

Department of Community Planning and Economic Development
Variance
BZZ-6223

Date: September 26, 2013

Applicant: Jeffrey Schieman

Address of Property: 2615 Brighton Avenue Northeast

Contact Person and Phone: Jeffrey Schieman (612) 226-3034

CPED Staff and Phone: Brad Ellis, (612) 673-3239

Date Application Deemed Complete: August 22, 2013

End of 60 Day Decision Period: October 21, 2013

Ward: 01 **Neighborhood Organization:** Audubon Neighborhood Association

Existing Zoning: R1A Single-Family District

Zoning Plate Number: 10

Legal Description: Not applicable

Proposed Use: A six foot fence to the front and side of a single family dwelling.

Variance: to increase the maximum height of a fence from three (3) feet to six (6) feet in a required corner side yard.

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 a 4,650 square foot triangular lot consisting of a one-story single family dwelling with a detached garage. The house is located at the rear of the property, with the front yard narrowing to a point at the corner of Brighton Avenue Northeast and 26th Avenue Northeast. This application arose out of a zoning enforcement order issued to the property owner in April 2012, approximately eleven months after the fence was erected in May 2011. While a building permit is not required for a fence, the fence must comply with requirements of Chapter 535 of the zoning code. The front yard setback for this property is 20 feet from the vanishing point at the corner of Brighton Avenue Northeast and 26th Avenue Northeast, and the corner side yard setback is eight feet. An annotated site plan has been attached showing these setbacks. The applicant is proposing to keep the fence in its existing location. The six foot high fence begins at the southwest corner of the house and projects northwesterly toward the front, is squared off along the line of the neighboring house to the south (20 from the front lot line), and then extends easterly along the corner side yard

along 26th Avenue Northeast for roughly 85 feet before it cuts back south to rejoin with the house. The fence was originally noticed for a variance to fence height in a required front yard as well as a corner side yard, but upon closer review the fence is not actually located in the required front yard, although it is in front of the house. The variance application is only for height in a required corner side yard.

Staff has received correspondence from the Audubon Neighborhood Association. On August 5, 2013 the Board of Directors concluded they have no objection to the variance and support keeping the fence as constructed. Staff has also received one letter in support and one phone inquiry regarding the project. The letter is attached. Staff will forward additional comments, if any are received, at the Board of Adjustment meeting.

Findings Required by the Minneapolis Zoning Code:

VARIANCE: to increase the maximum height of a fence from three (3) feet to six (6) feet in a required corner side yard.

- 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 circumstances upon which the setback variance is requested are unique to the parcel of land due to the location of the house and the odd shape of the lot. The existing structure is set far back on the lot, 70 feet from the front lot line, due to the shape of the lot. The structure was constructed in its present location in 1927, with the detached garage to the rear of the house constructed in 1972. The applicant is proposing to maintain the fence in its location to the front of the house. Given shape and configuration of the buildings on the lot, the applicant has no real rear yard to speak of. The placement of almost any sort of privacy fence on the lot would require a variance. The irregular size of the lot has created practical difficulties in complying with the ordinance. The underlying platting of this lot, resulting in the odd shape of the parcel, was not created by persons presently having an interest in the property.

The maximum fence height in the corner side yard for a solid fence is three feet, or four feet for an open and decorative fence until the rear corner of the house. In order to maintain a six (6) foot high fence, the applicant would be required to relocate the fence eight feet in from the corner side lot line along 26th Avenue Northeast. Staff does recognize that the applicant could locate a three foot high solid fence or a four 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 triangular lot, the house would most likely be toward the front of the lot, giving the property a private rear space typical of Minneapolis.

- 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 corner side yard to six feet. The purpose of regulating fencing is to promote the public health, safety and

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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. The applicant took steps during construction ensure there were no issues to sight lines and to stay in line with the established front yards of the other properties on the block. 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 a reasonable use of the property.

- 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 of Brighton Avenue Northeast and 26th Avenue Northeast to ensure that it does not obstruct sight lines for motorists, bicyclists, and pedestrians. The applicant also made sure the fence was not in the required front yard, and the fence helps to delineate the overall established front yards of the block face. Should the variance 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.

Recommendation of the Department of Community Planning and Economic Development:

The Department of Community Planning and Economic Development recommends that the Board of Adjustment accept the **return** to applicant of the variance to increase the maximum height of a fence from three (3) feet to six (6) feet in a required front yard located at 2615 Brighton Avenue Northeast in the R1A Single-Family District.

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 fence from three (3) feet to six (6) feet in a required corner side yard located at 2615 Brighton Avenue Northeast in the R1A Single-Family District.

Attachments:

- 1) Written description submitted by the applicant
- 2) Correspondence from the Audubon Neighborhood Association and Ward 01 Councilmember
- 3) Public comment
- 4) Zoning map
- 5) Site plan
- 6) Site plan, annotated with front and corner side yard setbacks
- 7) Photographs