

Department of Community Planning and Economic Development – Planning Division

Variance Request
BZZ-3718

Date: August 10, 2007

Applicant: Andrew Powers on behalf of Steve and Anna Stoesz

Address of Property: 2711 Burnham Boulevard

Contact Person and Phone: Andrew Powers (612) 227-0107

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

Date Application Deemed Complete: August 1, 2007

Public Hearing: August 23, 2007

Appeal Period Expiration: September 3, 2007

End of 60 Day Decision Period: September 29, 2007

Ward: 7 **Neighborhood Organization:** Cedar Isles Dean Neighborhood Association

Existing Zoning: R1 Single Family District and the SH Shoreland Overlay District.

Proposed Use: A 260 square foot ground level deck

Proposed Variance: A variance to reduce the required side yard setback from 6 feet to 4 feet to allow for a rear deck on a single family dwelling located at 2711 Burnham Boulevard in the R1 Single Family District and the SH Shoreland Overlay District.

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

Background: The size of the subject site is 68 ft. x 127 ft. (4,825 sq. ft.). The subject site is an interior lot and is pie shaped. The front of the property is 68 feet wide and the rear is 30 feet wide. The shape of the subject lot results in a lot area of 4,825 square feet which is over a 1,000 square feet less than the minimum lot area of 6,000 square feet for the R1 zoning district.

The applicant is proposing to construct a ‘j’ shaped ground level deck on the rear of the subject dwelling. The proposed deck will extend 10 feet south from the rear of the dwelling and 8 feet from the east side of the dwelling toward the side property line. In total the deck will be 260 square feet. The deck will be located 4 feet from the east property line. The required side yard setback is 6 feet. A variance is required to allow the deck to be located 4 feet from the property 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.**

The applicant has requested a variance to reduce the required side yard setback from 6 feet to 4 feet to allow for a 260 square foot ground level deck. The applicant states that elevation change on the property and the existing retaining wall presents difficulty in locating the deck in any other location on the property. Staff understands the challenges that the elevation change and existing retaining wall create. The unique pie shape of the lot and the grade change create hardship. Staff believes that having a ground level deck at the location proposed is a reasonable request.

- 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 setback variance is requested are not unique to the parcel. The pie shape of the lot is unique compared to the rest of the lots in Minneapolis. At the rear of the existing home the lot is approximately 44 feet wide, which is 6 feet less than a standard R1 District 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.**

Staff believes that the proposed deck will not alter the essential character of the surrounding neighborhood. The ground level deck and the activity that takes place on it will be two feet closer to the property line, which might negatively impact the enjoyment of the property owner to the east at 2707 Burnham Boulevard.

Staff believes that grade change between the two properties and the fence will mitigate the visual and noise impacts that would be increased by locating the ground level deck 4 feet from the property line. The proposed location of the ground level patio is approximately 3 feet below the adjacent properties grade. The fence between the subject property and the property to the east is approximately 6 feet. There will be approximately 9 feet of visual barrier between the proposed ground level deck and the adjacent property.

- 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.**

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Granting the variance would likely have no impact on the congestion of area streets or fire safety, nor would the proposed dwelling be detrimental to the public welfare or endanger the 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 required side yard setback from 6 feet to 4 feet to allow for a ground level deck on a single family dwelling located at 2711 Burnham Boulevard in the R1 Single Family District and the SH Shoreland Overlay District with the following condition:

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