

Department of Community Planning and Economic Development - Planning Division
Variance Application
BZZ - 2670

Date: November 3, 2005

Applicant: Jim Fisher and Mary Murphy Fisher

Address Of Property: 2916 47th Street West

Contact Person And Phone: Scott Durand 612-285-7275

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

Date Application Deemed Complete: October 5, 2005

End of 60 Day Decision Period: December 4, 2005

Appeal Period Expiration: November 14, 2005

Ward: 13 **Neighborhood Organization:** Linden Hills

Existing Zoning: R1A Single-Family Residential District

Existing Use: Single-family home

Proposed Variances: A variance to reduce the required west interior side yard setback from 5 feet to 2 feet to allow for a pergola and a variance to reduce the required north rear yard setback from 5 feet to 1 foot to allow a portion of a roof leading to a second story addition.

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

Background: The subject property contains a single-family home. The applicant proposes to add a pergola on the west side of the home and a second story addition at the rear of the house over an attached garage. The required rear and side yard setbacks in the R1A District are 5 feet. The pergola encroaches into the west side setback 3 feet and part of the roof leading to the second story addition at the rear of the site encroaches 4 feet into the setback. However, this part of the addition is over the existing garage that currently encroaches 4 feet into the setback.

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.**

Side yard setback: The applicant proposes to build a pergola 2 feet from the west property line, which is approximately in line with the most westerly part of the house that is 2.96 feet from the

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property line. Requiring the applicant to meet the 5 foot setback would set the pergola back further than the existing westerly wall and this could be considered a hardship, however, staff can not find a hardship to allow the pergola 2 feet from the property line. A variance to 3 feet is a reasonable use of the property.

Rear yard setback: The existing garage is 1 foot from the property line and the proposed second story addition will meet the required setback, but the portion of the new roof on the garage that extends to the second story addition will be new construction in the rear yard setback. Requiring the applicant to meet the 5 foot setback for a very small part of the roof when the garage below it already is 1 foot from the property line is a hardship because it would make it more difficult to build a reasonable addition. In addition, the majority of the addition will be setback 5 feet. 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.**

Side yard setback: Part of the house is already 3 feet from the west property line and there is a driveway on the east side of the adjacent lot to the west that makes it less likely that there will be a structure on the neighboring property close to the property line. These are conditions that are not generally applicable to other properties in the area.

Rear yard setback: The existing garage is 1 foot from the property line and the proposed second story addition will meet the required setback, but the portion of the new roof on the garage that extends to the second story addition will be new construction in the rear yard setback. These are conditions that are 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.**

Side yard setback: The intent of side and rear yard setbacks is to ensure access to light and air and to provide a reasonable buffer between properties. Building a pergola in line with the existing house when there is a driveway adjacent to the site on the neighboring lot should not circumvent the intent of the ordinance.

Rear yard setback: The intent of side and rear yard setbacks is to ensure access to light and air and to provide a reasonable buffer between properties. A small roof addition over an existing garage that already encroaches into the setback should not circumvent the intent of the ordinance.

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- 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 increase traffic demand at the site. The variance should not be detrimental to the public welfare or safety and will not increase the danger of fire.

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

The Community Planning and Economic Development Department - Planning Division recommends that the Board of Adjustment adopt the above findings and **approve** the variance application to reduce the required west interior side yard setback from 5 feet to **3** feet to allow a pergola and to **approve** the required north rear yard setback from 5 feet to 1 foot to allow a portion of a roof leading to a second story addition for property located at 2916 West 47th Street subject to the following condition:

1. Planning Staff review and approve the final site and elevation plans before building permits may be issued.