

**Department of Community Planning and Economic Development**  
Variance  
BZZ 5928

**Date:** February 28, 2013

**Applicant:** t e Studio

**Address of Property:** 2331 McKinley Street NE

**Contact Person and Phone:** Tim Eian, (612) 246-4670

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

**Date Application Deemed Complete:** January 30, 2013

**End of 60-Day Decision Period:** March 31, 2013

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

**Existing Zoning:** R1A Single-Family District

**Existing Overlay District:** Not applicable

**Zoning Plate Number:** 10

**Proposed Use:** Remodel and second story addition to an existing single-family dwelling

**Variance:** to reduce minimum north interior side yard setback from 5 feet to approximately 1 foot 4 inches measured to the exterior wall to allow the remodel of the first floor and construction of a new second-story addition to an existing single-family dwelling.

**Applicable zoning code provisions:** Chapter 525, Article IX Variances, Specifically Section 525.520(1) “to vary the minimum yard requirements” and Chapter 546 Residence Districts

**Background:** The subject property is approximately 40 feet by 128 feet (5,120 square feet). The first building permits on the property were to allow for a 24 foot by 36 foot single-family dwelling in 1914 and a 12 foot by 16 foot shed in 1915. Staff cannot find the records for the construction of the existing 20 foot by 20 foot detached garage.

The applicant is proposing to remodel the existing single-family dwelling by removing the exterior materials and building out a new insulated wall, creating a “passive house” retrofit with the goal of improving the energy efficiency of the structure. The existing single-family dwelling is located 2.8 feet from the property line at the northwest corner of the structure and 2.4 feet from the property line at the northeast corner. The proposed remodel will increase the width of the structure and the first floor is proposed to be located 1.4 feet, at the closest point, from the property line. The applicant is also

proposing to construct a full second story addition above the proposed first floor remodel, 1.4 feet from the north property line, at the closest point. The minimum interior side yard setback in the R1A Single-Family District is 5 feet. Therefore, the applicants have requested a variance to reduce minimum north interior side yard setback from 5 feet to approximately 1 foot 4 inches measured to the exterior wall to allow the remodel of the first floor and construction of a new second-story addition to an existing single-family dwelling.

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

**Findings Required by the Minneapolis Zoning Code:**

**VARIANCE:** to reduce the north interior side yard setback from 5 feet to approximately 1 foot 4 inches measured to the exterior wall to allow the remodel of the first floor and construction of a new second-story addition to an existing single-family dwelling.

- 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 finds that there are unique circumstances of the property, including the existing location of the dwelling and the location of the adjacent dwelling to the north. Staff finds that these circumstances create practical difficulties exist in allowing a second floor addition to the existing dwelling, directly above the existing first floor, 2.4 feet to the north property line at the closest point. However, staff finds that these circumstances do not cause practical difficulties that would justify increasing the degree of nonconformity with the minimum required side yard. The dwelling was constructed in its present location, approximately 2 feet 4 inches from the north property line in 1914. The applicant is proposing to remodel the existing first floor by adding insulation and making the structure wider and one foot closer to the north property line and then constructing a second story addition. The proposed remodel and addition would be located approximately 1 foot 4 inches from the north property line. Staff finds that the applicant has alternatives to remodeling the existing dwelling without decreasing the setback further, including adding the insulation to the interior of the wall. The applicant has stated that this is not a preferred option, because the floor area of the dwelling would be reduced.

- 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 a variance to reduce the required north interior side yard setback from 5 feet to approximately 1.4 feet measured to the exterior wall to allow the remodel of the first floor and construction of a new second-story addition to an existing single-family dwelling. The dwelling was built in 1914 in its present location, 2.4 feet from the north property line. The purpose of yard requirements is to provide for orderly development and use of land and to minimize conflicts among land uses by governing the location of accessory uses and structures. The proposed remodel will

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increase the width of the structure 1 foot; the first floor is proposed to be located 1.4 feet, at the closest point, from the property line. The applicant is also proposing to construct a full second story addition above the proposed first floor remodel, 1.4 feet from the north property line, at the closest point. The minimum interior side yard setback in the R1A Single-Family District is 5 feet. Staff has concerns that authorizing the remodel of the dwelling and construction of the addition 1.4 feet and the eave and gutter .4 feet to the north property line would not allow for the maintenance of the structure and not allow for sufficient separation of uses where the character of the area includes predominantly detached, single-family homes. While, the adjacent structure to the north is presently located 14.2 feet from the shared property line, the minimum interior side yard requirement for an addition or new construction would be 5 feet and the zoning code authorizes permitted obstructions closer than 5 feet, including privacy fences which can be located on the property line. Staff finds that the applicant is not proposing to use the property in a reasonable manner consistent with the zoning code. However, staff does find that a reasonable alternative would be to allow for a second story addition over the existing first floor, no closer than 2.4 feet to the north property line.

- 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.**

Staff finds that the granting of this variance to locate the existing structure and second-story addition 1.4 feet to the north property line will alter the essential character of the locality and may be injurious to the use or enjoyment of other property in the vicinity. However, staff finds that allowing a second-story addition above the existing first floor, no closer than 2.4 feet to the north property line would not alter the essential character of the area. The proposed addition would be located over 16.5 feet to the adjacent structure to the north and the proposed roof line would divert much of the stormwater to the south side of the property. Staff has concerns that authorizing the remodel of the dwelling and construction of the addition 1.4 feet and eave and gutter .4 feet to the north property line would not allow for the maintenance of the structure and not allow for sufficient separation of uses.

The applicant submitted an alternative analysis to the Building Official to allow for windows (openings) along the north façade, closer than 3 feet to the property line. The proposed remodel and addition have been found to meet the alternative analysis for compliance with the applicable building codes, with conditions. Therefore, 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, as long as it is constructed to current building codes.

**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 staff findings and approve the variance to reduce the north interior side yard setback from 5 feet to approximately **2.4 feet** measured to the exterior wall to allow for the construction of a new second-story addition to an existing single-family dwelling located at 2331 McKinley Street NE in the R1A Single-Family District, subject to the following conditions of approval:

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1. The exterior materials of the addition shall match the existing dwelling.
2. The north elevation shall comply with the minimum window requirements per 535.90(c) of the zoning code.
3. Approval of the final site, elevation and floor plans by the Department of Community Planning and Economic Development.
4. All site improvements shall be completed by February 28, 2015, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

**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
4. Zoning map
5. Existing survey
6. Site plan
7. Building elevations
8. Photos