

**Department of Community Planning and Economic Development – Planning Division****Variance Request  
BZZ-3203****Date:** September 21, 2006**Applicant:** Stephanie Pedone**Address of Property:** 2401 Aldrich Avenue South**Contact Person and Phone:** Stefanie Pedone, (612) 695-1714**Planning Staff and Phone:** Shanna Sether, (612) 673-2307**Date Application Deemed Complete:** August 25, 2006**Public Hearing:** September 21, 2006**Appeal Period Expiration:** October 2, 2006**End of 60 Day Decision Period:** October 24, 2006**Ward:** 10      **Neighborhood Organization:** Lowry Hill East Neighborhood Association**Existing Zoning:** R2B Two-family Residential District**Proposed Use:** A rear 3<sup>rd</sup> story addition to an existing two-family dwelling.**Proposed Variance:** A variance to increase the maximum height of a two-family residential structure from 2.5 stories to 3 stories in the R2B district located at 2401 Aldrich Avenue South.**Zoning code section authorizing the requested variance:** 525.520 (4)**Background:** The subject property is approximately 45 ft. by 80.7 ft. (3631.5 sq. ft.) and consists of an existing top/down, two-family dwelling on a reverse corner lot. The applicant has begun construction of a third floor addition to a duplex after fire damage that the building sustained in April of 2006. The applicant received a building permit to repair fire damage and to allow for additional habitable space on the third floor on June 30, 2006.

Zoning Enforcement inspected the subject site after receiving a complaint from the neighborhood group indicating belief that the proposed construction was to allow for a third dwelling unit. After the inspection of the property, Zoning Enforcement did not find evidence of a third dwelling unit, however, Zoning Enforcement cited the building for being out of compliance with the maximum height requirement for a two-family dwelling.

The Zoning Administrator issued a stop work order (see attached) dated August 14, 2006. In the letter he indicated that the building permit that was approved June 30, 2006 received zoning compliance approval in error, in that the current fire damage repair and addition to the two-family dwelling as built constitutes a third story and is not allowed without first obtaining a variance to **546.420 Building Bulk Requirements** in the R2B District.

The Zoning Administrator made the determination that the current construction of the third floor did not meet the definition of a *Story, half* under 520.160 of the Minneapolis Code of Ordinances, which states:

***Story, half.*** A story under a gable or hip roof that contains a habitable floor area, including floor area under dormers, not exceeding fifty (50) percent of the floor area of the floor below.

Where building height is limited to 2-1/2 stories, the definition of half-story must be referenced. In determining whether a half-story exists, both parts of the two-part test must be met. First, the half-story must be under a gable or hip roof. (A building with a flat, shed or mansard roof cannot qualify as having a half-story.) Second, the habitable floor area of the half-story may not exceed fifty percent of the floor area below it. For purposes of this calculation, include only that portion of the second floor located directly below the half-story as measured between the exterior walls of the half-story. This is consistent with the long-standing policy of recognizing limited third floor attic expansions in older homes. (If the floor area exceeds fifty percent, it is not a half-story.)

The floor area on the second floor of the duplex is 1,285.25 sqft. The habitable portion on the third floor is 633 sqft and technically meets the second part of the two-part test. The new addition has a new gable roof with full 7ft. 6 in. walls. Therefore, the Zoning Administrator made the determination that the current construction of the third floor did not meet the definition of *Story, half* and the applicant is requesting a variance to increase the maximum height of a two-family residential structure from 2.5 stories to 3 stories in the R2B district.

#### **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.**

**Maximum height increase:** The applicant is seeking a variance to increase the maximum height of a two-family residential structure from 2.5 stories to 3 stories in the R2B District. Strict adherence to the regulations would not allow for the proposed third floor addition to the existing two-family dwelling, due to the proposed wall height. There is not a maximum floor area ratio for two-family dwellings in the R2B district; therefore, additional habitable area would be a reasonable use of the property, if it complied with the maximum bulk requirements of two and one-half stories. The proposed additional habitable area to the third floor will increase the allowed height of the structure and increase the bulk of the building. Staff does

not view this type of an addition as a hardship and believes there are other options that provide additional habitable space to the structure.

- 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.**

**Maximum height increase:** There are unique circumstances to the parcel that may require variance to allow for additional habitable area to the existing two-family dwelling. The subject property is a reverse corner lot and is substandard in size, making it a challenge to do an addition to the building in another location other than the third floor, without variance. However, the proposed changes to the wall height to allow for additional habitable area on the third floor are circumstances created by the applicant. Other alternatives exist on the property, including a change to the wall height on the third floor and the possibility of incorporating dormer additions to achieve the additional habitable area.

- 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.**

**Maximum height increase:** Staff believes the proposed third floor construction to the existing two-family dwelling may not alter the essential character of the surrounding neighborhood. There are a number of single-family, two-family and multiple family uses in the neighborhood with a variety of different heights and roof types. However, staff believes that the third floor addition could be injurious to the use or enjoyment of other property in the vicinity because it will alter the character of the dwelling. In addition, staff believes the proposed third floor construction does not meet the intent of the ordinance and is not characteristic of the other two-family dwellings in the neighborhood.

- 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.**

**Maximum height increase:** Provided the addition complies with applicable provisions of the building code, granting the variance would likely have no impact on the congestion of area streets or fire safety, nor would the proposed addition to the existing two-family dwelling be detrimental to the public welfare or endanger the public safety.

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

**CPED Planning Division Report**  
BZZ-3203

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 increase the maximum height of a two-family residential structure from 2.5 stories to 3 stories in the R2B district located at 2401 Aldrich Avenue South.