

Department of Community Planning and Economic Development - Planning Division Report

Variance Request
BZZ-3977

Date: April 10, 2008

Applicant: Reid Romsaas (property owner)

Address of Property: 5858 Park Avenue South

Contact Person and Phone: Reid Romsaas (612) 724-0015

Planning Staff and Phone: Aaron Hanauer, (612) 673-2494

Date Application Deemed Complete: March 19, 2008

Publication Date: April 4, 2008

Public Hearing: April 10, 2008

Appeal Period Expiration: April 21, 2008

End of 60 Day Decision Period: May 18, 2008

Ward: 11 **Neighborhood Organization:** Hale, Page, Diamond Lake Community Association

Existing Zoning: R1, Single-Family District, and SH Shoreland Overlay District

Proposed Use: Construction of a 6-foot high cedar privacy fence in the corner side yard that would extend from the front corner of the house to the beginning of the driveway.

Proposed Variances: A variance to increase the maximum height of a fence from 3 feet to 6 feet in the corner side yard.

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

Background: The subject property is a corner lot. It measures 7,320 square feet, which is above the required square footage of an R1 zoned lot of 6,000 square feet. The R1 Zoning District width requirement is 60 feet. The subject site also meets the R1 Zoning District requirement for width. The subject site is 61 feet wide along Park Avenue, which is the front yard. However, the lot width narrows to 50 feet at the rear property line. This is due to 59th Street East running northwest to southeast on this block, which creates an angled corner side property line for the subject property and the property to the west.

The topography of this lot slopes slightly downward from 59th Street East. This slope is less than four percent, which is not atypical for a Minneapolis lot (see Appendix C: Topography Map).

Proposal: The applicant is proposing to build a 6-foot high privacy fence in the corner side yard from the front corner of the house to the beginning of the driveway. The fence would be approximately 58 linear feet. The Zoning Code provision 535.420 (2) states that fences in the corner side yard shall be a maximum of 3 feet in height until the rear wall of the principal structure. Beyond the rear wall, they are allowed to be 6 feet high (see Zoning Code provision below).

Zoning Code Provision 535.420 (2): Corner side yard. Fences located in the required corner side yard shall not exceed three (3) feet in height. The maximum fence height may be increased by one (1) foot if constructed of open, decorative, ornamental fencing materials that are less than sixty (60) percent opaque. In addition, the maximum height may be increased to six (6) feet beginning at the point of intersection of the corner side wall and the rear wall of the principal structure to the rear lot line.

Public Comment: CPED notified property owners within 350 feet of the variance request on March 26, 2008. There have been four neighbors that have written letters to support or not oppose the proposal (see Appendix E: Public Comments). In addition, the Hale, Page, and Diamond Lake (HPDL) Community Association's Board of Directors approved a motion to support the variance request.

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 increase the height of a fence in the corner side yard from the front corner of the house to the driveway in the rear portion of the lot. Strict adherence to the zoning code would require the fence be 3 feet in height until the rear wall of the principal structure. Even though this lot narrows to less than the R1 Zoning District requirement for width, CPED does not recognize a hardship on this lot, and believes that alternatives exist that would not require this variance.

- 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.**

Even though this lot narrows to less than the R1 Zoning District requirement, the lot is considered to meet the Zoning District requirement, and therefore, this is not a unique circumstance for which the variance is sought. Design alternatives exist that would not require a fence to this height at the proposed location. For example, the applicant could build a 3-foot high fence from the front corner of the house to the rear corner of the house, and then build a 6-foot high fence from the rear corner of the yard to the back of the 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.**

The intent and purpose of the fence requirements are to insure safe sight lines, minimize the potential negative visual impact of a tall fence, and preserve an open, pedestrian oriented character in residential neighborhoods. Granting of this variance will not be keeping with the intent of the ordinance. Granting of the variance may also alter the essential character of the locality in a negative manner by creating a long, blank wall created by the construction of a 6-foot fence along 59th Street that extends 58 linear feet.

In addition, granting of the variance will not be keeping with the Minneapolis Comprehensive Plan and the Minneapolis Zoning Code that promotes Crime Prevention through Environmental Design (CPTED) (see Appendix D). The first element of CPTED is natural surveillance and visibility. The Natural surveillance and visibility element is to promote natural observation and maximize the opportunities for people to observe adjacent spaces and public sidewalks. The construction of a 6-foot high fence along the side of the property would reduce visibility into and out of the principal structure along their side elevation.

- 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. Granting of the variance, however, would potentially be detrimental to the public welfare or endanger the public safety by reducing natural surveillance on to 59th Street West from the subject property. Natural surveillance is one of the four strategies of CPTED (see Appendix D for the other three strategies). This strategy helps promote natural observation and maximize the opportunities for people to observe adjacent spaces and public sidewalks. A site or area with quality, natural surveillance is less likely to have a person commit a crime in that area if they think someone will see them do it.

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 **deny** the variance to increase the height of the fence from 3 feet to 6 feet in the corner side yard.

Attachments:

Appendix A: Zoning map

CPED Planning Division
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Appendix B: Application

Appendix C: Maps (Aerial and Topography)

Appendix D: CPTED Strategies

Appendix E: Public Comments