

Department of Community Planning and Economic Development – Planning Division**Variance Request
BZZ-3980**

Applicant: Albert Clouse & Mary D. Britton Clouse

Address of Property: 2023 Lowry Avenue North

Contact Person and Phone: Albert Clouse & Mary D. Britton Clouse, (612) 521-9921

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

Date Application Deemed Complete: March 12, 2008

Publication of Staff Report: April 4, 2008

Public Hearing: April 10, 2008

Appeal Period Expiration: April 21, 2008

End of 60 Day Decision Period: May 11, 2008

Ward: 4 **Neighborhood Organization:** Jordan Area Community Council
Adjacent to: Folwell Neighborhood Association

Existing Zoning: OR1 Neighborhood Office Residence District

Proposed Use: A 6 foot tall open decorative iron fence

Proposed Variance: A variance to increase the height of a fence in the front yard from 4 feet to 6 feet to allow for an open 6 foot tall decorative iron fence in the front yard of a single family dwelling located at 2023 Lowry Avenue North.

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

Background: The subject property is a reverse corner lot that is 55 feet by 82.7 feet (4,545 square feet) and consists of a single family dwelling. The property is located along Lowry Avenue North, which is being reconstructed by Hennepin County. As part of the reconstruction, Lowry Avenue is being widened resulting in the loss of some of the ROW along Lowry Avenue. The ROW in front of the subject property is being reduced and will result in the loss of a 10 foot high formal hedge. The applicant is proposing to construct a 6 foot tall decorative iron fence and is proposing to plant a new arborvitae hedge along the property line. The maximum height for an open and decorative fence is four feet in the required front yard. A variance is required to increase the height of the fence from 4 feet to 6 feet.

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 an open and decorative fence from 4 feet to 6 feet in the front yard. The applicant states that a “fence height less than six feet would not be adequate to replace the positive physical and visual features of the existing hedges.” Staff is sympathetic to the loss of the formal hedge. However, staff does not believe there is undue hardship caused by strict interpretation of the Zoning Ordinance. The applicant has the ability to plant another hedge along the property line to re-create the visual feature of the existing hedge. The applicant also has the ability to construct a four foot tall open fence to re-create the physical barrier that the formal hedge created as the new hedge matures.

- 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 variance is sought are unique to the parcel. The formal hedge served as a physical barrier between the structure and Lowry Avenue. The applicant has the ability to plant a new hedge with a four foot tall open fence to reinforce the separation between the street and the property that the previous hedge created. There are numerous properties that are located along busy streets in Minneapolis.

- 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 proposed fence variance will not alter the essential character of the neighborhood. The existing formal hedge is taller than the proposed six foot tall fence and is opaque compared to the open ornamental iron fence. Staff is concerned that if the proposed replacement hedge is ever removed from the property the site will be left with a six foot tall fence in the front yard. The intent of the ordinance in reducing front yard fence height is to make our street and neighborhoods more pedestrian friendly. A six foot tall fence, albeit decorative and open, still creates a walled-off effect and is not pedestrian friendly.

- 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 variance would not likely increase congestion in the area or increase the danger of fire safety, nor would the variance be detrimental to welfare or public safety.

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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 **deny** a variance to increase the height of a fence in the front yard from 4 feet to 6 feet to allow for a 6 foot tall decorative iron fence in the front yard of a single family dwelling located at 2023 Lowry Avenue North OR1 Neighborhood Office Residence District.

Attachments

1. Applicant's statement
2. Map of the area
3. Site Plans and rendering of fence
4. Pictures