

Department of Community Planning and Economic Development - Planning Division Report
Variance
BZZ-4651

Date: January 14, 2010

Applicant: Mark White

Address of Property: 651 East Minnehaha Avenue

Project Name: 651 East Minnehaha Avenue

Contact Person: Mark White, (612) 366-5619

Planning Staff: Shanna Sether, (612) 673-2307

Date Application Deemed Complete: December 10, 2009

End of 60-Day Decision Period: February 8, 2010

Ward: 11 **Neighborhood Organization:** Hale, Page, Diamond Lake Neighborhood Association

Existing Zoning: R1A Single Family District, FP Floodplain Overlay District and SH Shoreland Overlay District

Zoning Plate Number: 37

Legal Description: Not applicable

Proposed Use: Playground equipment to an existing single-family dwelling.

Concurrent Review:

- **Variance** to reduce the required front yard setback established by connecting the two corners of the adjacent structures along East Minnehaha Parkway to allow for playground equipment accessory to a single-family dwelling
- **Variance** to reduce the required south interior side yard setback to allow for playground equipment accessory to a single-family dwelling

Zoning code section authorizing the requested variance: Chapter 525, Article IX Variances, Specifically Section 525.520(1)(1) “to vary the yard requirements, including permitted obstructions into required yards not allowed by the applicable regulations.”

Background: The subject property is an irregular interior lot, approximately 101 ft. by 121 ft. by 128 ft. by 55 ft. (9,786 sq. ft.). The property consists of an existing two and a half story dwelling with a detached garage.

The applicant has constructed children's play equipment in the required front yard, approximately 21 ft. to the front property line. The required front yard setback along East Minnehaha Parkway, established by connecting a line between the two adjacent neighbors is approximately 42 feet. Therefore, the applicant is requesting a variance to reduce the front yard setback along East Minnehaha Parkway from approximately 42 ft. to 21 ft. to allow for children's play equipment.

Staff had originally sent the notification to include a variance to reduce the south interior side setback to allow for the children's play equipment. However, since the notification was sent out, the applicant has clarified that the playground equipment is located at least 6 ft. to the interior side property line and is therefore in compliance with the zoning code's side yard requirement. Therefore, staff is returning the application to reduce the required south interior side yard setback to allow for playground equipment accessory to a single-family dwelling.

Staff has not yet received correspondence from the Hale, Page, Diamond Lake Neighborhood Association; however, staff has received correspondence from Minneapolis Park and Recreation stating opposition to the proposed variances. Staff will forward comments, if any are received, at the Board of Adjustment meeting.

Findings Required by the Minneapolis Zoning Code - Variance:

- 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 is seeking a variance to reduce the required front yard along East Minnehaha Parkway to allow for children's play equipment accessory to a single-family dwelling. The existing dwelling and approximately 50% of the parcel is located within the required front yard. Playground equipment is allowed as permitted obstructions in the required rear yard only. The rear yard includes a detached accessory structure, bituminous driveway and a fenced yard approximately 20 ft. by 20 ft. The applicant could move the play ground equipment towards the rear of the site, where it is not located in the required front yard, however based on the platting of the land and the location of the adjacent structure, the playground equipment may be more injurious to the adjacent neighbor. In addition, there is a large window well that exists on the south side of the home, which may create a safety issue. Strict adherence to the regulations would not allow for playground equipment accessory to the existing single-family dwelling as a result of the setback created by the adjacent structures and the lack of a rear yard. Based on the submitted information staff believes that the location of the playground equipment accessory to the existing single family home are reasonable uses of the property.

- 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 upon which the setback variances are requested are unique to the parcel of land due to the shape of lot and the established front yard setbacks along East Minnehaha Parkway and the lack of a sufficient rear yard. The adjacent structures have created a setback of 42 ft., 17 feet

beyond the district requirement of 25 ft. The playground equipment is located approximately 21 ft. from the front property line at the closest corner. The existing dwelling and approximately 50% of the parcel is located within the required front yard. Playground equipment is allowed as permitted obstructions in the required rear yard only. The rear yard includes a detached accessory structure, bituminous driveway and a fenced yard approximately 20 ft. by 20 ft. The applicant could move the play ground equipment towards the rear of the site, where it is not located in the required front yard, however based on the platting of the land and the location of the adjacent structure, the playground equipment may be more injurious to the adjacent neighbor. In addition, there is a large window well that exists on the south side of the home, which may create a safety issue. Strict adherence to the regulations would not allow for playground equipment accessory to the existing single-family dwelling as a result of the setback created by the adjacent structures and the lack of a rear yard. Based on the submitted information staff believes that the location of the playground equipment accessory to the existing single family home are reasonable uses of the property.

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 is generally concerned about this type of equipment in the front yard; however, staff believes this proposed variance will not be injurious to the use of the adjacent property, because the location of the playground equipment will have less impact to the adjacent neighbor as it is located at least 16 ft. away from the adjacent dwelling. The applicant could set the playground equipment outside of the required front yard; however, the playground equipment will be located approximately 12 ft. to the neighbor and adjacent to the windows on the north side of the structure. The play equipment is not located entirely to the front of the existing structure. The materials and design of the play equipment are durable and front yard gathering spaces add additional visual surveillance and increase opportunities to connect with neighborhoods.

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.

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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 required front yard setback established by connecting the two corners of the adjacent structures along East Minnehaha Parkway to allow for playground equipment accessory to a single-family dwelling located at 651 East Minnehaha Parkway in the R1 Single-Family District, subject to the following condition:

1. Community Planning and Economic Development Department – Planning Division staff review and approval of the site and elevation plans.

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 **return** variance to reduce the required south interior side yard setback to allow for play ground equipment accessory to a single family dwelling located at 651 East Minnehaha Parkway in the R1 Single-Family District.

Attachments:

- 1) Written descriptions and findings submitted by the applicant
- 2) Copy of e-mail sent to Hale, Page, Diamond Lake Neighborhood Association and CM Benson
- 3) Correspondence from the neighborhood association
- 4) Zoning map
- 5) Site plan
- 6) Photographs