

**Department of Community Planning and Economic Development – Planning Division**  
Variances  
BZZ 5835

**Date:** November 29, 2012

**Applicant:** Mother Earth Gardens

**Address of Property:** 2358 Stinson Parkway

**Contact Person and Phone:** Karen O'Connor, (612) 724-2296

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

**Date Application Deemed Complete:** October 29, 2012

**End of 60-Day Decision Period:** December 28, 2012

**Ward:** 1      **Neighborhood Organization:** Windom Park Citizens in Action

**Existing Zoning:** C1 Neighborhood Commercial District

**Zoning Plate Number:** 10

**Proposed Use:** A new lawn and garden supply store with outdoor sales and display area

**Concurrent Review:**

- Variance to reduce the required front yard along Stinson Parkway to allow for outdoor sales and display area
- Variance of the enclosed building requirement to allow outdoor sales and display area closer than twenty (20) feet from an adjacent residence district boundary.
- Variance to increase the maximum height of a fence from 4 feet to 8 feet in the required front yard along Stinson Parkway.
- Variance to increase the maximum height of a fence from 6 feet 8 feet, located within 5 feet of public sidewalk along Lowry Avenue NE.

**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,” 525.520(26) “to vary the enclosed building requirement...” and to section 525.520(5) “to permit an increase in the maximum height of a fence.”

**Background:** The subject property is approximately 82 feet by 125 feet, on average (10,708 square feet), and has two existing structures on it. There is an office in one building and the other building has an office and one residential unit in it. The applicant is proposing a new lawn and garden supply store on the first floor of the existing mixed use building. The proposed lawn and garden supply store would also have an outdoor sales and display area, that would be approximately 3,400 square feet in area.

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The adjacent property to the south is zoned R1A Single-Family District and the dwelling to the south is setback approximately 32 feet from the front property line along Stinson Parkway. The proposed outdoor sales and display area would be located within 40 feet of the shared property line to the south and approximately 17 feet from the front property line. An outdoor sales and display area is not a permitted obstruction in the required front yard and requires a variance for the proposed location.

Section 548.160 of the zoning code requires that an outdoor sales and display area be located at least twenty (20) feet from an adjacent residential zoning classification or use. The proposed outdoor sales and display area would be located approximately 5 feet from the shared property line. The proposed location does not comply with this requirement and requires a variance.

Finally, the applicant is proposing to install an 8-foot, open and decorative fence around the perimeter of the outdoor sales and display area. The proposed fence exceeds the maximum fence height in the required front yard along Stinson Parkway, where this fence type cannot exceed 4 feet in height. Further, the proposed fence along Lowry Avenue NE cannot exceed 6 feet in height, due to the adjacent public sidewalk. Therefore, variances to increase the maximum fence height to 8 feet in both of these locations are required.

Staff has not received correspondence from Windom Park Citizens in Action. Staff will forward comments, if any are received, at the Board of Adjustment meeting.

**VARIANCES:** (1) to reduce the required front yard along Stinson Parkway to allow for outdoor sales and display area; (2) of the enclosed building requirement to allow outdoor sales and display area closer than twenty (20) feet from an adjacent residence district boundary; (3) to increase the maximum height of a fence from 4 feet to 8 feet in the required front yard along Stinson Parkway; and (4) to increase the maximum height of a fence from 6 feet 8 feet, located within 5 feet of public sidewalk along Lowry Avenue NE.

**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.**

**Location of the outdoor sales and display area:** The circumstances upon which the variances to allow for the outdoor sales and display area are requested are unique to the parcel of land due to the zoning classification and the proposed location. Staff finds that these circumstances have created practical difficulties in complying with the ordinance. The subject property is zoned C1 Neighborhood Commercial District and the adjacent property to the south is zoned R1 Single-Family District. One of the uses of the commercially zoned property is a lawn and garden supply store with an outdoor sales and display area. The applicants will be marketing landscape materials and seasonal items in the outdoor sales and display area and will provide an appropriate landscaped buffer between the site and the adjacent property to the south. Landscape materials are not subject to

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setback requirements and are encouraged generally throughout the City; however, outdoor sales and display areas are regulated in order to allow for appropriate transition areas.

**Fence height:** The circumstances upon which the fence height increase along the front yard is requested are unique to the parcel of land due to the use of the property and the location of the adjacent dwelling. Staff finds that these circumstances have created practical difficulties in complying with the ordinance. The applicant is proposing to market landscaping materials and seasonal items in an outdoor sales and display area. The subject property is zoned C1 Neighborhood Commercial District and the adjacent property to the south is zoned R1 Single-Family District. The proposed fence height would be permitted if the adjacent dwelling was situated closer to the front property line as the structure on the subject property. The subject building is located 17 feet from the front property line and the adjacent single-family dwelling is located 32 feet from the front property line. Since the proposed fence would be located in the required front yard staff is recommending that the fence is no taller than 6 feet and that it extend directly out from the edge of the building. Further, the applicant will provide a landscaped buffer between the proposed outdoor sales and display area and the adjacent residential property to the south. Staff does not find unique circumstances unique to the parcel that lead to practical difficulties in complying with the maximum 6 foot high fence along Lowry Avenue NE.

- 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.**

**Location of the outdoor sales and display area:** Staff believes that the applicant is proposing to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and comprehensive plan. The applicant is seeking variances to allow for an outdoor sales and display area to market landscaping materials and seasonal items. The proposed outdoor sales and display area will be located at the same setback as the existing structure on the subject property and will have a rain garden between the fence and the public sidewalk. Further, the applicant will provide a landscaped buffer between the proposed outdoor sales and display area and the adjacent residential property to the south. The purpose of yard requirements and regulating outdoor sales and display areas is to provide for orderly development and use of land and to minimize conflicts among land uses in order to provide adequate light, air, open space and separation of uses. Staff finds that the proposed location for the outdoor sales and display area is appropriate provided the landscaped buffer is installed around the perimeter of the space.

**Fence height:** 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 fence is intended to enclose and secure the outdoor sales and display area. Staff finds that an open, decorative fence 6 feet in height would allow for reasonable use of the property that will be in keeping with the spirit and intent of the ordinance and 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.**

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**Location outdoor sales and display area:** Staff finds that the granting of this variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity provided the landscaped buffer is installed around the perimeter of the space. Further, granting of the variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.

**Fence height:** Staff finds that an open and decorative 6-foot tall fence will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. The proposed fence would be located approximately 17 feet from the public sidewalk along Stinson Parkway. Further, granting of the variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.

**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 staff findings and **approve** the variance to reduce the front yard setback along Stinson Parkway from approximately 32 feet to approximately 17 feet to allow for an outdoor sales and display area accessory to a lawn and garden supply store located at 2358 Stinson Parkway in the C1 Neighborhood Commercial District, subject to the following conditions of approval:

1. Approval of the final site and elevation plans by the Department of Community Planning and Economic Development – Planning Division.
2. All site improvements shall be completed by November 29, 2014, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

**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 **approve** the variance to allow an outdoor sales and display area accessory to a lawn and garden supply store closer than twenty (20) feet from an adjacent residence district boundary located at 2358 Stinson Parkway in the C1 Neighborhood Commercial District, subject to the following conditions of approval:

1. Approval of the final site plans by the Department of Community Planning and Economic Development – Planning Division.
2. The applicant shall provide a minimum 5-foot wide, dense buffer and landscaped yard along the south property line.
3. All site improvements shall be completed by November 29, 2014, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

**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 **approve** the variance to increase the maximum height of an open and decorative fence from 4 feet to 6 feet in the required front yard along Stinson Parkway accessory to a lawn and garden supply store closer located at 2358 Stinson Parkway in the C1 Neighborhood Commercial District, subject to the following conditions of approval:

1. Approval of the final site plans by the Department of Community Planning and Economic Development – Planning Division.
2. The applicant shall provide a minimum 5-foot wide, dense buffer and landscaped yard along the south property line.
3. All site improvements shall be completed by November 29, 2014, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

**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 an open and decorative fence from 6 feet to 8 feet, located within 5 feet of public sidewalk along Lowry Avenue NE, located at 2358 Stinson Parkway in the C1 Neighborhood Commercial District.

**Attachments:**

1. Written descriptions and findings submitted by the applicant
2. E-mails to Council Member Reich and Windom Park Citizens in Action
3. Correspondence from the neighborhood association
4. Zoning map
5. Survey/site plan
6. Photos