

Department of Community Planning and Economic Development – Planning Division**Variance Request
BZZ-3429**

Date: March 22, 2007

Applicant: Dale and Liz Nugent

Address of Property: 2734 Stinson Parkway

Contact Person and Phone: Dale Nugent, (612) 781-5880

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

Date Application Deemed Complete: February 27, 2007

Public Hearing: March 22, 2007

Appeal Period Expiration: April 2, 2007

End of 60 Day Decision Period: April 28, 2007

Ward: 1 Neighborhood Organization: Audubon Neighborhood Association

Existing Zoning: R1 Single Family District

Proposed Use: A 15 by 22 ft deck.

Proposed Variance: A variance to reduce the interior side yard setback from 6 feet to 1 foot 9 inches to allow for a deck at 2734 Stinson Parkway in the R1 Single Family District.

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

Background: The subject property is a interior lot that is approximately 61 ft by 126 ft. (7,686 square feet) and consists of an existing one and a half story single family dwelling with an attached garage. The subject home is located 17 feet from the south interior property line.

The applicant had an existing patio located on the south side of the dwelling. In the fall of 2006 the applicant constructed a deck, without city approval, on the south side of the dwelling replacing the existing patio. The applicant was issued a stop work order on October 26, 2006.

The deck that was constructed by the applicant is 15 feet by 22 feet and is located 1 foot 9 inches from the south property line. The applicant is also proposing to build an 8 foot tall fence adjacent to the southern portion of the deck.

The Zoning Ordinance prohibits a deck in the required side yard, which is 6 feet. The maximum height of a fence in the required side yard is 6 feet. The deck, as built, requires a variance to reduce the side yard setback from 6 feet to 1 foot 9 inches. The proposed fence requires a variance to increase the maximum height of a fence from 6 feet to 8 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 reduce the required south interior side yard from 6 feet to 1 foot 9 inches to allow for a 15 foot 3 inch by 22 foot deck. The applicant's home is located 17 feet from south property line. Strict adherence to the Zoning Ordinance prohibits decks in the required 6 foot side yard, which would allow a deck 11 feet deep in the proposed location.

The applicant has indicated that 15 foot 3 inch depth of the deck is required to accommodate the special needs of their disabled daughter. The daughter requires a wheelchair or hand over hand guidance. The ADA guidelines recommend a 4 foot wide aisle for hand over hand walking assistance. The applicant has provided a layout of the deck illustrating the impacts of the recommended aisles with seating.

Staff recognizes the difficulty in accommodating the needs of the applicant's daughter and the Zoning Ordinance requirements, but does not believe that there is undue hardship caused by the ordinance in this situation. Staff believes that a 11 foot deep deck is a reasonable use and that there are alternative locations on the lot that can accommodate the depth of a deck the applicant desires that will be within 15 feet to the kitchen entrance of the home.

- 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 upon which the side yard variance is request are not unique to the parcel of land. The parcel is larger than a standard lot in the R1 Single Family Zoning District and is 61 feet wide by 126 feet long. The applicant has 11 feet between the dwelling and the required 6 foot side yard to accommodate a deck.

- 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.**

CPED Planning Division Report
BZZ-3429

The impacts of the larger deck will be most experienced by the immediate neighbor to the south, 2730 Stinson Parkway. The owners of 2730 Stinson Parkway have submitted a letter to staff in support of the deck and the variance. Despite this the neighbor's support, staff believes the proximity of the neighbor's home to property line, the proposed deck and the proposed open lattice work to screen the deck will have a negative impact on the character of the neighborhood and will be injurious to other property in the vicinity.

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

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 to reduce the interior side yard setback from 6 feet to 1 foot 9 inches to allow for a deck at 2734 Stinson Parkway in the R1 Single Family District.