

Department of Community Planning and Economic Development – Planning Division
Variances and Minor Subdivision
BZZ 4810 & MS 205

Date: June 28, 2010

Applicant: Robert S. Carney Jr.

Address of Property: 4232 Colfax Avenue South

Project Name: 4232 Colfax Avenue South Minor Subdivision

Contact Person and Phone: Robert S. Carney Jr., (612) 824-4479

Planning Staff and Phone: Shanna Sether (612) 673-2307

Date Application Deemed Complete: May 5, 2010

End of 60-Day Decision Period: July 4, 2010

End of 120-Day Decision Period: Staff sent an extension letter to the applicant on June 16, 2010, extending the decision-period to no later than September 2, 2010.

Ward: 13 **Neighborhood Organization:** East Harriet Farmstead Neighborhood Association

Existing Zoning: R1A Single-family District

Proposed Zoning: Not applicable for this application.

Zoning Plate Number: 30

Legal Description: See survey

Proposed Use: Parcel A (northerly parcel) will be 5,904 square feet and contains an existing single-family home and Parcel B (southerly parcel) will be 5,381 square feet and is the proposed site for a future single-family home to be constructed onto the property.

Concurrent Review:

- Variance to reduce the minimum required south interior side yard from 5 feet to approximately 4 feet 4 inches to allow for an existing structure.
- Variance to reduce the south interior side yard from 5 feet to 0 feet of Parcel A, in order to allow for an existing deck.
- Variance to reduce the minimum north interior side yard from 5 feet to 0 feet of Parcel B, in order to allow for an existing deck.

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- Minor subdivision that would create two lots at 4232 Colfax Avenue South, including a variance of the lot width standards to the subdivision regulations to reduce the minimum lot width of the proposed lots from 50 to 40 and 44 feet, where there is no alley present.

Applicable Code Provisions: Chapter 525, Article IX Variances, Specifically Section 525.520(1) (1) (1) “to vary the yard requirements, including permitted obstructions into required yards not allowed by the applicable regulations” and Chapter 598 Subdivisions

Development Plan: Please see attached survey. A single-family dwelling exists on one parcel and a future single-family dwelling is proposed to be constructed on the other parcel.

Background: This application was continued from the June 14, 2010, planning commission public hearing after identification of additional land use applications. In addition to the minor subdivision, a variance to reduce the minimum required south interior side yard from 5 feet to approximately 4 feet 4 inches is required to allow for an existing 2-story bump-out along the south façade of the existing single-family dwelling. The applicant is requesting this variance in order to comply with the building code that requires a minimum 3 ft. separation between a wall with openings (windows) and a property line. In addition, there is an existing deck with a concrete foundation, constructed over the proposed property line. The applicant is proposing that the existing deck would be shared between the both proposed parcels; therefore, the applicant is requesting an additional variance to reduce the south interior side yard from 5 feet to 0 feet of Parcel A and a variance to reduce the minimum north interior side yard of Parcel B from 5 feet to 0 feet, in order to allow for an existing deck.

The proposed subdivision would create two parcels out of one parcel. The current parcel is approximately 84 ft. by 134.5 ft. and there is an existing single-family dwelling, detached garage and wood deck with a concrete foundation on the parcel. Proposed Parcel A is 5,904 square feet and 44 feet wide and is the site of the existing single-family dwelling and detached garage. Proposed Parcel B is 5,381 square feet and 40 feet wide and is proposed of a future single family home.

The minimum lot width in the R1A Single Family District is 40 feet. Both parcels meet this requirement. In addition to this zoning code requirement, Section 598.240(2) [a] of the subdivision regulations requires that lot width be increased by 10 feet when an alley is not provided. The two lots do not have access to an alley, so the lot width is required to be increased from 40 to 50 feet. Parcel A is proposed to be 44 feet wide and Parcel B is proposed at 40 feet wide and neither parcel meets this standard, so variances of the subdivision regulations for lot width are required.

As of writing this staff report, staff has not received any correspondence from the neighborhood organization. Staff will forward comments, if any are received, at the City Planning Commission meeting.

VARIANCES

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.**

Side yard setback for the existing dwelling: The applicant is seeking a variance to the south interior side yard setback from 5 feet to 4.4 feet to allow for an existing single family home as a result of the proposed minor subdivision. The applicant is requesting this variance in order to comply with the building code that requires a minimum 3 ft. separation between a wall with openings (windows) and a property line. Strict adherence to the regulations would not allow for the existing single-family dwelling to remain on the property and allow for the proposed minor subdivision. As an alternative, the applicant could substantially remodel the structure to remove the 2-story bump-out or move the existing dwelling and simply propose a parcel split, however, staff believes that the location of the existing single family dwelling allows for reasonable use of the property.

Side yard setbacks for the existing deck: The applicant is seeking a variance to the both proposed interior side yard setbacks from 5 ft. to 0 ft. to allow for an existing deck accessory to a single-family dwelling. Strict adherence to the regulations requires a minimum of a 5 ft. interior side setback, on both proposed parcels, and would not allow for the deck in its present location. Staff believes that a deck on either property would be reasonable, if the structures maintain the minimum interior side yards of 5 ft.

- 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.**

Side yard setback for the existing dwelling: While the applicant is contributing to the need for a variance by establishing the proposed property line, the circumstances upon which the setback variance is requested are unique to the parcel of land due to the location of the existing single family home. The alternative to the variance would cause a hardship to the property owner, by not allowing the existing single family home to remain in its current configuration.

Side yard setbacks for the existing deck: The circumstances upon which the setback variance is requested are not unique to the parcel of land. The alternative to the variance would not cause a hardship to the property owner by not allowing for adequate use and access to this property. Staff does not believe a shared deck between two properties is a reasonable use 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.**

Side yard setback for the existing dwelling: Staff believes that the location of the existing single-family dwelling will not substantially alter the essential character of the surrounding neighborhood. Staff believes that by allowing the single family dwelling to remain will not be injurious to the use or enjoyment of other property in the vicinity because it already exists on the

property. The majority of the existing dwelling maintains a side yard that exceeds the minimum requirement in the district.

Side yard setbacks for the existing deck: Staff believes the proposal of the deck, shared between two properties and located over the proposed property line may alter the essential character of the surrounding neighborhood and be injurious to the surrounding property. Staff does recognize the difficulty of removing the existing deck, however does not believe that a 0 ft. side yard setback is appropriate for a deck shared by both properties. Staff believes that allowing the deck to remain over the property line will likely lead to nuisance in the future.

- 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.**

Side yard setback for the existing dwelling: With consideration that this project was designed to comply with the building code, granting the proposed variances would likely have no impact on the congestion of area streets or fire safety, nor would the future single-family dwelling be detrimental to the public welfare or endanger the public safety.

Side yard setbacks for the existing deck: According to the Inspections Department, the proposed deck, located over a property line does not violate the building code. Further, granting the proposed variance would likely have no impact on the congestion of area streets or fire safety, nor be detrimental to the public welfare or endanger the public safety.

MINOR SUBDIVISION

Required Findings:

- 1. The subdivision is in conformance with the land subdivision regulations and the applicable regulations of the zoning ordinance and policies of the comprehensive plan.**

The proposed subdivision would create two parcels out of one parcel. There is an existing single-family dwelling and detached garage on the parcel. The applicant would like to create two separate parcels. Parcel A (northerly parcel) will be 5,904 square feet and contains an existing single-family home and Parcel B (southerly parcel) will be 5,381 square feet and is the proposed site for a future single-family home to be constructed onto the property.

Zoning code:

The proposed parcels will meet the zoning code's minimum lot width and lot area for the R1A District. The existing single-family dwelling has a 2-story bump-out along the south elevation. The proposed property line will be located 4.4 feet at the closest point of the structure. The applicant has requested a variance to reduce the south interior side yard setback from 5 feet to 4.4 feet. The existing wood deck accessory to the existing single family dwelling has a concrete foundation is constructed over the proposed boundary. The applicant has requested variances to reduce the required interior side yards to allow the deck to remain.

Subdivision regulations:

The proposed parcels do not meet the minimum lot width of the subdivision regulations.

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As noted above, the R1A Single-family District requires a lot width of 40 feet. In addition to this zoning code requirement, Section 598.240(2)[a] of the subdivision regulations requires that lot width be increased by 10 feet when an alley is not provided. The two parcels do not have access to an alley, so the lot width is required to be increased from 40 to 50 feet. Parcel A is proposed to be 44 feet wide and Parcel B is proposed at 40 feet wide and neither parcel meets this standard, so variances of the subdivision regulations for lot width to eliminate the requirement for an additional 10 feet beyond the 40 feet required by the zoning ordinance.

598.310. Variances. Where the planning commission finds that hardships or practical difficulties may result from strict compliance with these regulations, or that the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances to any or all of the provisions of this chapter. In approving variances, the planning commission may require such conditions as it deems reasonable and necessary to secure substantially the objectives of the standards or requirements of these regulations. No variance shall be granted unless the planning commission makes the following findings:

(1) There are special circumstances or conditions affecting the specific property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of land.

(2) The granting of the variance will not be detrimental to the public welfare or injurious to other property in the area in which the property is located.

The purpose of the lot width requirement is to provide room for driveways on lots where there is no alley access. Lot widths are required to be increased to allow for a driveway on the side of the house. The existing detached garage located in the northwest corner of the existing parcel is accessed via a curb cut along Colfax Avenue South and a shared driveway with the adjacent neighbor at 4228 Colfax Avenue South that leads to the rear of the property. Parcel B is proposed to be accessed via a new curb cut along Colfax Avenue South and a 10 ft. driveway that leads to the proposed detached garage at the rear of the property. None of the parcels near the subject property have access to an alley and the majority of the parcels zoned R1A, located within 350 feet of the subject property have lot widths of 45 feet or less. Staff believes that the site can support the required accesses to the properties with the existing and proposed driveways, curb cuts and garages without the need for an increased lot width due to a lack of alley access.

Comprehensive plan

Staff has identified the following policies of the *Minneapolis Plan for Sustainable Growth* that are relevant to the submitted applications:

Policy 1.8: Preserve the stability and diversity of the city's neighborhoods while allowing for increased density in order to attract and retain long-term residents and businesses.

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1.8.1 Promote a range of housing types and residential densities, with highest density development concentrated in and along appropriate land use features.

1.8.2 Advance land use regulations that retain and strengthen neighborhood character, including direction for neighborhood.

It is the staff opinion that the subdivision is consistent with the above noted language of the plan.

- 2. The subdivision will not be injurious to the use and enjoyment of other property in the immediate vicinity, nor be detrimental to present and potential surrounding land uses, nor add substantially to congestion in the public streets.**

The subdivision will not have an effect on surrounding properties or change the character of the area due to proposed location of the new single family dwelling on Parcel B (southerly parcel). It should not add congestion to the public streets as it would only add one single-family home to the area.

- 3. All land intended for building sites can be used safely without endangering the residents or users of the subdivision and the surrounding area because of flooding, erosion, high water table, severe soil conditions, improper drainage, steep slopes, rock formations, utility easements, or other hazard.**

The existing single-family dwelling on the property will remain in its present location and the applicant is showing the construction new single-family home on Parcel B in the future. It does not appear that any of the above noted conditions exist at the site.

- 4. The lot arrangement is such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits and in providing driveway access to buildings on such lots from an approved street. Each lot created through subdivision is suitable in its natural state for the proposed use with minimal alteration.**

The existing wood deck with the concrete foundation is constructed over the proposed boundary. Staff is recommending denial of the proposed variances to reduce the interior side yard setback to allow for the deck to remain. Parcel A has an existing detached garage and curb cut and Parcel B will have a new detached garage and curb cut. Staff believes that the site can support the required access to the property with the existing conditions without the need for an increased lot width due to a lack of alley access.

- 5. The subdivision makes adequate provision for storm or surface water runoff, and temporary and permanent erosion control in accordance with the rules, regulations and standards of the city engineer and the requirements of these land subdivision regulations. To the extent practicable, the amount of stormwater runoff from the site after development does not exceed the amount occurring prior to development.**

Existing utility and drainage provisions are adequate for the existing and proposed structures.

RECOMMENDATIONS:

Recommendation of the Community Planning and Economic Development Department – Planning Division for the minor subdivision:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the variance to reduce the minimum required south interior side yard from 5 feet to approximately 4 feet 4 inches to allow for an existing structure for the property located at 4232 Colfax Avenue South in the R1A Single-Family District.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the minor subdivision:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the variance to reduce the south interior side yard from 5 feet to 0 feet of Parcel A, in order to allow for an existing deck, for the property located at 4232 Colfax Avenue South in the R1A Single-Family District.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the minor subdivision:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the variance to reduce the minimum north interior side yard from 5 feet to 0 feet of Parcel B, in order to allow for an existing deck, for the property located at 4232 Colfax Avenue South in the R1A Single-Family District.

Recommendation of the Community Planning and Economic Development Department – Planning Division for the minor subdivision:

The Community Planning and Economic Development Department – Planning Division recommends that the City Planning Commission adopt the above findings and **approve** the minor subdivision that would create two lots at 4232 Colfax Avenue South in the R1A Single Family Residence District, including a variance of the lot width standards to the subdivision regulations to reduce the minimum lot width of the proposed lots from 50 to 40 and 44 feet, where there is no alley present, subject to the following condition:

- 1) Staff will not release the minor subdivision resolution for recording until after the existing deck is removed or relocated. The applicant has until June 28, 2011, to complete the work on the existing deck and record the resolution or the minor subdivision approval will expire.

Attachments:

- 1) Written descriptions and findings submitted by the applicant
- 2) Zoning map

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- 3) Hennepin County map
- 4) Survey and development plan
- 5) Photos