

Department of Community Planning and Economic Development – Planning Division Report
Variances
BZZ 5570

Date: June 7, 2012

Applicant: Shannon Laveen

Address of Property: 2449 31st Avenue South

Contact Person and Phone: Shannon Laveen, (651) 214-7450

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

Date Application Deemed Complete: May 11, 2012

End of 60-Day Decision Period: July 10, 2012

Ward: 2 Neighborhood Organization: Seward Neighborhood Group

Existing Zoning: R1A Single-Family District

Zoning Plate Number: 22

Legal Description: Not applicable

Proposed Use: A fence accessory to an existing single-family dwelling

Concurrent Review:

- Variance to increase the maximum height of a cedar and steel fence, along 31st Avenue South from 3 feet to 6 feet.
- Variance to increase the maximum height of a steel fence and gate along the north property line, from 3 feet to 6 feet.

Zoning code section authorizing the requested variance: Chapter 525, Article IX Variances, Specifically Section 525.520(5) “to permit an increase in the maximum height of a fence”.

Background: The subject property is approximately 40 feet by 134 feet (5,360 sq. ft.) and consists of a one-story single family dwelling with an attached and detached garage on a reverse corner lot¹. For a reverse corner lot, both lot lines that abut a street are considered front lot lines and must adhere to the regulations for front yard requirements. The applicant is proposing to install new fencing around the perimeter of the property. The fencing located in the front yard setback along East 25th Street and the south half of the lot adjacent to 31st Avenue South will be 4 feet high, open and decorative. This fence complies with the maximum height location for a fence located in the required front yard.

¹ The zoning code defines a reverse corner lot as “A corner lot that includes more than one (1) lot line adjacent to streets of which one (1) lot line is substantially a continuation of the front lot line of the adjacent property to the rear.”

The applicant is also proposing a 6-foot high fence in the required front yard along 31st Avenue South and along the north property, adjacent to the alley. A 6-foot high fence in the required front yard exceeds the maximum height requirement for a fence. The proposed fence adjacent to 31st Avenue South will have a combination of solid cedar and metal. The proposed fence along the north property line, adjacent to the alley, will also be 6 feet in height and will be constructed entirely out of metal. The applicant is requesting this very specific combination of fencing materials in order to allow for views from the alley to oncoming traffic and pedestrians.

The fence along East 25th Street and 31st Avenue South is proposed to extend into the public right-of-way and will require review and approval by Public Works for an encroachment permit.

Staff has not received correspondence from the Seward Neighborhood Group for the project. Staff will forward comments, if any are received, to the Board of Adjustment at their regular meeting.

Findings Required by the Minneapolis Zoning Code:

VARIANCES to increase the maximum height of a fence in the required front yard setback

- 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.**

Both variances: Staff recognizes that the type of lot is a unique circumstance of the property; however it does not contribute to practical difficulty in complying with the ordinance. The subject property is a reverse corner lot and the maximum fence height in the front yard for a solid fence is 3 feet (or 4 feet for an open and decorative fence). The applicant is proposing to construct a 6-foot high fence for security and privacy purposes. The applicant could propose a 6-foot high fence that is not located in the required front yard or a 3-foot high solid fence or a 4-foot high open and decorative fence in the proposed location which would not require a variance. The proposed fence would be located 3 feet from the public sidewalk along 31st Avenue South. The location of the proposed fence would be constructed alongside the driveway leading to the attached garage, along the alley and along the driveway of the detached garage. The zoning code requires that a site triangle be provided where no fence shall be constructed or maintained within a distance of fifteen (15) feet from any street or alley intersection where the zoning administrator finds it to obstruct a driver's view of approaching, merging or intersecting traffic, per section 535.400(2). Staff has concerns that the proposed fence will not allow for adequate sight lines to and from the attached garage, detached garage and alley for motorists, bicyclists and pedestrians.

- 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.**

Both variances: The applicant is seeking variances to increase the maximum fence height in the front yard to 6 feet. The purpose of regulating fencing is to promote the public health, safety and welfare, encourage an aesthetic environment and allow for privacy while maintaining access to light

and air. The proposed fence would be located in the front yard along 31st Avenue South and adjacent to the alley. The regulations for fence height in these locations are to ensure that sight lines are not obstructed for motorists, bicyclists and pedestrians. The proposed fence would be located 3 feet from the public sidewalk along 31st Avenue South. The location of the proposed fence would be constructed alongside the driveway leading to the attached garage, along the alley and along the driveway of the detached garage. The zoning code requires a site triangle be provided where no fence shall be constructed or maintained within a distance of fifteen (15) feet from any street or alley intersection where the zoning administrator finds it to obstruct a driver's view of approaching, merging or intersecting traffic, per section 535.400(2). The applicant is not proposing to have a site triangle where the property line abuts the alley. Staff has concerns that the proposed fence will not allow for adequate sight lines to allow views to and from the attached garage, detached garage and alley for motorists, bicyclists and pedestrians. Staff believes that a fence could be constructed on the property that meets the zoning code and would allow for a reasonable use of the property.

- 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.**

Both variances: Staff believes that the granting of the variances will alter the essential character of the surrounding neighborhood and may be injurious to the use or enjoyment of other property in the vicinity. The proposed fence would be 6 feet high and located in the front yard along 31st Avenue South, 3 feet from the public sidewalk. As previously mentioned, staff has concerns that a fence 6 feet in height, with the proposed opacity, in the proposed location would not allow for adequate sight lines for oncoming motorists, bicyclists and pedestrians. For these same reasons, staff believes that if the variance were to be granted, it may be detrimental to the health, safety and welfare of the general public or of those utilizing the property or nearby properties.

RECOMMENDATIONS:

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** the variance to increase the maximum height of a cedar and steel fence, along 31st Avenue South from 3 feet to 6 feet on a reverse corner lot located at 2449 31st Avenue South in the R1A Single-Family District.

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** the variance to increase the maximum height of a steel fence and gate along the north property line, from 3 feet to 6 feet on a reverse corner lot located at 2449 31st Avenue South in the R1A Single-Family District.

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Attachments:

- 1) Written descriptions and findings submitted by the applicant
- 2) Copy of an e-mail sent to Seward Neighborhood Group and CM Gordon
- 3) Correspondence
- 4) Zoning map
- 5) Site plan
- 6) Fence renderings
- 7) Photographs