

Department of Community Planning and Economic Development – Planning Division Report**Variance Request
BZZ-1943**

Date: October 7, 2004

Applicant: David and Anne Greenwood

Address of Property: 3404 26th Avenue South

Date Application Deemed Complete: August 27, 2004

End of 60 Day Decision Period: October 21, 2004

End of 120 Day Decision Period: December 20, 2004

Appeal Period Expiration: October 18, 2004

Contact Person and Phone: David and Anne Greenwood, 612-724-2518

Planning Staff and Phone: Carrie Flack, 612-673-3239

Ward: 9 **Neighborhood Organization:** Corcoran

Existing Zoning: R1A, Single-family District

Proposed Use: Construction of a 4 ft. and 6 ft. tall fence in the front yard and corner side yards

Proposed Variance: A variance to increase the maximum permitted height of a fence from 3 ft. to 6 ft. in the required corner side yard to allow for the construction of a privacy fence.

Zoning code section authorizing the requested variance: (5)

Background: The subject site is 69.56 ft. x 127.5 ft. (8,869 sq. ft.) and consists of a single family dwelling with a two car detached garage. The applicant is proposing to construct a 4 ft. tall fence that will be less than 60 % opaque in compliance with the ordinance in the front yard along 26th Avenue and a 6 ft. tall privacy fence in the corner side yard along 34th Street to provide screening and privacy for the property.

An 8 ft. grass boulevard separates the applicant's property from the sidewalk along 34th Street. Therefore, the 6 ft. tall privacy fence proposed to be located in the corner side yard along 34th Street will be approximately 8-9 ft. from the sidewalk. The portion of fence that is located parallel to the dwelling (a distance of 32 ft.) is the portion of fence located in the required corner side yard for which the variance is necessary. That portion of fence that is located parallel between the rear of the dwelling and the rear property line is permitted to be 6 ft. tall and a variance is not necessary.

535.420. Fence Height (excerpts). Fences located in the required front yard shall not exceed 4 ft. in height when constructed of open, decorative, ornamental fencing materials that are less than 60 percent opaque. Fences located in the required corner side yard shall not exceed 3 ft. in height or 4 ft. in height when constructed of open, decorative, ornamental fencing materials that are less than 60 percent opaque. The maximum height may be increased to 6 ft. beginning at the point of intersection of the corner side wall and the rear wall of the principal structure to the rear lot line.

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.**

Fence height: The applicant is seeking a variance to increase the maximum permitted height of a fence in the required corner side yard from 3 ft. to 6 ft.. The applicant has stated that a 6 ft. high fence is necessary to provide privacy in their rear yard for their Autistic child from the 45 unit condo building being constructed across 34th Street. Strict adherence to the regulations would not allow for the proposed 6 ft. high fence for a distance of 32 ft. between the rear of the principal dwelling and the front of the principal dwelling. Staff believes that based on the submitted information a 6 ft. high fence is a reasonable use of the property and would not entirely block the view of the front yard.

- 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.**

Fence height: The circumstances upon which the setback variance is requested are unique to the parcel of property. The property consists of an unusually wide (8 ft.) boulevard between the sidewalk and the lot line. Therefore, the fence will be located approximately 8-9 ft. from the sidewalk which will still provide views along 34th Street. In addition, the property is across from a large multifamily development being constructed on the north side of 34th Street.

- 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.**

Fence height: Granting the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the area or be injurious to the use or enjoyment of other property in the vicinity. The intent of the ordinance allows corner side properties additional flexibility for providing privacy fencing in the rear yard while still trying to maintain views along sidewalks and streets. The subject site consists of an unusually large boulevard adjacent to the sidewalk (8 ft) and thus, the fence will be located further back than typical

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properties where there is only 2-3 ft. of a boulevard. The distance of the variance is for 32 ft. and the 6 ft. tall fence will not project past the front of the dwelling. Therefore, staff believes views will be maintained.

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.**

Fence height: Granting the variance would likely have no impact on congestion of area streets or fire safety or be detrimental to the public welfare or endanger the public safety since the fence will not encroach into any site triangles at the intersection of 34th Street and 26th Avenue.

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 increase the maximum permitted height of a fence in the required corner side yard from 3 ft. to 6 ft. to allow for the construction of a fence subject to the following condition:

1. That the Planning Division review and approve final site and elevation plans.