

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

Variance Request  
BZZ-2956

**Date:** May 4, 2006

**Applicant:** Caren Roberts-Frenzel

**Address of Property:** 3943 York Avenue South

**Contact Person and Phone:** Caren Roberts-Frenzel, 612-926-7552

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

**Date Application Deemed Complete:** April 7, 2006

**Public Hearing:** May 4, 2006

**Appeal Period Expiration:** May 15, 2006

**End of 60 Day Decision Period:** June 6, 2006

**Appeal Period Expiration:** May 15, 2006

**Ward:** 13      **Neighborhood Organization:** Linden Hills Neighborhood Council

**Existing Zoning:** R1, Single-family District

**Proposed Use:** Construct an in-ground swimming pool with 4 ft. wide surrounding apron

**Proposed Variances:** A variance to reduce the side yard setback from 6 ft. to 2 ft. to allow for 4 ft. apron around an in-ground pool at 3943 York Avenue South in the R1 Single-family District

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

**Background:** The subject site is an interior lot measuring 60 ft. by 140 ft. in the R1 Single-family District. The applicant is proposing to construct a kidney-shaped, in-ground pool that will measure approximately 14 ft. by 24 ft. The pool will be located to the south of a single-stall garage (15 ft. by 22 ft.) that has a setback to the north of approximately 9 ft. The pool is proposed to be located in the rear 30 ft. of the property.

The proposed pool has a 4 ft. deck, or apron, surrounding the entire pool. The deck is not a structure, but a patio-type pad, similar to a walkway, that surrounds the pool. The Building Code requires that the pool have an unobstructed deck at least 4 ft. (or 48 in.) wide surrounding the entire pool [*IBC 111.6(e)*]. The swimming pool deck is not a permitted obstruction in the required side yard setback.

**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.**

Strict adherence to the Zoning Code would require that the pool decking be set back a minimum of 6 ft. from the side property line. The proposed pool and deck would have to be shifted at least 4 ft. to the north to be in compliance with the setback. The location of the existing garage prohibits the pool from being moved to accommodate the setbacks. Staff believes that the 14 ft. by 24 ft. pool is a reasonable use of the property.

- 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 applicant states that the variance is needed because the location of the detached garage limits the space where a pool, and the required deck, can be located. The garage was built prior to the applicant moving to this property. Staff believes that the limitation imposed by the location of the detached garage is a circumstance not 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 keeping with the spirit and intent of the ordinance and will not alter the character of the neighborhood. While not a prevalent development trend in Minneapolis, the swimming pool and surrounding deck are regular backyard activities. The presence of the pool will create less of an impact to the surrounding area than other accessory structures, like garages, that are permitted to be 1 ft. from the interior side yard in the rear 40 ft. of the lot.

- 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 the side yard setback variance would likely have no impact the congestion of area streets or fire safety, nor would the proposed structure be detrimental to the public welfare or endanger the public safety.

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

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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 side yard setback from 6 ft. to 2 ft. to allow for 4 ft. apron around an in-ground pool at 3943 York Avenue South in the R1 Single-family District, subject to the following conditions:

1. That the Planning Division review and approve the final site plans that measure to an architectural or engineering scale.