

Department of Community Planning and Economic Development – Planning Division

Variance Request
BZZ-3782

Date: September 25, 2007

Applicant: Richard Venberg, on behalf of Barbara J Lutz

Address of Property: 535 Sheridan Avenue North

Contact Person and Phone: Richard Venberg (612) 331-3032

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

Date Application Deemed Complete: September 17, 2007

Public Hearing: October 11, 2007

Appeal Period Expiration: October 22, 2007

End of 60 Day Decision Period: November 16, 2007

Ward: 5 **Neighborhood Organization:** Harrison Neighborhood Association

Existing Zoning: R1 Single Family District & SH Shoreland Overlay District.

Proposed Use: A new single family dwelling

Proposed Variance:

- A variance to reduce the corner side yard setback along 6th Avenue North from 8 feet to 3 feet.
- A variance to allow for eaves to project to the property line along 6th Avenue North to allow for a 3 foot wide eave on a new single family dwelling.
- A variance to reduce the required off-street parking from 1 to 0 parking spaces.

To allow for the construction of a single family dwelling located at 535 Sheridan Avenue North in the R1A Single Family District & SH Shoreland Overlay District.

Zoning code section authorizing the requested variance: 525.520 (1), (6)

Background: The subject site is 49 feet wide by 136 feet deep (6,534 square feet) and is located to the south of Highway 55.

The applicant recently received approval for the vacation of an unused 14 foot wide alley that runs along the north side of the subject property. The alley vacation, V-1521, was approved by the Planning

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Commission on June 25, 2007 and approved by the City Council on August 3, 2007. The purpose of the alley vacation was for the applicant to eventually acquire the land and use the existing alley curb cut and driveway for access to a future garage on the subject site.

The City vacated alley easement is actually located on MnDOT right-of-way for Highway 55. The vacated alley easement will need to be sold by MnDOT to the City of Minneapolis and then the applicant, Barbara Lutz, will acquire the vacated alley land from the City of Minneapolis.

Staff had conversations with both MnDOT Right-of-Way and Minneapolis Right-of-Way departments regarding the vacated alley easement. The process for the applicant to acquire the land could take anywhere from 6 months to well over a year. Both Right-of-Way departments stated that the acquisition of the land is not guaranteed and only a portion, 7 feet, of the 14 foot wide alley easement might be made available.

The applicant is proposing to construct a new single family dwelling on the property. The proposed dwelling will be 30 feet wide and 40 feet deep. The applicant is proposing to make the home LEED (Leadership in Energy and Environmental Design) certified and handicap accessible. The roof will have photovoltaic solar panels on the south side of the roof. The applicant is proposing to place the structure as far north on the property as possible to maximize the solar access for the photovoltaic panels on the south side of the dwelling. The applicant is proposing to place the structure 3 feet from the north corner side property line. The required corner side yard setback is 8 feet; the applicant is proposing 3 feet and requires a variance for the proposed dwelling location.

The proposed dwelling will have 3 foot wide eaves on the sides of the dwelling. The 3 foot wide eave will extend to the property line on the north corner side property line. A 3 foot wide eave is a permitted obstruction in the corner side yard, but a permitted obstruction must remain 1 foot from the property line. The proposed eave extends to the property line and requires a variance to be constructed as proposed.

The applicant is also requesting a variance to reduce the required off-street parking for a single family dwelling from 1 space to 0 spaces. The applicant intends to use the current driveway and curb cut that is located on the alley if it the land is acquired by the applicant. The applicant is asking to be exempt from the off-street parking requirement for a period of two years so that applicant can acquire all or some of the alley easement. The zoning ordinance does not offer extensions and the only way to not provide parking is to apply for a variance.

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.**

Corner Side Yard Setback & Eaves: The applicant has requested a variance to reduce the corner side yard setback from 8 feet to 3 feet and a variance to allow for eaves to project to the property line to allow for a new single family dwelling. The subject site is 49 feet wide and the

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applicant is proposing to construct a 30 foot wide dwelling. The corner side yard setback is 8 feet. This leaves 11 feet for the south interior side yard setback, which is enough room to accommodate the required 5 foot interior side yard setback and a driveway to access parking on the lot.

The applicant states that the proposed location of the home is necessary because of the home located at 533 Sheridan Avenue will partially block the sun from reaching the solar panels if the propose home is built too close to the dwelling at 533 Sheridan Avenue. The applicant has included the angles of the sun during the summer and winter solstices on the elevations of the home. The applicant's intent to utilize alternative energy sources is consistent with City policies.

However, the applicant has not illustrated what portion, if any, of the proposed solar panels will be shaded by the neighboring dwelling to the south at 533 Sheridan Avenue. Staff encourages the applicant to utilize the sustainable practices stated in the project, but does not feel the applicant has shown undue hardship cause by strict interpretation of the zoning ordinance to justify the variance.

Staff believes the applicant has design alternatives that do not require a variance. The applicant could relocate the home to meet the corner side yard setback, diminish the width of the structure as to meet the setback, or wait to construct the proposed dwelling until she acquires the additional alley easement, at which point a variance will not be necessary.

Parking: The applicant has requested a variance to reduce the required off-street parking from 1 to 0 spaces. The subject site is 49 feet wide and the applicant is proposing to construct a 30 foot wide dwelling. The corner side yard setback is 8 feet. This leaves 11 feet for the south interior side yard setback, which is enough room to accommodate the minimum driveway width of 10 feet.

The applicant states that the parking variance is temporary until the fate of the vacated alley to the north is finalized. The applicant intends to use existing the driveway and curb cut if the she acquires the land. Staff believes that using the existing driveway and curb cut is reasonable if the applicant acquires a portion of the right-of-way.

At this time the right-of-way land is not owned by the applicant. The subject lot has the width to accommodate a driveway and enough space to accommodate a parking area that meets the requirements of the zoning ordinance. Staff does not believe that strict interpretation of the zoning ordinance causes undue hardship. Staff encourages the applicant to finalize the acquisition of the land before pursuing the development of the subject 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.**

The conditions upon which the variances are requested are not unique to the parcel. The subject property is 49 feet wide and can accommodate the setbacks, proposed dwelling, and driveway

needs of the applicant. Staff recognizes that the right-of-way, vacated alley and driveway located to the north of the subject property offer a situation for the applicant to maximize the efficiency of her property. Staff believes the applicant's desire to utilize this land is efficient and reasonable, but also creates the circumstances that require the variances.

- 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.**

Corner Side Yard Setback & Eaves: Staff believes that the proposed dwelling will not negatively alter the essential character of the neighborhood. The proposed setback of 3 feet and eaves on the property line will be unnoticeable with the 36 foot wide right-of-way adjacent to the north of the property. The city has already vacated the paper alley, which indicates that the land is not needed for future city needs. Staff believes granting the variance will be in keeping with the spirit and intent of the ordinance due this large right-of-way.

Parking: Staff believes the proposed parking variance will not negatively alter the essential character of the neighborhood. Parking one vehicle on the street will have an inconsequential visual effect on the area. Staff believes that a new curb cut and driveway will have a negative impact of the character of the neighborhood. The grade on the property will likely require that the driveway be cut into the hill, which will have a greater negative effect on the character of the neighborhood than not providing parking on the subject lot.

Staff believes that utilizing the existing curb cut and driveway would be in keeping with the spirit and intent of the ordinance. The zoning ordinance limits the number of new curb cuts and utilizing an existing curb cut would be consistent with the ordinance. However, the applicant does not own the right-of-way, the existing driveway or curb cut.

- 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 variance would likely have no impact on the congestion of area streets or fire safety, nor would the proposed dwelling be detrimental to the public welfare or endanger the public safety.

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** a variance to reduce the corner side yard setback along 6th Avenue North from 8 feet to 3 feet.
- **Deny** a variance to allow for eaves to project to the property line along 6th Avenue North to allow for a 3 foot wide eave on a new single family dwelling.
- **Deny** a variance to reduce the required off-street parking from 1 to 0 parking spaces.

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