

**Department of Community Planning and Economic Development – Planning Division****Variance Request  
BZZ-3287**

**Date:** November 16, 2006

**Applicant:** Stephanie Peterson

**Address of Property:** 1004 18<sup>th</sup> Avenue Southeast

**Contact Person and Phone:** Stephanie Peterson (612) 788-2571

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

**Date Application Deemed Complete:** October 20, 2006

**Public Hearing:** November 16, 2006

**Appeal Period Expiration:** November 27, 2006

**End of 60 Day Decision Period:** December 22, 2006

**Ward: 1      Neighborhood Organization:** Windom Park Citizens in Action

**Existing Zoning:** R2B, Two Family District

**Proposed Use:** A 6 foot – 6 inch tall cedar privacy fence in the corner side yard

**Proposed Variance:** A variance to increase the maximum height of a cedar privacy fence to 6 feet 6 inches in the corner side yard along 22<sup>nd</sup> Avenue Northeast at 1957 Fillmore St. NE in the R2B, Two Family District.

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

**Background:** The subject property is located on a corner side lot that is approximately 41.8 ft. by 124.8 ft. The subject lot is 5,084 square feet and meets the minimum lot area in the R2B District of 5,000 square feet. In 2004, the applicant built a 6 foot – 6 inch tall cedar plank privacy fence in the corner side yard. The current fence replaced a 6 foot tall cedar fence that was originally constructed in 1987.

In 2005, the applicant received a letter of violation from the Minneapolis Housing Maintenance Section for the height of the fence. Section 535.420 of the Zoning Ordinance regulates fence height. When a fence is located in the corner side yard of a property, as it is for the subject site, the height of the fence shall not exceed 3 feet until the fence reaches a point parallel with the rear edge of the dwelling. At that point parallel to the rear edge of the dwelling to the rear of the property, the height of the fence can be

increased to 6 feet. The previous Zoning Ordinance, which was in place at the time of construction of the original fence in 1987, treated fences in the corner side yard identically as the present Zoning Ordinance.

The applicant's fence runs from approximately the midpoint of the dwelling to the rear of the property and is 6 feet 6 inches.

**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.**

**Front Yard Setback:** The applicant has requested a variance to increase the maximum height of a cedar privacy fence to 6 feet 6 inches in the corner side yard to allow for the existing fence to remain. The Zoning Ordinance prohibits fences greater than 3 feet in the corner side yard from the front of the property line to a point parallel with the end of the dwelling; from that point to the rear property line a fence shall not be greater than 6 feet in height. The applicant states that she is a dog owner and having a 6 foot high fence is:

“...important to me as I live on a busy corner with a lot of street and foot traffic back and forth to the local park and to the B-Line store at the end of the block. The fence keeps my dog from barking at people and the height keeps most of the litter thrown in my yard from getting to the back where it could harm here. A three foot fence would not keep my dog inside the yard nor would it protect her from the some of the mischief in my neighborhood.”

The applicant also states that the fence screens her study, living, dining and bathroom view from the property across the street, 2201 Fillmore Street NE. Staff believes that a 3 foot tall fence in the corner side yard along the length of the dwelling will allow for reasonable use of the property. Staff believes that the property can be put to reasonable use and does not believe there is 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 circumstances upon which the setback variance is requested are not unique to the parcel of land. The height of a fence located in on a corner side yard shall not be greater than 3 feet until the backend of the dwelling where it can be increased to 6 feet. An interior lot allows a fence to be 4 feet tall and increased to 6 feet from the backend of the dwelling. These heights are substantially similar and in both cases a 6 foot 6 inch high fence is not permitted in the side yard.

- 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 the 6 foot 6 inch fence in the side yard will not alter the essential character of the surrounding neighborhood. The applicant has provided staff with a number of examples of homes with 6 foot high fences in the side and corner side yards in the Windom Park Neighborhood and it appears the fence height is not unusual for the neighborhood and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.

- 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 setback variance would likely have no impact on the congestion of area streets or fire safety, nor would it be detrimental to the public welfare or endanger the public safety. There is a substantial boulevard between the sidewalk and the street, which allows for ample space for pedestrians.

**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 the variance to increase the maximum height of a cedar privacy fence to 6 feet 6 inches in the corner side yard along 22<sup>nd</sup> Avenue Northeast at 1957 Fillmore St. NE in the R2B, Two Family District.