

Department of Community Planning and Economic Development – Planning Division Report**Variance Request
BZZ-2222****Date:** April 7, 2005**Applicant:** Christine Cahill, on behalf of Mark Pettygrove**Address of Property:** 3201 22nd Avenue South**Date Application Deemed Complete:** February 25, 2005**End of 60 Day Decision Period:** April 27, 2005**Appeal Period Expiration:** April 18, 2005**Contact Person and Phone:** Christine Cahill, 952-447-5639**Planning Staff and Phone:** Molly McCartney, 612-673-5811**Ward:** 9 **Neighborhood Organization:** Corcoran**Existing Zoning:** R2B District, Two-family District**Proposed Use:** A fence in the required front yard of a reverse corner lot.**Proposed Variance:** A variance to increase the maximum height for a fence located in the front yard from 3 feet to 6 feet on reverse corner lot located at 3201 22nd Avenue South in the R2B, Two-family District.**Zoning code section authorizing the requested variance:** 525.520 (5)**Background:** The subject site is approximately 7,670 sq. ft. (45 ft. by 172 ft.) and consists of a 2-story, two-family dwelling and a two-stall, detached garage on a reverse corner lot. The subject site has two front yards along 22nd Avenue South and East 32nd Street. There is a six ft. fence along the property line along East 32nd Street. The maximum permitted height of a fence is three ft. tall in the required front yard.

Much of this fence is located in the right of way along the sidewalk. Staff can not recommend approval for structures located in the right of way, but can recommend that the fence be relocated to the property or an encroachment permit be obtained from Public Works. The applicant states that this fence was existing when he purchased the property in 2002. Pictures from the site and information provided from a neighbor indicate that this fence has existed prior to Mr. Pettygrove's purchase of the property.

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.**

Fence height: The applicant is requesting a variance to increase the maximum permitted height of a fence in the front yard of a reverse corner lot from 3 ft. to 6 ft. Without a variance, the maximum height of a fence that is greater than 60 percent opaque in the required front yard is 3 ft. Staff believes a 6 ft. tall fence located on the property, constructed behind the dwelling is a reasonable use of the property.

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.**

Fence height: The circumstances upon which the setback variance is requested are unique to the parcel of property. The subject site is a reverse corner lot and subject to two front yards which limits the height of the fence along East 32nd Street to 3 ft. The applicant states that the fence existed when the property was purchased in 2002. The platting of the lot as a reverse corner lot is not a circumstance created by the applicant; however, the property owner is responsible for placement of the fence in the right of way. The entire length of the 6 ft. fence is located in the right of way. Staff can not recommend approval of a variance for a structure not located on the subject property.

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.**

Fence height: Granting the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the area or be injurious to the use or enjoyment of other property in the vicinity if the fence is located in the subject site and is reduced to 3 ft for the portion along the house. Many corner lot properties have 6 ft. tall fences located behind the dwelling. The subject fence extends only to the driveway located approximately 30 ft. from the rear property line. However, most of the fence is currently located in the right of way. Staff can not recommend approval for a structure not located on the subject site.

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.**

Fence height: Granting the variance would likely have no impact on congestion of area streets or fire safety, nor would the proposed variance be detrimental to the public welfare or public

CPED Planning Division Report
BZZ-2222

safety. The fence does not interfere with the required site triangle where the alley meets the public sidewalk and street.

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 **approve** the variance to increase the maximum height for a fence located in the front yard along E. 32nd St. from 3 feet to 6 feet on a reverse corner lot located at 3201 22nd Avenue South in the R2B, Two-family District, subject to the following conditions:

1. That the fence is relocated from the right of way to the subject property or the applicant receives approval of an encroachment permit from Public Works.
2. That the portion of the fence along the dwelling is reduced to 3 ft. in height.