

**Department of Community Planning and Economic Development – Planning Division Report****Variance Request  
BZZ-2649**

**Date:** November 3, 2005

**Applicant:** Corey Ramsey

**Address of Property:** 1221 East 35<sup>th</sup> Street

**Contact Person and Phone:** Corey Ramsey, 612-709-2265

**Planning Staff and Phone:** Molly McCartney, 612-673-5811

**Date Application Deemed Complete:** September 29, 2005

**End of 60 Day Decision Period:** November 28, 2005

**Appeal Period Expiration:** November 14, 2005

**Ward:** 9      **Neighborhood Organization:** Powderhorn Park Neighborhood Association

**Existing Zoning:** R2B Two-family Residence District

**Proposed Use:** Eight (8) ft. tall solid fence

**Proposed Variance:** A variance to increase the maximum height of a fence in the required front yard setback along 13<sup>th</sup> Avenue South from 3 ft. to 8 ft. and to increase the maximum height of a fence in the required side yard from 4 ft. to 8 ft. to allow for a solid fence for a property located at 1221 East 35<sup>th</sup> Street in the R2B Two-family District.

**Zoning code section authorizing the requested variance:** 525.520 (5)

**Background:** The subject property is a 5,056 sq. ft. (41 ft. by 121 ft.) reverse corner lot in the R2B Two-family Residence District. The applicant is proposing to construct a solid 8 ft. tall fence along the property line along 13<sup>th</sup> Avenue South. The subject site is a reverse corner lot and subject to a front yard setback along East 35<sup>th</sup> Street and 13<sup>th</sup> Avenue South. The subject dwelling is setback 16 ft. from the property line along 13<sup>th</sup> Avenue South and an attached single-car garage is setback 5 ft. from the property line along 13<sup>th</sup> Avenue South. The front yard setback in the R2B District is 20 ft., however, the property to the south along 13<sup>th</sup> Avenue South has an established front yard setback of 31 ft. In addition, the adjacent property to the south is setback 1 ft. from the shared interior property line and has a portion of a walkway on the subject site. The existing chain link fence is located 10 ft. from the property line along 13<sup>th</sup> Avenue South and 4 ft. from the south interior property line. The applicant is proposing an 8 ft. tall solid fence; however, in the proposed location only a 3 ft. solid fence or 4 ft. open fence would be permitted without a variance in the required front yard.

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

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

The applicant is requesting a variance to increase the maximum permitted height of a fence in the front yard of a reverse corner lot from 3 ft. to 8 ft. Without a variance, the maximum height of a fence that is greater than 60 percent opaque in the required front yard is 3 ft. Staff believes a solid 6 ft. tall fence constructed behind the subject dwelling and attached garage and at the same setback from 13<sup>th</sup> Avenue South of the existing fence and a 5 ft. setback from the south interior property line is 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 circumstances upon which the setback variance is requested are unique to the parcel because the property is a reverse corner lot that has an increased front yard setback of 31 ft. established by the location of the adjacent residential structure. The subject site is a reverse corner lot and subject to two front yards which limits the height of the fence along 13<sup>th</sup> Avenue South to 3 ft. The property to the south is setback 31 ft. from the front property line; a solid fence is limited to a height of 3 ft. in the required front yard. The platting of the lot as a reverse corner lot and the location of the adjacent structure is not a circumstance created by the applicant.

- 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.**

Granting the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the area or be injurious to the use or enjoyment of other property in the area if the fence constructed, in the following manner:

- Behind the subject dwelling and attached garage,
- At the same setback from 13<sup>th</sup> Avenue South of the existing fence, which is 10 ft. from the property line along 13<sup>th</sup> Avenue South, and
- At a 5 ft. setback from the south interior property line.

The adjacent structure to the south is located 1 ft. from the shared property line and has a front porch that has views of Powderhorn Park. Staff believes the visual impact created by a solid fence located near to the adjacent structure will be lessened by limiting the fence to 6 ft. tall and to be setback 5 ft. from the shared property line.

- 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.**

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Granting the variance would likely have no impact on congestion of area streets or fire safety, nor would the proposed variance be detrimental to the public welfare or public safety.

**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** variance to increase the maximum height of a fence in the required front yard setback along 13<sup>th</sup> Avenue South from 3 ft. to **6 ft.** and to increase the maximum height of a fence in the required side yard from 4 ft. to **6 ft.** to allow for a solid fence for a property located at 1221 East 35<sup>th</sup> Street in the R2B Two-family District, subject to the following conditions:

1. That the fence be setback 10 ft. from the property line along 13<sup>th</sup> Avenue South and 5 ft. setback from the south interior property.