

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

Variance Request  
BZZ-4374

**Date:** May 21, 2009

**Applicant:** Lora and Micah Grafenstein-Kinzel

**Address of Property:** 3405 Hennepin Avenue

**Contact Person and Phone:** Lora Grafenstein-Kinzel, 612-616-2314

**Planning Staff and Phone:** Chris Vrchota, (612) 673-5467

**Date Application Deemed Complete:** April 28, 2009

**Publication Date:** May 15, 2009

**Public Hearing:** May 21, 2009

**Appeal Period Expiration:** June 1, 2009

**End of 60 Day Decision Period:** June 14, 2009

**Ward:** 10      **Neighborhood Organization:** CARAG

**Existing Zoning:** R5/ Multiple Family Residential

**Proposed Use:** Construction of a retaining wall with 6 foot fence on top.

**Proposed Variances:** Variances to reduce the required rear yard setback from 5 feet to 1 foot for the construction of a 3.5 foot retaining wall and to allow for the construction of a 6 foot tall fence in the rear yard.

**Zoning code section authorizing the requested variances:** 525.520 (1), 525.520 (5)

**Background:** The subject property, 3405 Hennepin Avenue, is zoned R5. The lot measures 42 x 76.80, totaling 3,225 square feet. The property is a corner lot that contains a 1.5 story single family dwelling constructed in 1913. The rear of the property steps down to the east, with a grade change of nearly 4 feet from the house to the rear property line. The top step is filled with a deck, which was constructed in 1981. The second tier is a planting bed, and the final tier is a small grassy area. Due to the way the deck was constructed, access to the second and third tiers is difficult.

**Proposal:** The applicants are proposing to construct a block retaining wall 1 foot from the rear property line, which would allow them to fill the rear yard, making it level. They are also proposing to construct a 6 foot tall fence on top of the retaining wall.

**Public Comment:** No public comments have been received.

**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 variances to reduce rear hard setback from 5 feet to 1 foot to allow for the construction of a retaining wall, and also to increase the maximum height of a fence to be constructed on top of the retaining wall.

The lot is small- 1,775 square feet smaller than currently required for a single-family dwelling in the R5 district. The lot size, combined with the stepped design of the existing rear yard, provide almost no useable space in the rear yard of the property. Because the property fronts on a busy road (Hennepin Avenue), the front yard is not an ideal recreational space, especially for children. These conditions create a 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 house was built on its current location in 1913. The house was built on a very small lot featuring stepped topography. The size of the lot severely limits the amount of useable space on the property, and the current stepped configuration of the rear yard renders most of the open space useless. While the applicants did not grade the property in this manner, they were aware of the condition of the site when they purchased the property.

- 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.**

Granting of the variance will be keeping with the spirit and intent of the ordinance and will not negatively alter the essential character of the locality. The existing deck features a trellis wall. While the proposed retaining wall and fence, with a total combined height of 9.5 feet, would not be significantly taller than this existing trellis wall, it would be closer to the property line. This could have a negative impact on the character of the locality or affect the enjoyment of other property. Because of this, staff is recommending that the fence be limited to 4 feet in height from the top of the retaining wall, and that it be setback 1 foot from the edge of the retaining wall and at least 2 feet from the property line. These conditions should help mitigate possible

negative impacts on the adjacent property, while still providing an enclosure total height of 7.5 feet above grade.

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 of the variances would have no impact on the congestion of area streets or fire safety, nor would the variance be detrimental to the public welfare or endanger the public safety. The proposed work is in the rear of the property. This area is not needed for fire access and does not abut any public right-of-way.

**Recommendation of the Department of Community Planning and Economic Development:**

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment **adopt** the findings above and **approve** the variances to reduce the required rear yard setback from 5 feet to 1 foot for the construction of a retaining wall and to allow for the construction of a 4 foot tall fence in the rear yard subject to the following conditions:

1. CPED-Planning review and approve final site plan, floor plans, and elevations.
2. The proposed fence shall be set back 1 foot from the edge of the retaining wall and at least 2 feet from the property line.
3. CPED- Planning shall review and approve materials used for the construction of the retaining wall and fence.

**Attachments:**

Appendix A: Zoning map

Appendix B: Statement of proposed use and request of variance statements

Appendix C: Site Plan and Elevations

Appendix D: Photographs