

Department of Community Planning and Economic Development – Planning Division

Variance Request
BZZ-5274

Date: October 6, 2011

Applicant: Carlos Perez

Address of Property: 4516 43rd Avenue South

Contact Person and Phone: Carlos Perez, 651-274-6137

Planning Staff and Phone: John Smoley, Ph.D., 612-673-2830

Date Application Deemed Complete: September 9, 2011

End of 60 Day Decision Period: October 18, 2011

Ward: 12 **Neighborhood Organization:** Longfellow Community Council

Existing Zoning: R1A/Single-family District

Proposed Use: A new single family residence

Proposed Variance: Carlos Perez, on behalf of Steven and Maria Alm, has applied for the following variances for the property located at 4516 43rd Avenue South:

- A variance to reduce the required front yard setback along 43rd Ave. S. from the setback established by connecting a line from the front of two adjacent homes, to construct a new single family dwelling and an air conditioning unit;
- A variance to increase the maximum permitted height of a fence in the required front yard from three feet to six feet.

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

Background: The subject property is a vacant interior lot that previously held a single-family home. The Applicant is proposing to construct a new single family residence and related features in the required front yard.

The required front yard in the R1A district is 20 feet. The established setback for this lot varies from 29' (on the southern property line) to 83' (on the northern property line) due to the positioning of the residence to the north of the subject parcel. This residence is set approximately two times further back on its lot than other residences along this block face. This established setback thus increases the required setback on the subject property. None of the features for which front yard variances are sought lie closer than 20 feet from the front property line. Were it not for the excessively large setback of the neighboring residence to the north, none of these variances would be required.

The Applicant has not yet submitted an application for a site plan review, but the submitted plans meet the criteria contained in Zoning Code Chapter 530, Site Plan Review by achieving **20 points** as follows:

- a) Not less than one (1) off-street parking space per dwelling unit is provided in an enclosed structure that is detached from the principal structure (5 points);
- b) The structure includes a basement as defined by the building code (5 points);
- c) The primary exterior building materials are masonry, brick, stone, stucco, wood, cement based siding, and/or glass (4 points);
- d) Not less than 20% of the walls on each floor that face a public street, not including walls on half stories, are windows (3 points); and
- e) Not less than 10% of the walls on each floor that face a rear or interior side lot line, not including walls on half stories, are windows (3 points);

Analysis: As conditioned, the proposed residence complies with the City of Minneapolis' Zoning Code in all areas but the required front yard.

Public Comment: As of the publication of this report, staff had received two letters from neighbors in opposition to the request to place a six foot high fence in the front yard. It should be noted that the fence will be almost entirely behind the dwelling, as noted on the proposed site plan (which was not included with the notice that the neighbors responded to). The established setback created by the extremely deep front yard of the home to the immediate north creates a situation where some areas behind the proposed home will actually be in the required front yard.

Findings Required by the Minneapolis Zoning Code:

- 1. Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.**

Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The proposal provides the 20 foot front setback required by the R1A zoning district, yet this falls far short of the very large, 29 to 83 foot front setback required on this property. This setback is established by the residence to the north of the subject property, which was not created by the Applicant. Few properties within the City of Minneapolis are adjacent to residences that are set so far back on their lot.

- 2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.**

Building the home with a 20 foot front yard setback is a reasonable request. The required front yard in the R1A district is 20 feet. Without the residence to the immediate north, the established (and hence, the required) front yard on this parcel would be 21 feet. The proposed location of the home roughly maintains the established setback of the block face when one outlier (the property immediately north of the subject parcel) is excluded.

The spirit of the established front yard setback requirement of the Zoning Code is to maintain a regular street-front experience. The Minneapolis Plan for Sustainable Growth has similar policies, which requires infill dwellings to respect the setbacks of surrounding dwellings, not just one next door neighbor whose setback is unusually large. Requiring the subject property to enlarge an aberration to the pedestrian experience along this block face by requiring an unusually large front yard setback is not in keeping with the spirit of the ordinance or comprehensive plan.

3. **The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.**

The granting of the variances will enhance the essential character of the locality. The proposed location of the home roughly maintains the established setback of the block face when the neighboring property is excluded. The Applicant could construct a residence in the buildable portion of the lot, but it would be out of character with thirteen of the fifteen residences on the block face (see setback map, Attachment B). Building the residence in its proposed location will help maintain a consistent pedestrian experience along the block.

Not granting the variances will be injurious to the use or enjoyment of other property in the vicinity. The home and its associated features are proposed to be built with a 20 foot front setback, in keeping with almost all of the residences on the block. Requiring the subject property to maintain an excessively large setback will dramatically increase the established front yard of the home to the south of the subject property, making it out of compliance with the Zoning Code. Almost the entire home would lie within the required front yard. Reasonable improvements to this property, such as the installation of a freestanding air conditioning unit next to the home, would then require a variance.

The proposed variances will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties. The building and associated features will not result in the creation of increased parking, second dwelling units or new construction exempt from safety provisions in adopted Building and Fire codes.

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 **approve** two variances for the property located at 4516 43rd Avenue South:

- A variance to reduce the required front yard setback along 43rd Ave. S. from the setback established by connecting a line from the front of two adjacent homes, to construct a new single family dwelling and an air conditioning unit;
- A variance to increase the maximum permitted height of a fence in the required front yard from three feet to six feet.

subject to the following condition:

1. Final site and elevation plans must be approved by CPED-Planning staff.

Attachment A: Plans

Attachment B: Setback Map and Photographs

Attachment C: Vicinity Map

Attachment D: Application

Attachment E: Letter to Councilmember and Neighborhood Group

Attachment F: Comment Letters