

Department of Community Planning and Economic Development - Planning Division
Variance Application
BZZ - 2486

Date: August 4, 2005

Applicant: Curt Fretham

Address Of Property: 5357 Fremont Avenue South

Contact Person And Phone: Curt Fretham 952-930-3000

Planning Staff And Phone: Jim Voll 612-673-3887

Date Application Deemed Complete: June 24, 2005

End of 60 Day Decision Period: August 23, 2005

Appeal Period Expiration: August 15, 2005

Ward: 13 **Neighborhood Organization:** Lynnhurst

Existing Zoning: R1A Single-family Residence District

Existing/Proposed Uses: A single-family home exists on one lot and the other is vacant.

Proposed Variances: A variance to reduce the required minimum north side interior yard setback from 5 feet to 3.87 feet and to allow an architectural feature 2 feet from the property line to allow the reestablishment of the two platted lots.

Zoning code section authorizing the requested variance: 525.520(1)

Background: The subject property consists of two platted lots under one property (tax) identification number (PID). The applicant wishes to separate the two lots and obtain individual PID's for the two lots. Both lots meet the minimum required 5,000 square feet of lot area and 40 feet of frontage, but the existing structure does not meet the required 5 foot setback. The applicant requests a variance to reduce the required minimum north side interior yard setback from 5 feet to 3.87 feet and to allow an architectural feature 2 feet from the property line to allow the reestablishment of the two platted lots. The applicant's site plan shows a proposed parking pad in the corner side yard on 54th Street and this shall be removed from the setback. When the lots are split there will be a garage on the north lot. If the lot is sold to a different part that the owner of the lot with the house, then the accessory structure can not be on the lot without a primary structure.

Findings Required by the Minneapolis Zoning Code:

- 1. The property cannot be put to a reasonable use under the conditions allowed and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

The property consists of two platted lots that meet the requirements of the R1A District, but the existing structure does not meet the required 5 foot side yard setback. Without the variance the applicant would not be able to reestablish the vacant lot, which is similar in size to the other lots in the area. The only other alternative that does not require variances would be to leave the lot undeveloped. This is a hardship. The requested variance will allow a reasonable use of the property.

- 2. The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

The site consists of two platted lots that meet the requirement of the R1A District, but the existing structure does not meet the minimum required setback. This is a condition that is not generally applicable to other properties in the area.

- 3. The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

The intent of setbacks is to provide a uniform building line down a block face, to preserve views up and down the street, and to ensure access to light and air. Since the majority of the house will be almost 4 feet from the property line and one small feature will be 2 feet from the property line they should still be an adequate buffer for the adjacent property ensuring access to light and air. The variance should not circumvent the intent of the ordinance.

- 4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.**

The variance should have no effect on congestion, as it will not significantly increase traffic demand at the site. It will only allow one additional single-family home to the area. The variance should not be detrimental to the public welfare or safety and will not increase the danger of fire.

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Recommendation of the Community Planning and Economic Development Department - Planning Division:

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the above findings and **approve** the variance application to reduce the required minimum north side yard setback from 5 feet to 3.87 feet and to allow an architectural feature to encroach to 2 feet for property located at 5357 Fremont Avenue South in the R1A Single-family District subject to the following conditions:

- 1) The garage on the northerly lot shall be removed with in one year (8/4/06) unless a permit is obtained for the construction of a new single-family home before this date.

- 2) The proposed parking pad on the southern lot shall not encroach into the corner yard setback.