

**Department of Community Planning and Economic Development – Planning Division**  
Variance  
BZZ – 5544

**Date:** July 12, 2012

**Applicant:** Mr. Loni Strassman

**Address of Property:** 4808 Fremont Avenue South

**Contact Person and Phone:** Mr. Loni Strassman, 612-202-5647

**Planning Staff and Phone:** John Smoley, (612) 673-2830

**Date Application Deemed Complete:** May 31, 2012

**End of 60-Day Decision Period:** July 30, 2012

**Ward:** 13     **Neighborhood Organization:** Lynnhurst Neighborhood Association

**Existing Zoning:** R1 Single-Family Residence District

**Proposed Use:** A new single-family dwelling.

**Concurrent Review:**

- Variance to increase the maximum allowed height from 2.5 stories to 3 stories (includes the basement level).

**Applicable zoning code provisions:** Chapter 525, Article IX Variances, specifically Section 525.520 (4) “Unless otherwise controlled by conditional use permit, to vary the height requirements for any structure, except signs, provided that the total floor area ratio on the site shall not be exceeded, and provided further that the maximum height of any accessory structure shall not exceed sixteen (16) feet or sixty (60) percent of the height of the structure to which it is accessory, whichever is greater.”

**Background:** The applicant is proposing to build a new single-family dwelling located on the property at 4808 Fremont Avenue South. A single-family residence is currently located on the property and would be demolished in order to allow for the construction of a new single-family home. The proposed dwelling would have two stories above a full basement. The grade of the subject site is proposed to be modified with the construction of the new dwelling.

The maximum number of stories allowed in the R1 district is 2.5 stories. In the zoning code, a story is defined as “That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, or fourteen (14) feet, whichever is less, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor surface directly above a basement, cellar or unused under floor space is more than six (6) feet above grade, for more than fifty (50) percent of the total perimeter, or is more than twelve (12) feet above grade at any point, such basement, cellar or unused under floor space shall be considered a story.” For more than 50 percent of the total perimeter, the finished first

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floor surface is more than 6 feet above the adjacent grade. Therefore, the basement is considered a story and a variance is required to allow a 3-story single-family dwelling on the premises.

Although the applicant is requesting a height variance, it is important to note that the proposal meets the zoning code's maximum height limitation of thirty feet in the R1 Single-Family Residence District. The proposed residence is 24 feet 6 inches tall.

The applicant will need to obtain all necessary approvals and permits prior to construction. In addition to the requested variance, the applicant will also need to obtain zoning approvals for the single-family dwelling through an administrative site plan review as required by Chapter 530 in the zoning code. An administrative site plan review application has previously been submitted for this dwelling, but was deemed incomplete because the proposal did not comply with the zoning code's height requirements and therefore needed a variance. Upon review of the application, it was determined that the dwelling qualified for 21 of the possible 24 points available for the site plan review. A minimum of 15 is required. The 21 points were for a detached garage, a basement, quality exterior materials, at least 10 percent windows on the non-street facing building elevations, a roof pitch of at least 6/12, an open covered front porch, and a deciduous tree in the front yard. Pending approval of the proposed variance, the proposal would appear to comply with all other necessary applicable provisions of the zoning code.

**Analysis:** As conditioned, the proposed residence complies with the City of Minneapolis' Zoning Code in all areas but the building's height. This includes but is not limited to setback requirements, floor area ratio, impervious surface, building coverage, etc.

**Public Comment:** Correspondence from the neighborhood group was received and is attached to this report. They do not oppose the variance request, nor does another neighbor on the block, whose comment letter is also attached. Staff will forward additional comments, if any are received, at the Board of Adjustment meeting.

**VARIANCE** – to allow a 3-story single-family dwelling

**Findings as Required by the Minneapolis Zoning Code for the 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.**

The buildable portion of this lot slopes down thirteen feet from the front to the back. These circumstances were not created by the applicant or property owners. In fact, photos appear to reveal that the existing slope on the buildable portion of the lot makes the current home's basement meet the definition of a story. The same appears to hold true for the basements of neighbors on either side of the subject property. The finished elevation of the proposed dwelling's first floor would only be 1 foot, 9 inches above the existing grade at the front door of the proposed residence. Although the applicant is requesting a height variance, it is important to note that the proposal meets the zoning code's maximum height limitation of thirty feet in the R1 Single-Family Residence District. The proposed residence is 24 feet 6 inches tall.

- 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 height regulations are established in order to assure that the size and scale of new development or expansion will occur in a manner most compatible with the surrounding area. Comprehensive plan policies call for single-family infill development to reflect the setbacks, orientation, pattern, materials, height and scale of surrounding dwellings. The subject site is located in a primarily single-family neighborhood. The majority of homes on this block have two stories exposed to the street, as does the proposed residence. The majority of homes on this side of the block, where the land drops from the front of the lot to the back, have walk-out basements in the rear yard, as does the proposed residence. The single-family home as proposed is reasonable and is in keeping with the spirit and intent of the ordinance.

- 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 variance should have little effect on surrounding properties and will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties. The proposed residence is compatible with other residences on this block, especially on the west side of Fremont Avenue, where the grade slopes from front to rear. The proposed dwelling would not appear to be a 3-story building from the street. No excessive grading is creating this variance request. Existing and proposed slopes are similar. The dwelling could be built with one less story by transferring all second (third) story spaces to the first and second floors and/or moving all attached garage area to a detached garage at the rear of the lot. This would significantly increase the footprint of the building and reduce the size of the rear yard, however. On this block with generous rear yards, such construction would be less in keeping with the character of the neighborhood than the proposed two story residence with an exposed basement.

## **RECOMMENDATION**

### **Recommendation of the Community Planning and Economic Development Department – Planning Division for the Variance:**

The Department of Community Planning and Economic Development – Planning Division recommends that the Board of Adjustment adopt the above findings and **approve** the variance to increase the maximum allowed height of a single-family dwelling from 2.5 stories to 3 stories (includes the basement level) for the property located at 4808 Fremont Avenue South, subject to the following conditions of approval:

1. Receive Public Works approval of the proposed curb cut closure and installation.
2. Retaining walls that do not retain the natural grade of the land must meet the Zoning Code’s maximum fence height limitations.
3. The proposed residence shall not exceed 24 feet 6 inches in height, as is currently proposed.
4. By ordinance, approvals are valid for a period of one year from the date of the decisions unless required permits are obtained and the action approval is substantially begun and proceeds in a

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continuous basis toward completion. Upon written request and for good cause, the planning director may grant up to a one year extension if the request is made in writing no later than July 12, 2013.

5. CPED-Planning Staff shall review and approve the final plans and elevations prior to building permit issuance.

**Attachments:**

- A: Plans
- B: Vicinity Map and Map of Slopes on the Block
- C: Images
- D: Public Comment