

Department of Community Planning and Economic Development – Planning Division**Variance Request
BZZ-3964**

Applicant: Gregg Hanson, on behalf of Jim Johnson and Kathy Schweikart

Address of Property: 4858 Fremont Avenue South

Contact Person and Phone: Gregg Hanson, (612) 861-0188

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

Date Application Deemed Complete: February 29, 2008

Publication of Staff Report: March 21, 2008

Public Hearing: March 27, 2008

Appeal Period Expiration: April 7, 2008

End of 60 Day Decision Period: April 29, 2008

Ward: 13 **Neighborhood Organization:** Lynnhurst Neighborhood Association

Existing Zoning: R1 Single Family District

Proposed Use: A 9 foot by 21 foot 8 inch deck

Proposed Variance: A variance to reduce the north interior property line from 6 feet to 3 feet to allow for the construction of a new attached raised deck on a single family dwelling located at 4858 Fremont Avenue South in the R1 Single Family District.

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

Background: The subject property is 60 feet by 135 feet (8,100 square feet) and consists of single family dwelling with an attached rear facing garage that is accessed off the alley. The subject home is located 6 feet from the north property line and the attached rear facing garage is 3 feet from the north property line. The roof top of the attached garage is designed as a terrace. The terrace is located 3 feet from the north property line and follows the building wall of the garage below.

The applicant is proposing two projects; the first is a 126 square foot addition that will be built on top of the existing terrace and will follow the existing building wall of the home, which is 6 feet from the north property line. This project can be approved administratively and is not the subject of this variance request. The second project is a 9 foot deep by 21 foot, 8 inch wide deck that will follow the building

wall of the attached garage and terrace. The proposed deck will be 3 feet from the north property line. The district side yard setback is 6 feet and a variance is required to allow for the deck to be 3 feet from the north interior property line.

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 6 feet to 3 feet to allow for a new deck. The house was constructed in 1926 and the attached rear facing garage and roof top terrace appears to be original to the design. The proposed deck will follow the setback of the garage and the original terrace. The applicant has stated that the deck cannot be located to meet the side yard setback of 6 feet as the posts for the deck will then block access to the garage stalls. Staff believes the applicant has design alternatives for the deck, which include locating the deck to the south of the proposed location which would not interfere with the driveway or be located in the required side yard setback. Staff does not believe there is undue hardship caused by strict interpretation of the zoning ordinance.

- 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 due to setbacks and configuration of the dwelling. The existing terrace and attached garage are located 3 feet from the north interior property line. The applicant did not construct the house or the attached garage. However, the applicant is choosing to construct the addition on the location of the existing terrace resulting in the desire to construct the proposed deck. The applicant is creating the circumstances that require the 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 proposed setback variance will not alter the essential character of the neighborhood. The proposed deck will maintain the same setback and size as the existing terrace. Staff believes that the impacts of noise or enjoyment to adjacent property owners will not be increased since the proposed deck is no closer to the property line than the existing terrace and similar in size. However, the existing terrace is 3 feet from the property line and its current impacts could be injurious to the enjoyment of the adjacent property owners to the north at, 4850 Fremont Avenue South. The owners of this dwelling have written a letter of support for the variance request, though owners and their opinions can change.

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 terrace variance be detrimental to welfare or 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 a variance to reduce the north interior property line from 6 feet to 3 feet to allow for the construction of a new attached raised deck on a single family dwelling located at 4858 Fremont Avenue South in the R1 Single Family District.

Attachments

1. Applicant's statement
2. Map of the area
3. Plans for the deck and home
4. Pictures
5. Statement of support from neighbor