

Department of Community Planning and Economic Development – Planning Division
Variance
BZZ-5449

Date: February 2, 2012

Applicant: S&D Real Estate Solutions, LLC

Address of Property: 4031 Queen Avenue North

Contact Person and Phone: Todd Dexheimer, (651) 895-5414

Planning Staff and Phone: Janelle Widmeier, (612) 673-3156

Date Application Deemed Complete: December 27, 2011

End of 60-Day Decision Period: February 25, 2012

Ward: 4 **Neighborhood Organization:** Victory Neighborhood Association

Existing Zoning: R1A Single-family District

Proposed Use: Egress window well for basement bedroom in a single-family dwelling

Concurrent Review: Variance to reduce the north interior side yard requirement from 2 feet to 1.4 feet to allow an egress window well that was installed for a single-family dwelling.

Applicable zoning code provisions: Chapter 525, Article IX Variances, Section 525.520 (1) “To vary the yard requirements, including permitted obstructions into required yards not allowed by the applicable regulations.”

Background: The applicant is proposing to legalize a bedroom in the basement in an existing single family dwelling located at 4031 Queen Avenue North. In order to allow for a legal bedroom in a basement, an egress window and well is required by the International Residential Code. A legal egress window well is required to be at least 3 feet deep and 3 feet wide, per the building code. In the R1A district, the zoning code minimum interior side yard requirement is 5 feet. Egress window wells not exceeding 16 square feet in area are permitted obstructions in the required interior side yard provided they are at least 2 feet from the interior side lot line. The existing dwelling is located 4.5 feet from the north interior side lot line. The well is located 1.4 feet from the side lot line. Therefore, the applicant is requesting a variance to reduce the north interior side yard requirement from 2 feet to 1.4 feet.

A building permit was obtained to remodel the existing dwelling, including adding an egress window in the basement, in August of 2011. The applicant had indicated on the permit plans that the dwelling was located 12 feet from the north interior side lot line. Zoning staff included a note on the permit plans that the window well needed to be 2 feet from the side lot line. In November of 2011, the building inspector noted that the property line location needed to be verified to ensure the window well was set back at least 2 feet (the window well was installed before the first inspection occurred in November). Upon obtaining a land survey, the applicant found that the window well was located closer than 2 feet from the side lot line.

As of the writing of this report, staff has not received any correspondence from the neighborhood group. Staff will forward comments, if any are received, at the Board of Adjustment meeting.

VARIANCE

Findings as Required by the Minneapolis Zoning Code for a Variance:

- 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 do not exist in complying with the ordinance due to circumstances unique to the property. The property, at 40 feet wide by 128 feet deep, complies with the minimum lot width (40 feet) and area (5,000 square feet) required for a single-family dwelling. Although the dwelling is nonconforming to the north interior side yard requirement, an egress window well could have been installed on the south or west sides of the dwelling where it would have complied with all yard requirements.

- 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.**

In general, yard controls are established to provide for the orderly development and use of land and to minimize conflicts among land uses by regulating the dimension and use of yards in order to provide adequate light, air, open space and separation of uses. Policies of the comprehensive plan also support the purpose of the yard ordinances. The Minneapolis Code of Ordinances Table 535-1, Permitted Obstructions in Required Yards, was amended in December of 2005 to include a provision for egress windows as permitted obstructions. The purpose of the amendment was to allow egress window wells up to 16 square feet in area as a permitted obstruction. For window wells in the interior side yard, a two foot setback was required to help maintain a clear and unobstructed walking area from the front to the rear of a dwelling without encroaching onto an adjacent property.

The window well was installed in a walkway that provides access from the front to the rear of the dwelling. Because an egress window well could have been installed on the south or west sides of the dwelling where it would have complied with all yard requirements, the request is not reasonable and is not consistent with the intent of the ordinance and the 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.**

Granting the variance would not likely affect the character of the area or the general public. However, it could negatively affect owners of the subject site and property to the north. The window well was installed in a walkway that provides access from the front to the rear of the dwelling. It extends approximately 6 inches above the sidewalk. If an adjacent owner of the property of 4035 Queen Avenue North were to construct a fence directly adjacent to the property

line, the existing walkway from the front to the rear of the dwelling would likely become impassible or a safety hazard.

RECOMMENDATION

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 above findings and **deny** the variance to reduce the north interior side yard requirement from 2 feet to 1.4 feet to allow an egress window well that was installed for a single-family dwelling located at the property of 4031 Queen Avenue North.

Attachments:

1. Applicant statement of proposed use and findings
2. Zoning map
3. Plans
4. Photos