

Department of Community Planning and Economic Development – Planning Division

Variance Request
BZZ-3078

Date: July 6, 2006

Applicant: Jennifer Massoll

Address of Property: 1847 Fillmore Street NE

Contact Person and Phone: Jennifer Massoll, (615) 940-0821

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

Date Application Deemed Complete: June 5, 2006

Public Hearing: July 6, 2006

Appeal Period Expiration: July 17, 2006

End of 60 Day Decision Period: August 14, 2006

Ward: 1 **Neighborhood Organization:** Windom Park Citizens in Action

Existing Zoning: R2B, Two Family District

Proposed Use: Construction of a 6 foot tall cedar privacy fence.

Proposed Variance: A variance to increase the fence height from 3 feet to 6 feet in the front yard along 19th Avenue NE at 1847 Fillmore St. NE in the R2B District to allow for a 6 foot tall cedar privacy fence.

Zoning code section authorizing the requested variance: 525.520 (5)

Background: The subject property is located on a reverse corner lot that is approximately 48.9 ft. by 85.8 ft. (4343 sq. ft.). The applicant is proposing to construct a six foot tall cedar plank privacy fence in the front yard along 19th Avenue NE. The property does not currently have any fenced in areas.

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 variance to increase the maximum allowed fence height from three feet to six feet in the front yard. Strict adherence to the regulations would not allow for a six foot high fence anywhere on the property. The maximum height allowed for a fence on the property would be four feet for a fence in the interior side yard on the south side of the subject dwelling. The applicant states that they have two large dogs and that a three foot tall fence would not adequately contain the dogs. The applicant also states that the fence would act as a buffer from the traffic generated by the B-Line convenience store across the street from the subject dwelling. Staff believes that a three foot tall fence in the front yard and/or a four foot tall fence in the interior side yard will allow for reasonable use of the property. Staff believes that the property can be put to reasonable use and does not believe there is undue hardship caused by strict adherence to 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 circumstance upon which the fence variance is requested is unique to the parcel of land due to the fact that it is a reverse corner lot. The area of the lot is 4,343 sq. ft. The length of the lot is 85.8 feet and the width is 48.9 feet. This lot is smaller than the most of the surrounding lots. The area and length of parcels near the subject parcel are between 5,000 and 6,000 square feet and with an average length of roughly 125 feet. The lot size is a circumstance that is unique to this parcel and not 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 that a six foot high cedar plank fence in a required front yard will negatively alter the essential character of the surrounding neighborhood. The area is zoned R2B and consists primarily of single and two family dwellings, many of which have fences in the front yard. However, these fences are no more than three feet in height and are at least fifty percent opaque. A six foot high privacy fence would be out of character with neighborhood and could create security concerns for adjacent properties. Staff believes that a fence will not be injurious to the use or enjoyment of other property in the vicinity, if it is constructed at the proposed height.

- 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 setback variance would likely have a negative impact on the congestion of area streets and could be detrimental to the public welfare or endanger the public safety. The fence abuts the edge of the driveway and creates a blind spot along the sidewalk for the applicant when backing a vehicle out of the driveway. This decreased visibility could pose a danger to pedestrians, bicycles, automobiles, trucks, and school buses traveling through the dog-legged intersection of 19th Avenue NE and Filmore Street, NE. The fact that this intersection does have a convenience store located in it, and that the commercial use likely generates higher levels of activity than a residential use would seem to cause particular need to ensure good visibility to, through, and within the intersection.

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** the variance to increase the maximum height of a fence in the front yard from three feet to six feet along 19th Avenue NE at 1847 Fillmore St NE.