

Department of Community Planning and Economic Development - Planning Division Report

Variance Request
BZZ-4132

Date: August 14, 2008

Applicant: Judith Pugh (property owner)

Address of Property: 2735 Aldrich Avenue South

Contact Person and Phone: Judith Pugh, (612) 760-2663

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

Date Application Deemed Complete: July 14, 2008

Public Hearing: August 14, 2008

Appeal Period Expiration: August 25, 2008

End of 60 Day Decision Period: September 12, 2008

Ward: 10 **Neighborhood Organization:** Lowry Hill East

Existing Zoning: R2B/Two-Family District

Proposed Use: Construct egress window wells along the north elevation.

Proposed Variance: Variance to reduce the north side yard setback from 5 feet to 0 feet.

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

Background: The subject property, 2735 Aldrich Avenue South, measures 50 ft. x 119 ft. (5,927 sq. ft.). The lot contains a two-story, multiple-family dwelling, constructed in 1920. There are eight recognized dwelling units; six one-bedroom apartments and two two-bedroom apartments.

The properties to the north and south of the subject property are also apartment buildings. The property to the north, 2729 Aldrich Avenue South, is an eight-unit building. There is seven feet that separates the building on the subject property from the building on the property to the north. The area between the buildings appears to function as a courtyard (see Appendix B27). The property to the south, 2741 Aldrich Avenue South, is a three-unit building.

The building on the subject site is 44 feet wide and centered on the property. This creates three foot setbacks on the north and south side property lines (see Appendix B3). The subject property has three

window wells on the south and two along the north elevation. These window wells are 3 feet wide by 1 ½ feet deep (4.5 square feet) and are 1 ½ feet from the property line at their closest point.

Proposal: The applicant is planning to convert the apartment building into a condominium building. The number of units are not proposed to change. However, the applicant would like to convert Unit #4 from a one-bedroom unit to a two-bedroom unit (see Appendix B4 and B5). Therefore, there would be five one-bedroom apartments and three two-bedroom apartments. In order to create this additional bedroom the building code requires the basement bedroom to have an egress window that is a minimum of three feet in depth and a minimum of nine square feet in area. If built, the proposed egress window well would extend to the side property line.

Zoning Code:

The Zoning Code allows egress window wells as a permitted obstruction in the side yard as long as they comply with the requirements of Table 535-1 of the Zoning Code

Egress window wells not exceeding sixteen (16) square feet in area. Such window wells shall not be located closer than two (2) feet from an interior side property line

Since the proposed egress window wells will be less than 2 feet from the property line it is not a permitted obstruction.

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 north interior side yard setback from 5 feet to 0 feet to allow for two egress windows. The egress window wells are being proposed to allow for an additional bedroom in a multiunit building. Strict adherence to the Zoning Ordinance prohibits an egress window opening if it is less than two feet from the property line. Even though this property can not build an egress window that conforms to the Zoning Code, the property can be put to a reasonable use without this variance, and staff does not see a hardship for the requested 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. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

Even though the structure was built prior to the first City of Minneapolis Zoning Code (1920), staff does not recognize a circumstance unique to this parcel of land for the variance request. The subject property exceeds the minimum R2B lot width requirement of 40 feet (subject property is 50 feet wide) and minimum R2B lot area requirement of 5,000 square feet (subject property is 5,927 square feet).

- 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 spirit and intent of the zoning code in requiring egress windows to be at least two feet from the property line is two fold. First, to ensure there is a safe path for emergency respondents to have access to a building along a side property line. Second, to provide a buffer between neighboring structures. Granting of the variance to allow for an egress window to zero feet would potentially create a falling hazard for emergency respondents and neighbors that use this area as a courtyard (see Appendix B27).

- 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 variance would have no impact on the congestion of area streets. However, granting of the variance would potentially be detrimental to the public safety. If the applicant is allowed to have an egress window well that extends to the property line and the neighboring property to the north wants to construct an egress window along their south elevation in the future it could create an area that may be difficult for emergency respondents to safely access this area. In addition, if a fence was constructed along the property line this may create a public safety issue by having an egress window that extends to the property line.

Recommendation of the Department of Community Planning and Economic Development:

The Department of Community Planning and Economic Development (CPED)–Planning Division recommends that the Board of Adjustment adopt the findings above and **deny** the variance to reduce the required south interior side yard setback from 5 feet to 0 feet to allow for the installation of an egress window on the multiple-family dwelling at 2735 Aldrich Avenue South in the R2B, Two-Family District.

Attachments:

Appendix A: Zoning map

Appendix B: Application