

**Department of Community Planning and Economic Development – Planning Division Report****Variance Request  
BZZ-3614****Date:** July 12, 2007**Applicant:** Jason McDonald**Address of Property:** 2943 Grand Street N.E.**Contact Person and Phone:** Jason McDonald, (612) 986-4246**Planning Staff and Phone:** Hannah Berg, (612) 673-5467**Date Application Deemed Complete:** June 7, 2007**Hearing Date:** July 12, 2007**Appeal Period Expiration:** July 22, 2007**End of 60 Day Decision Period:** August 10, 2007**Ward:** 1      **Neighborhood Organization:** Concerned Citizens for Marshall Terrace**Existing Zoning:** R2B, Two-family District**Proposed Use:** Existing two-family dwelling

**Proposed Variance:** A variance to reduce the required north interior side yard setback of Lot 26 from 5 ft. to the zero lot line to allow for the continued use of a two-family residence with an exterior staircase on a lot that is proposed to be split in the R2B Two family District.

**Zoning code section authorizing the requested variance:** 5250520 (1)

**Background:** The subject property at 2943 Grand Street NE is a double-sized lot measuring 80 ft. by 133.4 ft. (10,675 sq. ft.). According to the Sanborn Maps from 1912, the existing parcel consists of two platted lots, Lot 26 and Lot 27. Each measures 40 ft. in width and 133.4 ft. in length (5,336 sq. ft.). With the proposed plat line re-established, both lots will meet the minimum lot area requirements in the R2B District.

The existing two-story frame dwelling at 2943 Grand Street NE was built in 1914. The footprint is entirely on Lot 26, however the structure was built 4.1 feet from the northern lot line which separated Lot 26 and Lot 27. If the lot is split, the dwelling would again be setback 4.1 feet from the property line.

In 1946, the single-family home was converted into a duplex and an exterior staircase leading to a second-story unit was added. Currently, the stairs run the length of the northern façade of the building, providing a second egress for the upper unit. A second form of egress is not required by the building code<sup>1</sup>. Measuring 4 feet in width and with a height greater than 4 feet, these stairs do not qualify as a permitted side yard obstruction. In addition, the stairs encroach 0.2 feet onto lot 27 and would necessitate an easement agreement between the property owners.

In 2006, the applicant purchased 2943 Grand Street NE and is now requesting a variance to reduce the northern side yard setback from 5 feet to the zero lot line to allow for the continued use of a duplex with an exterior staircase on a lot that is proposed to be split.

### **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.**

This double-sized lot cannot be split into two parcels under strict adherence to the zoning code without a variance for the side yard. It is reasonable to use lots in an R2B zoning district for single or two-family dwellings when the lots meet minimum lot area requirements. Strict adherence to the code would prevent this use due to the location of the building 4.1 feet away from the historic plat line. Relocating the home is an unreasonable expectation. Denying a side yard variance would restrict the use of the parcel(s) and create a hardship.

However, alternatives exist that would obviate the need for a variance to the zero lot line. The exterior stairs which act as a second form of egress for the upper unit are unnecessary. The historic positioning of the stairs in the required side yard does not qualify as a hardship. Alternatives exist, such as removal of the stairs, which would reduce the setback variance to the building wall (4.1 ft).

Hardship is found in the location of the dwelling; however, the current location of the stairs is not a hardship.

- 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 position of the home, located 4.1 feet from the historic northern lot line separating lot 26 and 27 creates a hardship. The lot was created and a home placed on that lot before existing lot controls were adopted and therefore were not created by the applicant. Had the existing home been centered on lot 26, it would exceed minimum side yard requirements of the R2B zoning district and would have allowed adequate room for the exterior staircase.

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<sup>1</sup> IRC code section R311.1; exits from one and two-family dwellings.

- 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.**

A side yard variance to reduce the northern setback to the zero lot line would not be in keeping with the spirit of the ordinance and would alter the essential character of the surrounding properties. A staircase on the northern side of the home is not in keeping with the spirit and intent of the ordinance due to that structures encroachment on the lot to the north and the fact that it is unnecessary to continue to use the property as intended. A variance to the zero lot line is greater than what is necessary to afford relief from the hardship.

However, a setback to 4.1 feet (the building wall) would be in keeping with the spirit and intent of the ordinance. Large, double-sized lots are uncharacteristic of both the neighborhood and of the R2B zoning districts. Granting the variance would enable the lot to be split and match the essential character of the surrounding area.

- 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 side yard setback variance would likely have no impact on the congestion of area streets or fire safety, nor would it be detrimental to the public welfare or endanger public safety. Because the home is greater than 3 feet from the property line, it is not required to be fire rated.

**Recommendation of the Department of Community Planning and Economic Development**

The Department of Community Planning and Economic Development recommends the Board of Adjustment **adopt** the findings above and **approve** the variance application to decrease the side yard setback from 5 feet to **4.1** feet with the following conditions:

1. Remove the external staircase on the north side of the home.
2. The applicant shall submit confirmation from Hennepin County that 2 separate PID numbers have been created prior to the issuance of any building permits for Lot 27.

Appendix A: Maps, Aerials and Photos

Appendix B: Application Material

Appendix C: Correspondence