

**Department of Community Planning and Economic Development –
Planning Division Report**

Variance Request
BZZ-3629

Date: July 26, 2007

Applicant: Mark and Sheryl Flaherty

Address of Property: 2700 Hayes Street NE

Contact Person and Phone: Mark Flaherty, (612) 788-9153

Planning Staff and Phone: Erik Carlson, (612) 673-5348

Date Application Deemed Complete: June 15, 2007

Hearing Date: July 26, 2007

Appeal Period Expiration: August 6, 2007

End of 60 Day Decision Period: August 14, 2007

Ward: 1 **Neighborhood Organization:** Audubon Neighborhood Association

Existing Zoning: R1A/Single Family District

Proposed Use: Basement egress window well for a proposed basement bedroom

Proposed Variance: To decrease the required 2 foot distance an egress window well must be from an interior property line to 1 foot

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

Background: The 1.5 story, three-bedroom, single-family home built in 1935 is located on a 6,300 SF lot at the corner of Hayes Street NE and 27th Avenue NE. It is a standard corner lot. An alleyway runs behind the home. The home is located 4 feet from the north interior property line, which is nonconforming. The required setback is 5 feet. A fence is located 1.5 feet north of the interior property line.

The southern half of the basement is finished as a family room which has a space dedicated for office work. This finished space was completed prior to the applicant owning the property. The north side of the basement contains a laundry room in the northeast corner and unfinished space. A bathroom is proposed west of the laundry room and a bedroom west of the bathroom on the north side of the basement.

In March 2007, the current owners were issued permits to remodel the northern half of their basement including the installation of a bathroom. No action has been taken on this permit.

The applicants would like to install an egress window well on a window in the proposed bedroom. There is a glass block window in this location now. This window would be removed and a 3 foot by 3 foot window would be installed. In order to allow for a legal bedroom in the basement an egress window will be required by the International Residential Code.

A legal egress window well depth is required to be 3 feet, with a minimum opening of 9 square feet. The window well would be 3 feet deep and 4 feet wide (12 square feet).

The minimum setback for an egress window, as a permitted obstruction in the required interior side yard, is 2 feet.¹ The proposed egress window projects 4 feet into the 5 foot setback leaving 1 foot between the property line and the window well. Therefore, the applicant is seeking a 1 foot variance in the setback of the proposed window well.

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.

An additional bedroom is a reasonable use of a residential structure. According to the applicant, a bedroom cannot be accommodated on the south side of the home (where there is room for a zoning code compliant egress window well) because the basement is finished on the south side and it also contains basement utilities which limit redesign alternatives.

Strict adherence to the zoning code would require the family room space to be remodeled into a bedroom. This would cause an undue hardship which was not created by the applicant because the applicant did not create this finished space.

A 9 square foot window well would relieve the applicant's hardship by allowing the creation of a legal bedroom on the north side of the home. Therefore a 12 square foot egress window well is not justified.

¹ Table 535-1, Permitted Obstructions in Required Yards.

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 home is positioned 1 foot into the side yard setback. This unique circumstance was not created by the applicant. If the home met setback requirements, the variance for the egress window would not be necessary in order to install the egress window. The position of the home on the lot is a unique circumstance and was not created by the applicant but was created by the platting of lot.

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.**

An intent of the ordinance is to decrease the chance that occupants of adjacent homes and owners of the subject property would fall into a window well. There is a fence between the subject home and the home to the north which helps prevent this outcome.

Another intent of the ordinance is to allow for a walkway between the egress window well and the property line. The fence to the north is 5.5 feet from the subject house. This allows a 2.5 foot walkway between the north rim of the egress window well and the fence. This width meets the intent of the ordinance which specifies 2 feet.

The window well would not alter the character of the house or neighborhood. It would not be seen from the front of the house as it would be obscured by landscaping.

The window well would not be injurious to the use or enjoyment of other property in the vicinity due to the fence along the northern property line which blocks access to the window well.

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.**

No aspect of the project identified would impact public street congestion. An egress window would decrease the danger of occupants being hurt in a fire. The fence along the north side of the home would help prevent the neighbor to the north from falling in and/or injuring themselves.

Recommendation of the Department of Community Planning and Economic Development

The Department of Community Planning and Economic Development recommends the Board of Adjustment **adopt** the findings above and **approve** the variance application to decrease the required 2 foot distance an egress window well must be from an interior property line to 1 foot with the following conditions:

1. Planning Division review and approve final site and elevation plans.
2. The egress window well will be no larger than 9 square feet.

Appendix A: Maps and Aerials

Appendix B: Application Material

Appendix C: Public Comments

Appendix A

Appendix B

Appendix C