safety. Staff is concerned about the site triangle from the driveway of the adjacent property to the south, 5412 Pillsbury Avenue. The height and location of the fence limits view of the sidewalk and oncoming traffic from the adjacent driveway. Staff believes the proposed fence would be detrimental to the public welfare and could endanger 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 **deny** a variance to increase the height of a fence located in the required reverse corner yard along Pillsbury Avenue from 3 feet to 6 feet to allow for an existing 6 ft tall cedar privacy fence at 201 West Diamond Lake Road in the R1A Single Family District.