



LAND USE APPLICATION SUMMARY

Property Location: 658 Fillmore Street Northeast
Project Name: 658 Fillmore Street Northeast Fence
Prepared By: Andrew Frenz, Zoning Inspector, (612) 673-3790
Applicant: Jessica Rivera
Project Contact: Jessica Rivera
Request: To construct a fence.
Required Applications:

Variance	To increase the height of a solid privacy fence in the corner side yard adjacent to Summer Street Northeast from 3 feet to 6 feet.
Variance	To increase the height of a solid privacy fence in the front yard adjacent to Fillmore Street Northeast from 3 feet to 6 feet.

SITE DATA

Existing Zoning	RIA Single-Family District
Lot Area	4,874 square feet
Ward(s)	3
Neighborhood(s)	Beltrami
Designated Future Land Use	Urban Neighborhood
Land Use Features	Not Applicable
Small Area Plan(s)	Not Applicable

Date Application Deemed Complete	August 31, 2016	Date Extension Letter Sent	Not Applicable
End of 60-Day Decision Period	October 30, 2016	End of 120-Day Decision Period	Not Applicable

BACKGROUND

SITE DESCRIPTION AND PRESENT USE. The subject property is 4,874 square feet in area and is located in the R1A Single-Family District. The property is occupied by two adjoining buildings—a two-story duplex, which was constructed sometime prior to 1892 and faces Fillmore Street Northeast, and a single-story grocery store, which was constructed in 1922 and faces Summer Street Northeast. Both the duplex and the grocery store are considered legal nonconforming uses.

SURROUNDING PROPERTIES AND NEIGHBORHOOD. The surrounding area is developed almost exclusively with low-density residential uses. To the north of the subject property, across Summer Street Northeast, is Beltrami Park. The property to the immediate south of the subject property is a single-family dwelling built sometime prior to 1898.

PROJECT DESCRIPTION. The applicant has constructed a new fence at the property. The fence extends along the north property line from the grocery store building as a six-foot tall solid wood privacy fence until it reaches the front of the duplex (approximately twelve feet from the front property line). The fence continues at four feet five inches in height from this point up to the front property line, along the front property line, and along the south property line until it is parallel to the front of the home. A short section of six-foot tall fence spans the distance between the front of the home and the south property line.

Fences in the corner side yard are limited to three feet in height, unless located to the rear of the principal structure, in which case they may be up to six feet in height. The fence that has been constructed includes a portion located in the corner side yard that is not to the rear of the principal structure and is six feet in height. A variance is required.

Fences in the front yard are limited to three feet in height, unless constructed of open, decorative, ornamental materials that are less than 60% opaque, in which case they may be up to four feet in height. The fence that has been constructed includes portions located in the front yard, both of six feet in height and of four foot five inches in height. A variance is required.

PUBLIC COMMENTS. As of the writing of this report, no correspondence from the neighborhood group has been received. Any additional correspondence received prior to the public meeting will be forwarded on to the Zoning Board of Adjustment for consideration.

ANALYSIS

VARIANCE

The Department of Community Planning and Economic Development has analyzed the application for a variance to increase the maximum height of a fence based on the following findings:

- 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.*

Practical difficulties exist in complying with the ordinance due to circumstances unique to the property. A corner side yard of eight feet in depth is required along Summer Street Northeast. A front yard is required along Fillmore Street Northeast. The established front yard is equal to the setback of the home to the south, 654 Fillmore Street Northeast, which is located approximately

thirty-four feet from the front property line. A solid fence of six feet in height has been constructed in both the corner side yard and the front yard.

The subject property contains both a duplex and a grocery store that together occupy the majority of the lot and leave very little open space. There is no open space to the rear of the property that could be enclosed by a privacy fence to allow the private enjoyment of outdoor space and the functions of a traditional back yard. The space between Summer Street Northeast and the duplex is the most significant open space on the property. In order to allow the use of outdoor space with a reasonable level of privacy similar to that provided by a traditional back yard, a fence is required to provide privacy from the sidewalk and street traffic on Summer Street Northeast. The location and size of the existing buildings on the site were not created by the applicant.

While this practical difficulty does support an increase in fence height in the corner side yard and front yard to allow a six foot privacy fence along the north side of the duplex, it does not support an increase in fence height between the duplex and Fillmore Street Northeast or between the duplex and the south property line. By allowing the increase in fence height between the duplex and Summer Street Northeast, the side yard will be able to provide the same function as a traditional back yard. Increasing the fence height between the duplex and Fillmore Street Northeast and between the duplex and the south property line is not necessary to accomplish this goal. Staff is recommending as a condition of approval that the fences located between the duplex and the front property line and between the duplex and the south property line be reduced to three feet in height unless modified to be constructed of open, decorative, ornamental materials of less than 60% opacity, in which case four feet would be permitted.

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 property owner is proposing to use the property in a reasonable manner. The property is located in the RIA Single-Family District and is occupied by a duplex and a grocery store. While these uses are not permitted in the RIA Single-Family District, they were lawfully established and the use of the property would not change as part of this project.

Fence regulations are established to promote the public health, safety and welfare, encourage an aesthetic environment and allow for privacy while maintaining access to light and air. A fence has been constructed in the corner side yard and the front yard. The purpose of the fence is to allow privacy for the residents of the property and to prevent trespassing. The granting of the request would not have a negative impact on the aesthetics of the area, the public health, safety and welfare, or surrounding properties' access to light and air. The request is reasonable and would be in keeping with the spirit and intent of the comprehensive plan.

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.*

The granting of the variance subject to the proposed conditions of approval would not significantly affect the character of the area or be injurious to the use or enjoyment of other property in the vicinity. The portion of the fence located between the duplex and Summer Street Northeast does not directly face any adjacent homes and instead faces Beltrami Park. Due to the location of the front wall of the duplex and the site's location on the end of the block, the portion of the front yard located between the duplex and Summer Street Northeast does not appear or feel like a continuation of the front yard of the property to the south. However, because the entrance to the grocery store faces Summer Street Northeast, this portion of the front yard and the corner side yard do share some characteristics with a typical front yard.

The portion of the fence located between the duplex and Fillmore Street Northeast and between the duplex and the south property line would have an impact on character of the block face and on the property to the south. These portions of the front yard look and feel like a continuation of the front yard of the property to the south. The home to the south is set back approximately thirty-four feet from the front property line. An increase in fence height in these portions of the front yard would impact the property to the south and the character of the block face.

RECOMMENDATIONS

The Department of Community Planning and Economic Development recommends that the Zoning Board of Adjustment adopt staff findings for the application by Jessica Rivera for the property located at 658 Fillmore Street Northeast:

A. Variance to increase the height of a fence in the corner side yard.

Recommended motion: **Approve** the application to increase the height of a fence in the corner side yard from three (3) feet to six (6) feet, subject to the following conditions:

1. Approval of the fence plans by the Department of Community Planning and Economic Development.
2. All site improvements shall be completed by October 13, 2017, unless extended by the Zoning Administrator, or the permit may be revoked for noncompliance.

B. Variance to increase the height of a fence in the front yard.

Recommended motion: **Approve** the application to increase the height of a fence in the front yard for three (3) feet to six (6) feet, subject to the following conditions:

1. The portion of the fence located between the front of the home and the front property line and between the home and the south property line shall be reduced to three (3) feet in height, unless constructed of open, decorative, ornamental fencing materials that are less than sixty (60) percent opaque, in which case the fence may be four (4) feet in height.
2. Approval of the final fence plans by the Department of Community Planning and Economic Development.
3. All site improvements shall be completed by October 13, 2017, unless extended by the Zoning Administrator, or the permit may be revoked for noncompliance.

ATTACHMENTS

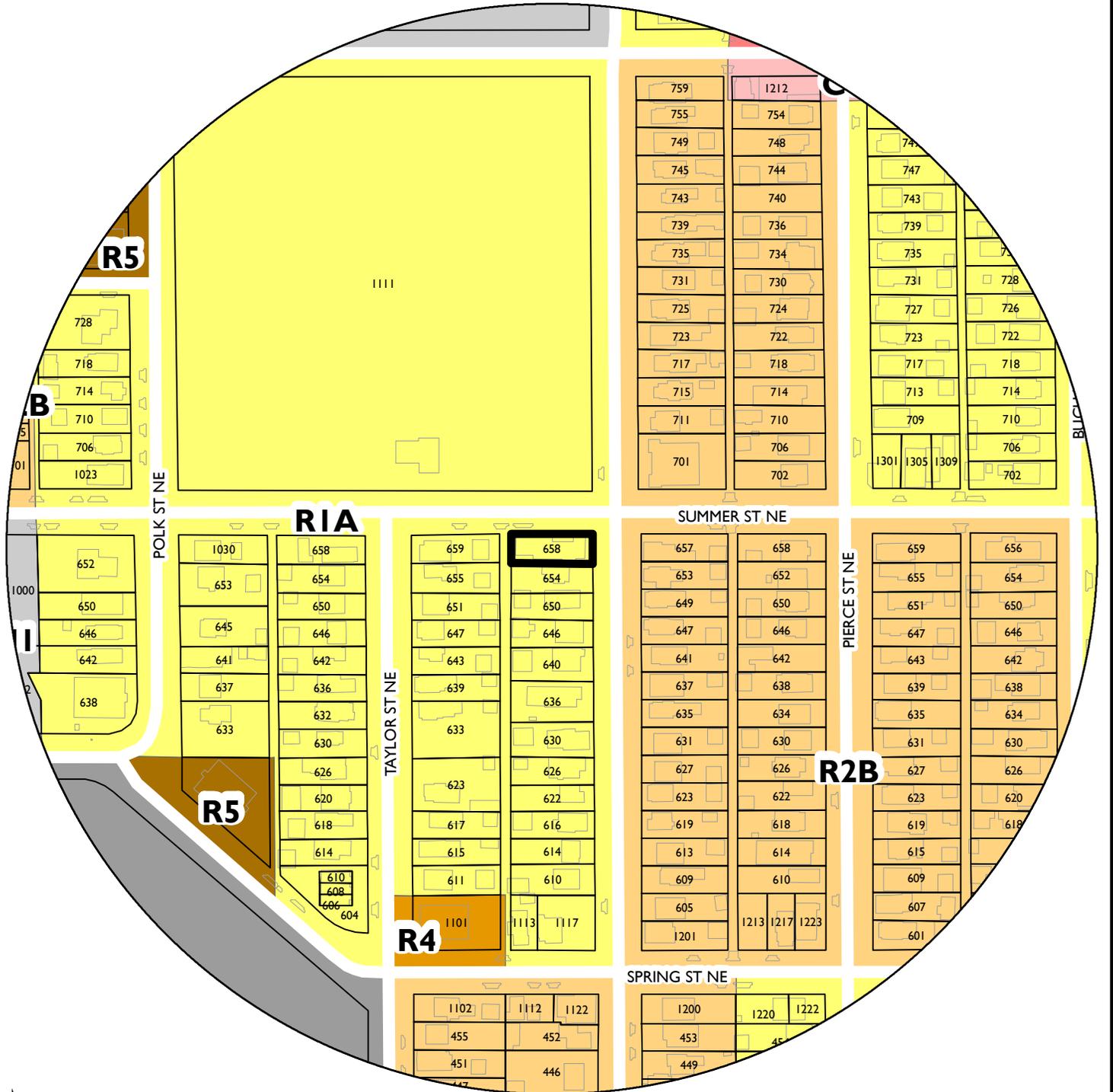
1. Zoning map
2. Written description and findings submitted by applicant
3. Site plan
4. Photos
5. Public comments

Jessica Rivera

3rd

NAME OF APPLICANT

WARD



PROPERTY ADDRESS

658 Fillmore Street Northeast

FILE NUMBER

BZZ-7889

Statement of Proposed Use:

Property address:

658 Fillmore St. NE., Minneapolis, MN 55413

Owner: Jessica Rivera 612-715-3355

6 foot cedar privacy fence along side of home

3 foot cedar privacy fence with 1 foot lattice top in front of home

Purpose of fence is to provide privacy and safety of a non-conforming residence that's is attached to a commercial property

Findings:

(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.

I came home on a daily basis to people sitting on my front or side steps. So metime kids, sometimes an intoxicated individual, sometimes a tired elderly person. Another important piece to mention is that the residence was unoccupied for 20 years. The neighborhood was used to taking advantage of the space, or using it more as common area, because the Delmonico's didn't occupy it. Even to the point where the neighbors had fenced in your yard up to the house.

(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.

A fence in this location defines the residential space as it is attached to commercial space.

(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.

Building a fence at this location does not pose any threats to the neighbors or general public. It will however provide added safety to the occupants of the home.

Good afternoon,

I am writing today regarding the fence at my property, [658 Fillmore Street](#) Northeast. As you both know, I spent quite a bit of time building the fence. I would like to recap the events that have taken place. (Writing this letter to both of you was a requirement of the variance application.)

I began building the fence myself with the help of friends and family. The task became more difficult than expected, and understanding the requirements proved to be a challenge. I decided to put the project on hold in effort to save the money to hire a professional to finish the job appropriately and according to the requirements allotted. I contracted Security Fence, a local NE company, to complete the job. I provided them with the letter I had received from the inspector, Robert Sayer, and asked that they made sure we had approval for the plans on the fence. Jim, with Security Fence, and myself had SEVERAL conversations with Robert Sayer who ultimately approved Jim's plans verbally and gave us permission to complete the fence as we did; 6 feet on the side of the home, 3 feet in front with a 1 foot lattice top. I chose these heights for specific reasons, as my property is unique; it is adjoined to a commercial space and sits on Beltrami Park. When I first moved in to the property, I would come home on a daily basis to people sitting on my front or side steps. Sometime kids, sometimes an intoxicated individual, sometimes a tired elderly person. Another important piece to mention is that the residence was unoccupied for 20 years. The neighborhood was used to taking advantage of the space, or using it more as common area, because the Delmonico's didn't occupy it. Even to the point where the neighbors had fenced in your yard up to the house. I believe this gives another example of the needed privacy. Either way it made me feel unsafe, and that my privacy was not being respected. (This is why I requested to build my fence the way I did.) I paid Jim with Security Fence \$1800 to put the pickets up and build the gates. This amount paid was strictly for labor, as I had already purchased all the materials. I spent the \$1800 to have the peace of mind that it would be completed correctly. This was last fall.

Fast forward to this summer, and I have received several letters from the city stating the 6 feet portion needs to be cut down, as it was out of compliance. I hope you can understand my shock and dismay! Apparently, Robert Sayer is a fire inspector and had no authority to approve the fence. As a civilian that does not work for the city, how am I supposed to know this, and why would he approve if he didn't have the authority to do so? In total, I have spent over \$5000 to build this cedar privacy fence. Am I to tear it down because someone at the city had given me false information? I had contacted Robert Sayer because he sent me an official letter regarding my fence! Never once did he redirect me or Jim to a different inspector. I have now been asked to apply for a variance to keep my fence as-is. I hope you can see how unjust this is, as I did my due diligence to communicate with the city prior to completing the fence project. This was not an afterthought in any way shape or form.

The city agreed to waive the variance application fee, which is \$450. However, along with the fee is another fee of \$77.50 that I have to pay for mailing labels to send out to neighbors regarding the application I am forced to submit. \$77.50 is a lot of money for a struggling business owner after already spending over \$5000. I am extremely frustrated and embarrassed that this has to go out to all my neighbors in the first place.

In conclusion; Had I known it was going to cause this much trouble and be a financial drain I would have never built it and I would have suffered through my privacy not being respected. I would also like to mention that there are several other fences in Beltrami that are out of compliance, and I can't help but feel that I am being picked on. I hope you understand what has happened and can support my cause.

Please help.

Kindly,

Jessica Rivera
[612-715-3355](tel:612-715-3355)





