

Department of Community Planning and Economic Development – Planning Division

Variance Request
BZZ-3861

Applicant: Jim & Cindy Murphy

Address of Property: 5128 Queen Avenue South

Contact Person and Phone: Cindy Murphy, (612) 920-0780

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

Date Application Deemed Complete: October 31, 2007

Publication of Staff Report: November 26, 2007

Public Hearing: November 29, 2007

Appeal Period Expiration: December 10, 2007

End of 60 Day Decision Period: December 30, 2007

Ward: 13 **Neighborhood Organization:** Fulton Neighborhood Association

Existing Zoning: R1A Single Family District

Proposed Use: A second story addition to a single family dwelling

Proposed Variance: A variance to reduce the north interior property line from 5 feet to 3.2 feet to allow for second story addition to an existing single family dwelling located at 5128 Queen Avenue South in the R1A Single Family District.

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

Background: The subject property is 40 feet by 128 feet (5,120 square feet) and consists of single family dwelling with an attached rear facing garage that is accessed off the alley. The subject home is located 2.6 feet from the north property line.

In 2004 the applicants received a variance (BZZ-1531) to reduce the north interior side yard setback from 5 feet to 3 feet to allow for a one-story addition that contained a kitchen, bathroom, and a screened porch. The applicants are proposing a second story addition that includes a new bedroom and the relocation of another bedroom to allow for a new bathroom. One of the bedrooms will be constructed over the 2004 kitchen and bathroom addition and will follow the existing building wall of the addition.

The proposed addition will be 3.2 feet from the north property line and requires a variance to reduce the required interior side yard setback from 5 feet to 3.2 feet.

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 has requested a variance to reduce the required north interior side yard setback from 5 feet to 3.2 feet to allow for a second story addition to an existing single family dwelling. The zoning ordinance allows for single family homes that are nonconforming to interior side yard setbacks to have additions that follow the existing nonconforming setback of the building wall if the following two conditions are met.

- The building wall is at least 3 feet from the property line and
- The building wall that is being followed is at least 60 percent of the length of the entire structure.

The original building wall of the structure is 2.6 feet from the property line and the 2004 addition building wall is 3.2 feet from the property line. Roughly 50 percent of the structure is located at 2.6 feet from the property line and the other half is located 3.2 feet from the property line. If the entire building wall was located 3 feet from the property line the addition would be allowed without a variance. The applicant is proposing to follow the previously approved setback of 3.2 feet for the proposed addition, which is greater than the original setback and meets the intent of the ordinance.

The applicant states that stepping the addition back to accommodate the 5 foot setback would place the wall and roof loads over the middle of the kitchen ceiling below, with no practical way of transferring the structural loads to the first floor walls and foundation.

Staff believes that proposed variance allows for reasonable use of the property and recognizes that the strict interpretation of the zoning ordinance would cause undue hardship.

- 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 conditions upon which the variances are sought are requested are unique to the parcel due to setbacks and configuration of the dwelling. The existing home is located 2.6 feet from the north interior property line.

- 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.**

The proposed setback variance will not alter the essential character of the neighborhood. The proposed addition will maintain a slightly greater setback than the original setback of the house and will not expand the footprint of the dwelling. Staff also believes the variance meets the intent of the ordinance. Staff is concerned about the impacts of the addition on the adjacent property to the north, 5124 Queen Avenue South. This dwelling is located 6.8 feet from the subject property line. However, the owners of this dwelling have written a letter of support for the variance request.

- 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 not likely increase congestion in the area or increase the danger of fire safety, nor would the terrace variance be detrimental to welfare or public safety.

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** a variance to reduce the north interior property line from 5 feet to 3.2 feet to allow for second story addition to an existing single family dwelling located at 5128 Queen Avenue South in the R1A Single Family District with the following condition:

1. CPED-Planning review and approve final site plan, floor plans, and elevations.