

Department of Community Planning and Economic Development - Planning Division Report

Variance Request
BZZ-4724

Date: April 8, 2010

Applicant: William and Karen Law

Address of Property: 4101 Beard Avenue South

Contact Person and Phone: William Law, (612) 865-7432

Planning Staff and Phone: Chris Vrchota, (612) 673-5467

Date Application Deemed Complete: March 12, 2010

End of 60 Day Decision Period: April 27, 2010

Ward: 13 **Neighborhood:** Linden Hills

Existing Zoning: R-1/Single-Family Residential

Proposed Use: Construction of a new single-family dwelling. The Applicants are proposing to construct a single-family dwelling with an attached garage. The proposed home is proposed to be set back 4'-8" feet from the north corner side lot line adjacent to 41st Street West.

Proposed Variances:

Variance to reduce the required corner side yard setback along 41st Street W from 10 feet to 4'-8".

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Zoning code section authorizing the requested variance: 525.520 (1)

Background: The subject property, 4101 Beard Avenue S, is zoned R1. The lot is slightly irregular, measuring 66.10 feet along the west property line, 65.52 feet along the east property line, and 135.00 feet along both the north and south property lines. The lot totals 8,845.2 square feet.

In the summer of 2009, the Applicants undertook a project to substantially remodel the 2 story Colonial style home existing on the property at that time. The Applicants intended to reuse the existing first-floor framing and the foundation, as well as constructing a significant addition. As demolition work progressed, it was determined that the existing framing was in worse condition than originally thought, and that the foundation did not meet current construction code requirements. As a result, the entire structure was demolished.

The Applicants have submitted plans for a new modern-styled, 3-bedroom single-story house with an attached garage. A portion of the house is proposed to be built on the footprint of the previous house. The majority of the new home would extend north from the footprint of the previous house, towards 41st Street W.

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 Applicants have requested a variance to reduce the required corner side yard setback along 41st Street W from 10 feet to 4'-8". The subject property is over 65 feet wide and totals 8,845.2 square feet, both of which significantly exceed the minimum district requirements (50 feet for width, 6,000 square feet for area.) The Applicants have not demonstrated that the proposed design is the only viable design for the construction of a new home on the subject property. The Applicants could design a house that fits onto the subject property without requiring the need for a variance. The Applicants have not demonstrated that the property could not be put to a reasonable use under the conditions allowed by the official controls or that strict adherence to the regulations of the zoning ordinance would cause an undue 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 subject property exceeds both the width and area requirements of the zoning code for properties in the R-1 zoning district. The property slopes up from the street (see Appendix D-1 – D-3 for photos), however the slope is not severe and a slope at the front or side is not unique to the subject property. The need for the variance is created primarily by the design and proposed siting of the house, which pushes the bulk of the structure towards 41st Street West. The Applicants have stated that pushing the house further south onto the lot would require additional retaining walls along the driveway due to the grade change. However, this is driven by the design including an attached garage. There are circumstances that are not unique to the parcel of land for which the variance is sought and they are created by the Applicants.

- 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.**

The intent of the corner side yard setback is to create adequate separation between structures and the adjacent sidewalks and streets. It is also intended to keep construction from encroaching into sight-lines at road intersections. Granting of the variance would not be in keeping with the spirit and intent of the ordinance.

The Applicant has stated that the variance is needed to keep the new construction in character with the rest of the neighborhood. As shown on the zoning map, a number of properties in the vicinity of the subject property do sit closer to 41st Street West than the required 10 foot setback. However, this does not mean that the subject property has any requirement or rights to be built at a reduced setback. While neighborhood character is a factor when considering the effects of a

variance, siting the house to meet the zoning code requirements will not undermine the neighborhood character.

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 of the variance would have no impact on the congestion of area streets or fire safety. The proposed single family dwelling would not have any greater impact on the danger of fire or public welfare and safety than any other single family dwelling.

Recommendation of the Department of Community Planning and Economic Development:

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 required corner side yard setback along 41st Street West from 10 feet to 4'-8" at 4101 Beard Avenue South, in the R-1 Single-Family District.

Attachments:

Appendix A: Zoning map

Appendix B: Statement of proposed use and request of variance statements- Submitted by Applicant

Appendix C: Survey, Site Plan, Building Plans, Elevations and other information- Submitted by Applicant

Appendix D: Photographs Submitted by Applicant

Appendix E: E-mail from the Linden Hills Neighborhood Organization