

Department of Community Planning and Economic Development – Planning Division Report

Variance Request
BZZ-4200

Date: October 16, 2008

Applicant: Joshua Timming

Address of Property: 5401 Xerxes Ave South

Contact Person and Phone: Joshua Timming, 612-387-6935

Planning Staff and Phone: Aly Pennucci, 612-673-5342

Date Application Deemed Complete: September 10, 2008

Publication Date: October 10, 2008

Hearing Date: October 16, 2008

Appeal Period Expiration: October 27, 2008

End of 60 Day Decision Period: November 4, 2008

Ward: 13 **Neighborhood Organizations:** Armatage Neighborhood Association; Fulton Neighborhood Association

Existing Zoning: R1A Single-family District and SH Shoreland Overlay District

Proposed Use: Construction of a deck partially covered by a pergola

Proposed Variance: A variance to reduce the established front yard setback along 54th Street West on a reverse corner lot from 36 ft. to 14 ft. to allow for a deck, partially covered by a pergola, at 5401 Xerxes Ave South in the R1A Single-family District and SH Shoreland Overlay District.

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

Background: The subject property is approximately 50 ft. by 90 ft. (4,500 sq. ft.) and consists of an existing single family dwelling, built in 1922, and a detached garage. The property is located at the corner of Xerxes Avenue South and 54th Street West. The adjacent property to the east fronts 54th Street West, making the subject site a reverse corner lot. The applicant has constructed a deck, partially covered by a pergola, to the rear of the existing home. The plans indicate that the deck dimensions are approximately 24.5 ft. by 16.4 ft. The deck is partially covered by a pergola on the southeast corner, includes a built in bench and steps coming off of the northwest corner of the deck. While the existing

CPED Planning Division Report

BZZ-4200

home is set back 11 ft. from the property line along 54th Street West, the deck is setback 14 ft. from the property line along 54th Street West.

Decks located in required yards are allowed by code to be constructed to 50 sq. ft. and project no more than 4 ft. into the required yard. The existing deck is 388 sq. ft. and projects 22 ft. into the required front yard. Much of the existing home and the existing detached garage are currently in the required front yard setback along 54th Street West. This is greater than the district setback of 20 ft. The home on the adjacent property to the east on 54th Street West is setback 36 ft. from the property line, thus increasing the required setback. The existing detached garage on the subject site is located between the deck and the adjacent home to the east at 3015 54th Street West.

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 is seeking a variance to reduce the required front yard setback along 54th Street West from the established 36 ft. setback to 14 ft. to allow for a deck to the rear of an existing single-family dwelling on a reverse corner lot. Due to the large setback of 36 ft. created by the home to the east, the zoning code limits the area where a deck may be placed on this lot without seeking a variance. Strict adherence to the regulations would not allow for this deck to the rear of the existing single-family dwelling. A deck to the rear of a single family house is a reasonable use for residential districts.

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 are unique to this parcel of land due to the large setback created by the adjacent home to the east on 54th Street West. In addition, the subject property is a reverse corner lot, therefore, a front yard setback is required along both Xerxes Avenue South and 54th Street West. Much of the existing single family home and the detached garage are already located in the required front yard setback due to the location of the adjacent home. The home was built in 1922, prior to ownership by the current homeowner. The above circumstances have not been created by the applicant.

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 in keeping with the spirit and intent of the ordinance. The variance request is required in order to construct a rear deck that is greater than 50 sq. ft. in area. The

CPED Planning Division Report

BZZ-4200

deck will not be injurious to the use or enjoyment of other property in the vicinity. The intent of the required and established front yard setback is to create a consistent building wall and to protect viewsheds in the front of dwellings. The deck is located between the existing single family home and detached garage that are currently in the required front yard setback along 54th Street West and is set back 3 ft. further than than the most forward portion of the existing single family home.

- 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.**

The proposed variance would likely have no impact on congestion of area streets or fire safety, nor would the existing deck 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** the variance to reduce the required front yard setback along 54th Street West from 36 ft. to 14 ft. to allow for an existing deck to the rear of a single-family dwelling on a reverse corner lot subject to the following conditions:

1. CPED–Planning Division review and approve the final site plan, floor plans, and elevation.

Attachments:

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| Appendix A. | Map of Area |
| Appendix B. | Aerial Photo |
| Appendix C. | Applicant’s Statement and Letter to Neighborhood Group and Council Member |
| Appendix D. | Variance findings from applicant |
| Appendix E. | Site plan, deck plans and photos of existing deck |