Department of Community Planning and Economic Development - Planning Division Report

Variance Request BZZ-4204

Date: October 30, 2008

Applicant: Jane Hallas (property owner)

Address of Property: 4323 Dupont Avenue South

Contact Person and Phone: Jane Hallas, (612) 824-9287

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

Date Application Deemed Complete: September 8, 2008

Publication Date: October 24, 2008

Public Hearing: October 30, 2008

Appeal Period Expiration: November 10, 2008

End of 120 Day Decision Period: January 6, 2009

Ward: 13 Neighborhood Organization: East Harriet Farmstead Neighborhood Association

Existing Zoning: R1A/Single-Family District and SH/Shoreland Overlay District

Proposed Use: Construction of an eight-foot fence in the interior side yard.

Proposed Variances: A variance to increase the height of a fence in the interior side yard from six feet to eight feet.

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

Background: The subject property, 4323 Dupont Avenue South, is an interior lot that is zoned R1A. The lot is 5,628 square feet (42 ft. x 135 ft) which is greater than the standard R1A lot of 5,000 square feet. The properties within a 350 foot radius of the subject property are residential lots that are zoned either R1 or R1A.

The subject property has two types of screening along the side property lines that extend from approximately mid-point of the lot to the back of the lot. Along their southern property line there is an eight-foot fence that tapers to six feet at the rear property line (see Appendix B5 for site plan). Along the north property line there is a four-foot chain link fence and 26 evergreen trees that are approximately 25 feet in height. Prior to this summer the evergreen trees had branches that extended from less than three

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feet in height to the top of the tree. The dense branches screened the view between the subject property's first floor windows and the northern neighboring property's first floor windows (4317 Dupont Avenue South). This past June, the evergreen trees were pruned from the trunk base to a height of approximately 10 feet by a landscaping company hired by the neighbor. This work, which will not allow for regeneration of foliage, was not authorized by the applicant nor the property owner at 4317 Dupont Avenue South (see Appendix B9-B13 for current images of trees).

Proposal: The applicant proposes to remove the four-foot chain link fence along their north property line and replace it with an eight-foot high cedar privacy fence that would extend 32 feet in length (see Appendix B5).

Zoning Code: The applicant would be allowed to build a six-foot fence at the proposed location per 535.420 (see below) since the adjoining property maintains a distance of five feet from the shared interior side property line.

535.420 (3) Interior side yard. Fences located in the required interior side yard shall not exceed four (4) feet in height. The maximum height may be increased to six (6) feet if the adjoining property has maintained a minimum interior side yard of five (5) feet along the entire length of the side wall of the principal structure. In addition, the maximum height may be increased to six (6) feet between the rear wall of the principal structure on the adjoining property and the rear lot line

Public Comment: CPED received six letters of support for the variance including a letter of support from the adjoining property to the north at 4317 Dupont Avenue South (see Appendix C).

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 from six feet to eight feet along the north interior side yard. CPED recognizes the permanent damage to the trees as an unfortunate circumstance. However, CPED does not recognize a hardship on this lot to support the building of an eight-foot fence. Staff believes that design alternatives exist that would provide adequate privacy and 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.

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Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.

CPED recognizes the permanent damage to the trees as an unfortunate circumstance. However, CPED does not recognize a unique circumstance on this parcel of land for which the variance is sought. Staff believes that design alternatives exist that would provide adequate privacy and not require this variance.

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 provide natural surveillance and minimize the negative visual impact of a tall fence for adjacent properties. Granting of this variance will not be keeping with the intent of the ordinance. Even though the evergreen trees did not allow for natural surveillance between properties, they are an attractive feature. Allowing for an eight-foot fence would create a negative visual impact for the current and future property owners at 4317 Dupont Avenue South by having a tall wall close to the property line and house.

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, nor would the variance be detrimental to the public welfare or endanger the public safety. Granting of the variance, however, may potentially be detrimental to the public safety by reducing natural surveillance between properties. Natural surveillance is one of the four strategies of Crime Prevention Through Environmental Design (CPTED see Appendix D CPTED strategies). This strategy helps promote natural observation and maximize the opportunities for people to observe adjacent spaces. 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 <u>adopt</u> the findings above and <u>deny</u> the variance to increase the height of the fence at 4323 DuPont Avenue South in the R1A/Single-Family District and SH/Shoreland Overlay District.

Attachments:

Appendix A: Zoning map

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Appendix B: Application Appendix C: Public Comments

Appendix D: Crime Prevention Through Environmental Design (CPTED) Strategies