

Department of Community Planning and Economic Development – Planning Division**Variance Request
BZZ-3890**

Date: December 13, 2007

Applicant: Mary Turgeon

Address of Property: 4721 Oakland Avenue

Contact Person and Phone: Mary Turgeon, (612) 317-0989

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

Date Application Deemed Complete: November 20, 2007

Publication Date: December 6, 2007

Public Hearing: December 13, 2007

Appeal Period Expiration: December 24, 2007

End of 60 Day Decision Period: January 19, 2007

Ward: 8 Neighborhood Organization: Field, Regina, Northrup Neighborhood Group

Existing Zoning: R1A Single-family District

Proposed Use: Six (6) ft. fence in the required side yard

Proposed Variances: A variance to increase height of a fence from 4 ft. to 6 ft. in the interior side yard for property at 4721 Oakland Avenue in the R1A Single-family District.

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

Background: The subject property is single-family home on an interior lot that measures 43 ft. by 119 ft. (5,117 sq. ft.). The applicant installed a six (6) ft. fence along the south property line in the summer of 2007. The 6ft. tall portion of the fence ends prior to the front corner of the subject house and the adjacent house to the south. The fence is solid for approximately 5 ft. and has a 12 in. lattice at the top of the fence. An open fence continues in the front yard to the front property line. The fence is located 5 ft. 1 in. from the adjacent home to the south.

The applicant has been cited by Zoning Inspection that the fence is not allowed to be six (6) ft. tall in the side yard setback. Solid fences are allowed to be 6 ft. tall in the required side yard setback when the adjacent home is 5 ft. from the property line. In this case, the home to the south is approximately 4 ft.

from the shared property line, however, the applicants did build the fence more than 5 ft. away from the adjacent property. The applicant states in supporting materials that she inquired to Minneapolis 311 and was given the information that the fence needed to be 5 ft. away from the neighboring structure, and not that the neighboring structure needed to be 5 ft. from the shared property line. The applicant has stated the need to additional privacy as the reason to place the tall fence along 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.**

It is reasonable that a fence be place along or adjacent to a property line for residential properties. In this case, the applicant has eliminated a portion of the yard in order to locate the fence 5 ft. from the neighboring house. The location of the 6 ft. fence is reasonable given the distance from the adjacent house.

- 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 of the property are unique in that the applicant did not place the fence along the property line, but constructed so that there would be ample distance from the fence to the neighboring house.

- 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 the variance will be keeping with the spirit of the ordinance that requires a minimum distance between tall fences and adjacent properties. Very tall fences located closer than 5 ft. may contribute to a tunnel-like atmosphere and limit natural surveillance. While fence height regulations do limit the location of a fences in close proximity to other structures, fences are intended to provide privacy to the residents. The subject fence is located more than 5 ft. from the neighboring house which meets the intent that tall fences to be located further away from neighboring homes.

- 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.**

Given that the fence is located more than 5 ft. from the property line, the increase height will not be detrimental to public safety and public welfare.

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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** the variance to increase height of a fence from 4 ft. to 6 ft. in the interior side yard for property at 4721 Oakland Avenue in the R1A Single-family District.