

**Department of Community Planning and Economic Development – Planning Division**  
Variance  
BZZ-5824

**Date:** November 8, 2012

**Applicant:** Bob Weiner & Paula Leaf

**Addresses of Property:** 3804 Chowen Avenue South

**Project Name:** New single family dwelling

**Contact Person and Phone:** Bob Weiner, (612) 927-8666

**Planning Staff and Phone:** Jacob Steen, (612) 673-2264

**Date Application Deemed Complete:** October 17, 2012

**End of 60-Day Decision Period:** December 15, 2012

**Ward:** 13     **Neighborhood Organization:** Linden Hills Neighborhood Council

**Existing Zoning:** R1 Single Family District

**Zoning Plate Number:** 29

**Legal Description:** Not applicable for this application

**Proposed Use:** Single family dwelling

**Variance:** to reduce the required south interior side yard setback from 6 feet to 4.5 feet to permit a bay window for a single-family dwelling at 3804 Chowen Avenue South in the R1 Single-Family District.

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

**Background:** The subject property is a 6,430 square foot lot upon which a recently constructed new single family home has been built. The applicant applied for a building permit and an application for administrative site plan review for a new single family dwelling on August 2, 2012. The administrative site plan review was approved on August 7, 2012, and the building permit was issued on August 10, 2012, at which point the applicant began construction. On September 18, 2012, zoning enforcement staff was contacted with concerns regarding two cantilevered structures projecting one and a half (1.5) feet into the south interior side yard, one containing a bay window and the other containing a fireplace. In the R1 Single Family District, the required interior side yard is six (6) feet. Permitted obstructions projecting into the required interior side yard are regulated under table 535-1 of the Minneapolis Code of

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Ordinances. Upon further research, staff found that the projections into the required side yard were included on the site plan review and building permit applications and were approved erroneously by zoning staff. After the error was brought to staff's attention, the applicant was required to submit a land use application requesting a variance to decrease the required interior side yard setback for the bay window projection; the cantilevered structure containing the fireplace contains the exhaust vent/chimney and is permitted in the required interior side yard.

As of the time of the writing of this report, staff has received no public comments. Staff will forward comments, if any are received, at the Board of Adjustment meeting.

**VARIANCE:** to reduce the required south interior side yard setback from 6 feet to 4.5 feet to permit a bay window.

**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 application to construct a single family dwelling on this specific property was approved in error by zoning staff. While the applicant's permit application did include a prohibited obstruction in the required interior side yard, the applicant had all of the information clearly laid out on the drawings approved by zoning staff, and believed they were conforming to the regulations. To staff's knowledge, the architect, contractor, and homeowner have all acted in good faith throughout the process. Should the variance be denied, the applicant will be required to remove the bay window on the nearly completed structure. It would not be reasonable to require the builder to remove the bay window—a structure which projects the same distance into the required side yard as the chimney, which is permitted by the ordinance. A number of properties in the vicinity are nonconforming as to the required interior side yard setback. The property to the north, recently received a variance to reduce the required interior side yard to 4.5 feet to allow for an existing addition (BZZ 5389).

**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 purpose of minimum interior side yard setbacks for single family dwellings is to ensure access to light and air. The applicant's approved plans comply with the spirit and intent of these regulations. The principal building wall is six (6) feet from the property line. There are two projections into the side yard, the chimney and the bay window, both cantilevered one and a half (1.5) feet into the required interior side yard, and both are entirely under the two-foot eave and do not project above the first floor. The cantilevered projections flank an open egress window well, which is permitted to project three (3) feet into the interior side yard. The bay window projection, is four and a half (4.5) feet from the property line, allowing ample space for access to light and air. A single family home is a reasonable use and is in keeping within 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.**

Granting of this variance will not negatively alter the essential character of the locality or be injurious to the use or enjoyment of other property in the area. The applicant has built a home reflecting the character of Minneapolis’s housing stock, including a detached garage. As noted above, the bay window projects the same distance into the required interior side yard as the chimney, which is permitted under the ordinance. Furthermore, both projections are entirely below the eave and do not project above the first floor. Granting the variance will not be detrimental to the health, safety, or welfare of the general public.

**RECOMMENDATIONS:**

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

The Community Planning and Economic Development Department - Planning Division recommends that the Board of Adjustment adopt the findings above and **approve** the variance to reduce the required south interior side yard setback from 6 feet to 4.5 feet to permit a bay window for a single-family dwelling at 3804 Chowen Avenue South in the R1 Single-Family District.

**Attachments:**

1. Applicant’s statement of use and findings
2. Zoning map
3. Site plans/floor plans
4. Photographs