

Department of Community Planning and Economic Development - Planning Division Report
Variances
BZZ-5291

Date: November 17, 2011

Applicant: David William Anderson

Address of Property: 3544 Minnehaha Avenue

Contact Person: David William Anderson, (612) 203-3600

Planning Staff: Shanna Sether, (612) 673-2307

Date Application Deemed Complete: October 10, 2011

End of 60-Day Decision Period: December 9, 2011

Ward: 9 **Neighborhood Organization:** Longfellow Community Council

Existing Zoning: R1A Single-Family District

Zoning Plate Number: 27

Legal Description: Not applicable

Proposed Use: A deck addition to an existing triplex

Variance: to reduce the south interior side yard setback from the required 5 feet to 8 inches to allow for a new 77 square foot second-floor deck and stairs accessory to a triplex

Zoning code section authorizing the requested variance: Chapter 525, Article IX Variances, Specifically Section 525.520(1) "to vary the yard requirements, including permitted obstructions into required yards not allowed by the applicable regulations."

Background: The subject property is approximately 40 feet by 150 feet (6,000 square feet). The property consists of an existing one and a half story triplex. The applicant recently removed an existing landing and stairs from the second floor and installed a new 11 foot by 7 foot second-floor deck with stairs. The new deck was installed without a permit and is located approximately 8 inches from the south interior property line. A deck not exceeding 50 square feet is a permitted obstruction in the required side yard; as long as it maintains a minimum setback of 1 foot to the property line. A deck in this location and at this size is not a permitted obstruction and requires a variance to reduce the minimum south interior side yard setback from 5 feet to 8 inches to allow for a new 77 square foot second-floor deck and stairs accessory to a triplex.

Staff has not received any correspondence from the Longfellow Community Council. Staff will forward comments, if any are received, at the Board of Adjustment meeting.

Findings Required by the Minneapolis Zoning Code – Variances

- 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.**

Staff does not find that there are unique circumstances of the property that contribute to a practical difficulty in complying with size and location requirements for a deck or landing in the required interior side yard. The applicant has stated that the enlarged deck was needed to comply with the exiting and emergency services requirements for a triplex. Staff has photos of the existing deck showing that the deck is occupied by a patio table and chairs and that the deck extends 8 feet in length beyond the door that it is intended to serve. Further, the building code does not require a minimum area for a landing, instead there is a minimum width of 3 feet required for door clearance leading to stairs that also have a minimum width of 3 feet. The applicant could provide a landing or deck that does not exceed 50 square feet, at least 1 foot from the property line and comply with both the zoning and building codes. Staff believes that the circumstances for which the variance is sought have been created by the applicant.

- 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.**

The applicant is seeking a variance to allow for a newly constructed, 77 square foot deck accessory to an existing triplex. The purpose of yard requirements is to provide for orderly development and use of land and to minimize conflicts among land uses by governing the location of accessory uses and structures. The deck is located approximately 8 inches from the shared property line and is approximately 14 feet above grade. Staff has concerns that the location of the deck, 8 inches from the property line, will create a nuisance to the adjacent neighbor.

- 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.**

Staff believes that the granting of this variance would negatively alter the essential character and possibly be injurious to the use and enjoyment of the adjacent property. Staff has concerns that the location of the deck, 8 inches from the shared interior property line, will create a nuisance and be overly obtrusive to the adjacent neighbor. Granting of the variance to 8 inches will not increase the danger of fire safety or be detrimental to the public welfare or endanger the public safety.

Recommendation of the Department of Community Planning and Economic Development - Variance:

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 south interior side yard setback from the required 5 feet to 8 inches to allow for a new 77 square foot second-floor deck and stairs accessory to a triplex located at 3544 Minnehaha Avenue in the R1A Single-Family District.

Attachments:

- 1) Written descriptions and findings submitted by the applicant
- 2) Copy of e-mail sent to the Longfellow Community Council and CM Schiff
- 3) Zoning map
- 4) Site plan
- 5) Deck elevations
- 6) Deck plans
- 7) Photographs