

Department of Community Planning and Economic Development – Planning Division Report

Variance Request
BZZ-4657

Date: January 14, 2010

Applicant: Benjamin Baird

Address of Property: 4957 Park Avenue

Contact Person and Phone: Benjamin Baird, 612-703-8832

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

Date Application Deemed Complete: December 15, 2009

End of 60 Day Decision Period: February 12, 2010

Ward: 8 **Neighborhood Organizations:** Field, Regina, Northrop Neighborhood Group

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

Lot Area: 4,720 sq. ft

Zoning Plate Number: 31

Legal Description: Not applicable

Proposed Use: Shed

Proposed Variance:

- A variance to reduce the required front yard setback from 29 ft. to 5 ft.

Applicable zoning code provisions: Chapter 525, Article IX Variances, Specifically Section 525.520(1) “to vary the yard requirements, including permitted obstructions into required yards not allowed by the applicable regulations.”

Background: The subject property is a corner lot that is approximately 40 ft. by 119 ft. (4,720 sq. ft.) and consists of an existing single family dwelling located to the rear of the lot (5 ft. from the alley), built in 1926. The applicant installed a 10 ft. x 7 ft. shed located 5 ft. from the front property line.

A notice of non-compliance was sent to the property owners on October 13, 2009 informing them that the location of the detached accessory structure (shed) violates the Minneapolis zoning code and must

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be moved or a land use application submitted by October 27, 2009. Following a second inspection by zoning enforcement staff, a warning letter was sent to the property owners informing them that they will be charged for a re-inspection if the shed was not relocated or a land use application submitted by November 30, 2009. The property owners requested an extension that Zoning Enforcement staff granted to allow more time to submit a land use application. (See attached). A land use application was submitted on December 10, 2009.

In the R1A single-family district the required front yard setback is 20 ft. Due to the location of the neighboring property to the north, the established setback for the subject site is approximately 29 feet. A detached accessory structure is not a permitted obstruction in the required front yard and therefore a variance is required.

During a site visit to the subject property, the Department of Community Planning and Economic Development – Planning Division staff observed a second shed located on the property approximately 6 ft. from the dwelling and 1 ft. from the interior side property line that was not identified on the site plan submitted by the applicant (see attached staff photos). In the R1A single-family district the required interior side yard setback is 5 ft; this second shed appears to be in violation of the side yard requirements for a detached accessory structure in the R1A single-family residence district. The applicant did not address this shed in the application submitted on December 10, 2009. Zoning enforcement staff will follow up with the property owner following an inspection to determine if it is in violation of the zoning regulations.

As of the writing of this staff report, staff has not received any correspondence from the Field, Regina, Northrop Neighborhood Group. Staff will forward comments, if any are received, at the Board of Adjustment meeting.

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 from the setback established by the adjacent dwelling to the north from 29 ft. to 5 ft. Strict adherence to the regulations would allow for a shed to the front of the existing single-family dwelling and does not cause undue hardship. A detached accessory structure that is used in part or in whole for vehicle parking must be located entirely to the rear of a residential structure however, a detached accessory structures not used for vehicle parking can be located to the front or side of a residential structure provided it meets all other yard and distance requirements. The existing dwelling is located approximately 5 ft. from the rear property line and as a result, there is a significant portion of the front yard where a shed can be located outside of the required setback. The shed must be 6 ft. from any dwelling, 5 ft. from the interior side property line and 29 ft. from the front property line. The Department of Community Planning and Economic Development –

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Planning Division staff believes that other design alternatives exist and that the property can be put to reasonable use without a shed in the required front yard.

- 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 not unique to this parcel of land. The applicant states that the circumstances are unique due to the location of the existing single-family dwelling towards the rear of the lot. Because the neighboring house to the north (4953 Park Ave) is located closer to the front lot line, the subject site has significant space to the front of the dwelling where a shed can be located outside of the required yards.

- 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 not be in keeping with the spirit and intent of the ordinance and will alter the essential character of the locality and may 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. A shed located 5 ft. from the front property will disrupt viewsheds and increases the inconsistency of building walls.

- 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 be detrimental to the public welfare or endanger the public safety.

Additional Findings for the Variance per the Shoreland Overlay District:

- 1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction.**

The applicants will be required to prevent soil erosion and possible pollution of public waters, if any soil is or was disturbed. The applicants will be required to follow all applicable City requirements to prevent any type of water pollution.

- 2. Limiting the visibility of structures and other development from the protected waters.**

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The height of the proposed shed is significantly less than the existing single-family dwelling and the height of surrounding properties. The shed will be no more visible than the existing and adjacent dwellings.

3. The suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate.

The proposed variance should have no impact on the types, uses, and numbers of watercraft that occupy Minnehaha Creek.

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** the variance request to reduce the required front yard setback from 29 ft. to 5 ft. to allow for a 10 ft. by 7 ft. shed to the front of an existing single-family dwelling located at 4957 Park Avenue in the R1A Single-Family Residence District and SH Shoreland Overlay District.

Attachments:

- 1) Written descriptions and findings submitted by the applicant
- 2) Copy of e-mail sent to neighborhood organizations and CM
- 3) Zoning map
- 4) Site plan
- 5) Photographs submitted by applicant
- 6) Photographs taken by CPED-Planning Division staff
- 7) Oblique aerials
- 8) Communications from Zoning Enforcement staff