

Department of Community Planning and Economic Development - Planning Division Report
Variance
BZZ-4567

Date: October 15, 2009

Applicant: Mike Rudh

Address of Property: 5307 Russell Avenue South

Project Name: 5307 Russell Avenue South

Contact Person: Mike Rudh, (612) 354-2549

Planning Staff: Shanna Sether, (612) 673-2307

Date Application Deemed Complete: September 21, 2009

End of 60-Day Decision Period: November 20, 2009

Ward: 13 **Neighborhood Organization:** Fulton Neighborhood Association

Existing Zoning: R1 Single Family District and SH Shoreland Overlay District

Zoning Plate Number: 35

Legal Description: Not applicable

Proposed Use: Expansion of existing roof-top decks and balconies to an existing single-family dwelling

Variance: to reduce the front and interior side yard setbacks to allow for the extension of existing roof-top decks and balconies to an existing single family dwelling.

Zoning code section authorizing the requested variance: Chapter 525, Article IX Variances, Specifically Section 525.520(1) "to vary the yard requirements, including permitted obstructions into required yards not allowed by the applicable regulations."

Background: The subject property is approximately 50 ft. by 120 ft. (6,000 sq. ft.). The property consists of an existing two-story dwelling with a tuck-under garage. The dwelling was constructed in approximately 1925. There is an existing roof-top deck that covers the majority of the roof of the existing single-family dwelling, an existing 12 ft. by 12 ft. detached sun porch in the rear yard and two 9 ft. by 10 ft. concrete roof-top decks over the existing tuck-under garage. The applicant is proposing to extend the existing roof-top decks over the tuck-under garage towards Russell Avenue South to approximately 16 ft. 6 in. to the front property line and to the east interior side property line to approximately 5 ft. 5 in. In addition, the applicant is proposing to construct an additional deck, approximately 10 ft. wide and 18 ft. deep, on the west interior side, approximately 1 ft. to the property line.

As of writing this staff report, staff has not received any correspondence from the Fulton Neighborhood Association. Staff will forward comments, if any are received, at the Board of Adjustment meeting.

Findings Required by the Minneapolis Zoning Code - Variance:

- 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 is seeking a variance to reduce the front, east and west interior side yard setbacks to allow for the extension of an existing roof-top deck and a new deck on the interior side of an existing single-family dwelling. The existing dwelling has a roof-top deck over the majority of the structure, two 9 ft. by 10 ft. roof-top decks over the existing tuck-under garage and a 12 ft. by 12 ft. detached sun porch in the rear of the lot. The applicant has stated that the current size of the space does not allow for room to sit and relax. Strict adherence to the regulations would not allow for the deck as proposed. Staff believes that reasonable use of the property currently exists with the existing decks, patios and porch.

- 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 setback variances are requested are not unique to the parcel of land. The alternative to the variance would not cause a hardship to the property owner by not allowing for adequate use of this property. The existing dwelling and roof-top decks over the tuck-under garage are located within the required front yard. Staff does not believe further encroachments into the required yards are necessary to accomplish a reasonable outdoor area that would serve the property owner. The proposal that would locate new decks in three of the required yards is a circumstance that would be created by the applicant.

- 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.**

Staff believes the proposal of the roof-top deck located 16 ft. 6 in. to the front property line, 1 ft. to the west interior side and 5 ft. 5 in. to the east interior side property line may alter the essential character of the surrounding neighborhood and be injurious to the surrounding property. The adjacent structure to the south has windows on the north side of their building that would face the new roof-top deck and the potential for nuisance is likely. Staff believes that the proposed decks will likely be injurious to the use or enjoyment of other property in the vicinity, due to the projection of them into three required yards.

- 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 yard setback variances would likely have no impact on the congestion of area streets or fire safety, nor would the proposed decks to the existing single-family dwelling be detrimental to the public welfare or endanger the public safety.

ADDITIONAL FINDINGS FOR THE VARIANCE PER THE SHORELAND OVERLAY DISTRICT:

1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction.

The applicants will be required to prevent soil erosion and possible pollution of public waters, both during and after construction of the proposed addition. The applicants will be required to install a silt fence during construction and will be required to follow all applicable City requirements to prevent any type of water pollution.

2. Limiting the visibility of structures and other development from the protected waters.

The surrounding properties consist of single-family dwellings with similar height. Staff believes the proposed project will be no more visible than the adjacent dwellings. The view of the Minnehaha Creek will not be further limited with the proposed decks.

3. The suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate.

The proposed variance should have no impact on the types, uses, and numbers of watercraft that occupy Minnehaha Creek.

Recommendation of the Department of Community Planning and Economic Development - Variance:

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 front yard setback along Russell Avenue South to allow for a deck to an existing single family dwelling.

Recommendation of the Department of Community Planning and Economic Development - Variance:

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the findings above and **deny** the to reduce the east interior side yard setback from 6 ft. to 5 ft. 5 in. to allow for a deck to an existing single family dwelling.

Recommendation of the Department of Community Planning and Economic Development - Variance:

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the findings above and **deny** the to reduce the

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west interior side yard setback from 6 ft. to approximately 1 ft. to allow for a deck to an existing single family dwelling.

Attachments:

- 1) Written descriptions and findings submitted by the applicant
- 2) Copy of e-mail sent to neighborhood organizations and CM Hodges
- 3) Zoning map
- 4) Survey/Site Plan
- 5) Deck site plan
- 6) Deck elevations
- 7) Photographs