

Department of Community Planning and Economic Development – Planning Division Report

Variance Request
BZZ-3170

Date: September 7, 2006

Applicant: Martin Barry

Address of Property: 5222 13th Avenue South

Contact Person and Phone: Martin Barry, (612) 823-0935

Planning Staff and Phone: Brian Schaffer, (612) 673-2670

Date Application Deemed Complete: August 1, 2006

Public Hearing: September 7, 2006

Appeal Period Expiration: September 18, 2006

End of 60 Day Decision Period: October 1, 2006

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

Proposed Use: Egress window to an existing single family home

Proposed Variance: A variance to reduce the required north interior yard setback from 5 feet to 1 foot to allow for an egress window to an existing single family dwelling located at 5222 13th Avenue South in the R1A Single Family District.

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

Background: The size of the subject site is 40 ft. x 123 ft. (4,928 sq. ft.) The property owner is proposing to convert a finished basement space into a legal bedroom. In order to allow for a legal bedroom in the basement an egress window will be required by the International Residential Code. The structure is located approximately four (4) feet from the north interior side. A legal egress window well is required to be three (3) feet in depth, with a minimum opening of 9 sqft. The applicant is proposing to locate the egress window well one (1) foot to the north interior side property line. The minimum setback for an egress window as a permitted obstruction in the required interior side yard is two (2) feet. Therefore, the applicant is applying for a variance to reduce the required north interior side setback from the district minimum of five (5) feet to one (1) foot to allow for an egress window.

The Minneapolis Code of Ordinances Table 535-1 Permitted Obstructions in Required Yards was amended in February of 2005 to include a provision for egress windows as a permitted obstruction in the

required yard. Prior to the amendment to the ordinance, egress windows were a permitted obstruction under 535.280 (c) as provided below.

535.280 Obstructions in required yards. (c) *Additional limitations.* In no case shall any permitted obstruction be located closer than one (1) foot from the property line, except for driveways, walkways, fences, detached accessory buildings, the storage of firewood and containers for the removal of refuse, subject to the provisions of this section. In addition, notwithstanding Table 535-1 Permitted Obstructions in Required Yards, required interior side yards for nonresidential uses shall remain unobstructed from the ground level to the sky except that fencing shall be allowed.

One of the intentions for the change in the Ordinance was to allow for a walkway between the egress window well and the property line. The property currently has a sidewalk on the south side of the property that leads from the public sidewalk to the rear of the structure.

Due to the change in the ordinance, the applicant is required to provide a minimum distance of two (2) feet from the window well to the property line instead of one (1) foot.

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 reduce the required north interior side yard setback from five (5) feet to one (1) feet to allow for the projection of an egress window. The lot is 40 feet wide and meets the minimum lot width. However, the existing house is nonconforming to the north interior side yard, located only 4 feet to the property line. The applicant has stated that “the placement of the window will be where an existing standard basement window is and is located in the only room in the basement that will allow for said window type.” Strict adherence to the regulations would not allow for the proposed egress windows to the existing single family dwelling. Based on the submitted information this request seems reasonable.

- 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 conditions upon which the setback variance is requested are unique to the parcel. As previously mentioned, the variance is to allow for the projection of an egress window to an existing single family dwelling. The lot is 40 feet wide and meets the minimum lot width. However, the existing house is nonconforming to the north interior side yard, located only four (4) feet to the property line. In addition, the basement floor plan, front and rear porch and mechanicals are not circumstances 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 and will not alter the essential character of the surrounding area or be injurious to the use or enjoyment of property in the vicinity. As previously mentioned, the minimum required distance between an egress window well and the property line was one (1) foot until the code was amended in February 2006. In addition, there are already several window wells from the basement that project on the north interior side of the property. Staff does not believe that the egress window well will negatively impact the adjacent properties.

- 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 variances would likely have no impact on the congestion of area streets or fire safety, nor would the variances be detrimental to the public welfare or endanger the public safety.

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 variance to reduce the required north interior yard setback from five (5) feet to one (1) foot allow for an egress window to an existing single family dwelling located at 5222 13th Avenue South in the R1A Single Family District, subject to the following conditions:

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