

Department of Community Planning and Economic Development – Planning Division Report

Variance Request
BZZ-3338

Date: December 7, 2006

Applicant: Thomas Barrett, on behalf of William Weisman

Address of Property: 2708 Irving Avenue South

Contact Person and Phone: Thomas Barrett, 612-333-3434

Planning Staff and Phone: Molly McCartney, 612-673-5811

Date Application Deemed Complete: November 1, 2006

Hearing Date: December 7, 2006

Appeal Period Expiration: December 18, 2005

End of 60 Day Decision Period: December 30, 2006

Ward: 10 **Neighborhood Organization:** East Isles Residents' Association

Existing Zoning: R1 Single-family Residential District and SH Shoreland Overlay District

Proposed Use: Existing landscaping for a single-family dwelling

Proposed Variance: A variance to increase the maximum impervious surface coverage of a lot for a property located at 2708 Irving Avenue South in the in the R1 Single Family District and SH Shoreland Overlay District.

Zoning code section authorizing the requested variance: 525.520 (15)

Background: The applicant has previously applied for two variances for the subject property in regards to maximum impervious surface of the landscaping and a front patio. The Board of Adjustment denied both variances on December 1, 2005. The applicant appealed the Board's decision, and the Zoning and Planning Committee approved the front patio variance and the impervious surface variance was sent with no recommendation to the full City Council. The City Council approved the front patio variance and denied the maximum impervious surface variance on February 10, 2006. The applicant has redesigned the landscaping and is now reapplying to increase the maximum impervious surface.

The subject property is approximately 52 ft. by 120 ft. (6,240 sq. ft.) and consists of an existing single-family dwelling and attached garage. As a response to a neighborhood complaint, Zoning Enforcement cited the applicant this fall for a patio in the front yard that exceeded the maximum size permitted, 50

sq. ft. After a site plan was submitted for the front yard variance, Planning staff discovered that the size exceeded the maximum impervious surface coverage for a property in the R1 District. The amount of hard surface (buildings, hard cover, including pavers) is approximately 87 percent of the lot, which exceeds the maximum 75 percent of the lot the zoning code allows in the R1 District. Much of the runoff from impervious surfaces on the lot is directed to the landscaped portions of the property. This property is located approximately two blocks from Lake of the Isles and is in the Shoreland Overlay District.

The applicant is proposing to replace much of the driveway with permeable pavers, approximately 775 sq. ft. While this type of surface may allow for absorption, the zoning code considers stone or brick surfaces as imperious surfaces:

520.160 Impervious surface. Any material that significantly reduces or prevents natural absorption of stormwater into the soil and cause water to run off the surface in greater quantities and at an increased rate of flow. Impervious surfaces include, but are not limited to, buildings or other structures with roofs, sidewalks, and all stone, brick, concrete or asphalt surfaces.

In addition to restricting the amount of hard cover on a lot through the impervious surface requirement, the impervious maximum also requires that the portion of the lot be green space or vegetation.

546.150. Impervious surface coverage. Impervious surfaces shall not cover more than seventy-five (75) percent of any zoning lot located in the R1--R3 Districts. Impervious surfaces shall not cover more than eighty-five (85) percent of any zoning lot located in the R4--R6 Districts. **The remainder of the zoning lot shall be covered with turf grass, native grasses, perennial flowering plants, shrubs, trees or similar landscape material sufficient to prevent soil erosion.**

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.**

The applicant is seeking a variance to increase the maximum impervious surface coverage from 75 percent to 87 percent. Much of the property is either building or pavers. The applicant has stated that most of the property was paved at the time of purchase and that the recent landscaping improved the property. Staff believes that a property with 75 percent impervious surface or less is a reasonable use of the property and there is no hardship created by the maximum impervious surface requirement.

- 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 variance is requested are not unique to the parcel and have been created by the applicant. The applicant states that when the property was purchased, much of the yard was paved and that recent improvements have been beneficial. The subject site has a paved patio in the rear of the property in addition to the front yard patios. There are no unique circumstances on the property that would require the maximum impervious surface to be increased.

- 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 that granting the variance will not be keeping with the spirit of the ordinance. The impervious surface requirements of the zoning code attempt to address both water run-off issues and green space issues. The applicant is proposing permeable pavers that would allow for more drainage than hard cover. While some of the paved portions of the property drain into the landscaped beds, the permeable pavers will likely drain into the stormwater system and eventually flow into Lake of the Isles.

The maximum impervious requirement also calls for green space. Green space, turf grass or other vegetative plantings, is a typical residential feature for Minneapolis neighborhoods. In addition to promoting water penetration and preventing soil erosion, the benefits of green space includes aesthetic benefits, reduces the urban heat index and softens the hardscape of urban areas.

- 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 variance would likely have no impact on the congestion of area streets or fire safety, but the requested impervious surface is detrimental to the public welfare through increasing stormwater runoff to the stormwater system that eventually flows into the Lake of the Isles and the subsequent water bodies.

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 impervious surface coverage of the lot from 75 percent to 87 percent for a property located at 2708 Irving Avenue South in the in the R1 Single Family District and SH Shoreland Overlay District.