

Department of Community Planning and Economic Development Report
Variances
BZZ-5836

Date: January 31, 2013

Applicant: Laurence Brady on behalf of Nathan Brady

Address of Property: 2724 21st Avenue North

Contact Person and Phone: Laurence Brady, (651) 214-7450

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

Date Application Deemed Complete: December 21, 2012

End of 60-Day Decision Period: February 18, 2013

Ward: 5 Neighborhood Organization: Northside Residents Redevelopment Council

Existing Zoning: R1A Single-Family District

Zoning Plate Number: 7

Legal Description: Not applicable

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

Proposed Variance: A variance to increase the maximum height of a cedar fence, along Vincent Avenue North, from 3 feet to 6 feet for an existing single-family dwelling on a reverse corner lot located at 2724 21st Avenue North in the R1A Single-Family District.

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 seventy-seven (77) feet by 144 feet (11,234 sq. ft.) and consists of a one-story single family dwelling with an attached and detached garage on a reverse corner lot.¹ 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. This application arose out of a zoning enforcement order issued to the property owner in October 2012, approximately fifteen (15) months after the fence was erected in June 2011. While a permit is not required for a fence, the fence must comply with requirements of Chapter 535 of the zoning code. Due to location of the single family dwelling located across the alley, north of the subject property (2114 Vincent Avenue North), the front yard setback along Vincent Avenue North is approximately twenty-six and a half (26.5) feet. The

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.”

applicant is proposing to keep the fence in its existing location. The six (6) foot high cedar fence begins at the northeast corner of the house and projects west towards Vincent Avenue North, where it connects with a section of fence that runs parallel to Vincent Avenue for approximately seventy-two (72) feet to the north. At approximately twenty-two (22) feet from the alley, it joins with a section of fence that projects eastward to the detached garage located at the rear of the parcel.

The fence along Vincent Avenue North was constructed immediately adjacent to the sidewalk, which is two (2) feet inside of the right-of-way from the edge of the applicant's parcel, and would require review and approval by Public Works for an encroachment permit.

Staff has not received correspondence from the Northside Residents Redevelopment Council 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:

VARIANCE 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.

Staff recognizes that a reverse corner lot is a unique circumstance of the property. As a reverse corner lot, the property is subject to two front yard setbacks. Based on the location of the single family dwelling separated by the alley north of the parcel, the front yard setback is approximately twenty-six and a half (26.5) feet along Vincent Avenue, which is six and a half (6.5) feet more than the R1A single family district setback. The underlying platting of this block—resulting in the subject parcel's classification as a reverse corner lot—was not created by persons presently having an interest in the property.

The maximum fence height in the front yard for a solid fence is three (3) feet (or four (4) feet for an open and decorative fence). In order to maintain a six (6) foot high fence, the applicant would be required to relocate the fence approximately twenty-eight and a half (28.5) feet east from its current location. Staff does recognize that the applicant could locate a three (3) foot high solid fence or a four (4) foot high open and decorative fence in approximately the same location, which would not require a variance. However, if the lot were not uniquely platted in a manner that created a reverse corner lot, the existing six (6) foot fence would be permitted as of right in the corner side yard.

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 applicant is seeking variances to increase the maximum fence height in the front yard to six (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 regulations for fence height in these locations are to ensure that sight lines are not obstructed for

motorists, bicyclists and pedestrians. While the fence is located immediately adjacent to the sidewalk in the front yard along Vincent Avenue North, staff believes that the applicant has taken steps to mitigate sight line impairment issues. The fence is located approximately fifty (50) feet front the front property line along 21st Avenue North, allowing ample site lines from vehicles approaching the intersection from the east. The fence is constructed twenty-two (22) feet from the alley to the north, providing significantly better sight lines than the fifteen foot site-triangle typically required pursuant to section 535.400(2) of the Minneapolis code of ordinances. Although staff has some concern about whether the fence interferes with the predominant pattern of open front yards on the block, staff has concluded that maintaining the existing fence is using the property in a reasonable manner.

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 the variance will not alter the essential character of the surrounding neighborhood or be injurious to the use or enjoyment of other property in the vicinity. The fence has been constructed with adequate distance to the intersection at 21st Avenue North and the alley to ensure that it does not obstruct sight lines for oncoming motorists, bicyclists and pedestrians. Due to the varied platting in the neighborhood, a six (6) foot fence is not atypical in a reverse-corner front yard in the immediate vicinity. The parcel immediately to the south of the subject parcel, across 21st Avenue North (2727 21st Avenue North), is a similarly-platted reverse corner lot with a six (6) foot fence in the required front yard immediately along Vincent Avenue North. For these same reasons, staff believes that if the variance were to be granted, it will not 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:

The Department of Community Planning and Economic Development recommends that the Board of Adjustment adopt the findings above and **approve** the variance to increase the maximum height of a cedar fence, along Vincent Avenue North from 3 feet to 6 feet on a reverse corner lot located at 2724 21st Avenue North in the R1A Single-Family District.

Attachments:

- 1) Written descriptions and findings submitted by the applicant
- 2) Zoning map
- 3) Site plan
- 4) Photographs
- 5) Correspondence