

**Department of Community Planning and Economic Development – Planning
Division**

Variance and Minor Subdivision Application
BZZ-4594 & MS-202

Date: November 30, 2009

Applicant: David Gustafson, 2828 St. Louis Avenue, Minneapolis, MN 55416, (612) 925-5166

Addresses of Property: 2828 St. Louis Avenue

Project Name: Not applicable for this development.

Contact Person and Phone: David Gustafson, 2828 St. Louis Avenue, Minneapolis, MN 55416, (612) 925-5166

Planning Staff and Phone: Becca Farrar, (612)673-3594

Date Application Deemed Complete: October 8, 2009

End of 60-Day Decision Period: December 6, 2009

End of 120-Day Decision Period: On October 29, 2009, Staff sent a letter to the applicant extending the decision period to no later than February 4, 2010.

Ward: 7 Neighborhood Organization: Cedar-Isles-Dean Neighborhood Association (CIDNA)

Existing Zoning: R1 (Single-family) district and SH (Shoreland) Overlay District

Proposed Zoning: Not applicable for this application.

Zoning Plate Number: 23

Lot area: 14,062 square feet or .32 acres

Legal Description: See survey.

Proposed Use: Create two parcels to accommodate two new single-family homes in the future.

Concurrent Review:

- Variance of the front yard setback requirement for a new single-family structure adjacent to the east property line along St. Louis Avenue.

- Minor Subdivision to create two parcels out of one parcel; both parcels would accommodate new single-family homes in the future.

Applicable zoning code provisions: Chapter 525, Article IX, Variances, Specifically Section 525.520(1) and Chapter 598 Subdivisions.

Background: The subject property consists of two platted lots under one property (tax) identification number (PID). The proposed subdivision would separate the two platted lots with a slight shift or alteration of the platted lot line to better accommodate future development on each lot. The minor subdivision would enable the applicant to obtain individual PIDs for the two lots. The lots as proposed meet the minimum required lot area of 6,000 square feet and lot width of 50 feet as required in the R1 district. A single-family home currently occupies the site and would be demolished in order to allow for the construction of two new single-family homes.

The applicant has submitted a development plan showing that two single-family structures could be accommodated on the property; only one of those structures located on Parcel A is proposed at this time. The remaining lot, Parcel B, would be developed in the future. Based on the submitted development plan, a front yard variance would be necessary to construct both dwellings. As previously mentioned, due to the fact that only one of the structures (located on Parcel A) is currently proposed, a variance will only be processed for that dwelling. The applicant is requesting a variance from 25 feet to 16 for the proposed dwelling and to approximately 12 feet 6 inches for the proposed porch encroachment. As the development plan for the other parcel is conceptual at this time, variances if necessary, will be required in the future should the lot be developed as proposed. Elevations for the proposed structure to be located on Parcel A are attached for reference as is a contextual drawing indicating how the proposed dwelling would interrelate with adjacent dwellings.

It is important to note that both of the single-family homes would require a separate administrative site plan review prior to building permit issuance. Each dwelling would need to comply with the applicable criteria outlined in Chapter 530 of the Zoning Code.

The application was continued from the November 9, 2009, in order for the applicant to produce elevations for the residential structure proposed for the site.

Staff has not received any official correspondence in regard to the proposed application from the Cedar-Isles-Dean Neighborhood Association (CIDNA) prior to the printing of this report. One neighborhood letter that was received has been included in the attachments. Correspondence received prior to the meeting shall be forwarded on to the Planning Commission for consideration.

VARIANCE – of the front yard setback from 25 feet to 16 feet for the proposed structure and to approximately 12 feet 6 inches for the proposed porch encroachment.

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 under one property (tax) identification number (PID). The proposed subdivision would separate the two platted lots with a slight shift or alteration of the platted lot line. The two resulting lots would meet the requirements of the R1 district. It is unlikely that with the shape and configuration of Parcel A, that the property could be put to a reasonable use under the conditions allowed. It is Planning Staff's position that strict adherence to the regulations governing the front yard setback requirement would cause undue hardship in this circumstance. The requested variance would allow for the reasonable use of Parcel A.

- 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 under one property (tax) identification number (PID) that are both able to meet the requirements of the R1 District. The circumstances are unique to the parcel of land for which the variance is being sought as the lot is irregularly shaped. The proposal to reduce the front yard setback requirement along St. Louis Avenue from 25 to 16 feet for the proposed structure and to 12 feet 6 inches for the proposed porch encroachment is a reasonable request based on the uniqueness of the site.

- 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.**

One of the objectives behind requiring front yard setbacks is to maintain a consistent and/or established street face. Due to the configuration of the lot, the proposed structure would be the only residential structure on the block face as the triangular parcel located north of the alley is vacant. Further, the adjacent property to the west, which actually fronts on 29th Street West received approval for a front yard setback variance in 1996 from 25 feet to 15 feet (The structure was eventually constructed to a setback of 16 feet). Based on a review of the orthophoto for the area, there is some inconsistency in regard to the setbacks of the existing structures on the 29th Street West street frontage. As previously mentioned however, the subject property fronts on St. Louis Avenue and would be the only structure located on the block face as the triangular parcel located

north of the alley is vacant. It is Planning Staff's position that granting this variance would 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 front yard setback variance should have no effect on congestion, as it will not result in a significant increase in traffic at the site. A single-family home current exists on the site. The potential build-out of two single-family homes would not be expected to be detrimental to the public welfare or safety and will not increase the danger of fire.

MINOR SUBDIVISION

Required Findings:

- 1. The subdivision is in conformance with the land subdivision regulations and the applicable regulations of the zoning ordinance and policies of the comprehensive plan.**

Both parcels would be in conformance with the requirements of the Comprehensive Plan and Zoning Code with the exception of the proposed front yard setback requirement for Parcel A. The R1 district requires 6,000 square feet for a single-family home and a lot width of 50 feet. Parcel A, which would accommodate the proposed dwelling would be 6,454 square feet in size and 70 feet wide. Parcel B, would be 7,607 square feet in size and 125 feet wide. The proposed minor subdivision meets all of the criteria within the Subdivision Ordinance except the provision pertaining to sidewalks as outlined in Section 598.230(4). The provision states that sidewalks shall be provided within the dedicated non-pavement right-of-way of streets. A variance is necessary as the applicant is not proposing a sidewalk along St. Louis Avenue. To grant a variance from the sidewalk requirement of the subdivision ordinance the following findings are required:

598.310. Variances. Where the planning commission finds that hardships or practical difficulties may result from strict compliance with these regulations, or that the purposes of these regulations may be served to a greater extent by an alternative proposal, it may approve variances to any or all of the provisions of this chapter. In approving variances, the planning commission may require such conditions as it deems reasonable and necessary to secure substantially the objectives of the standards or requirements of these regulations. No variance shall be granted unless the planning commission makes the following findings:

- (1) There are special circumstances or conditions affecting the specific property such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of land.*

(2) *The granting of the variance will not be detrimental to the public welfare or injurious to other property in the area in which the property is located.*

The purpose of the sidewalk requirement is to ensure accessible pedestrian walkways and connections throughout the City. Planning Staff has consulted with the Public Works Department. Due to the configuration of the lot, and the fact that there are no sidewalks located on either side of St. Louis Avenue within the immediate vicinity, both Planning Staff and Public Works do not believe that it would be appropriate to require a sidewalk in this location at this time. Planning Staff does believe that incorporation of public sidewalks along this section of St. Louis Avenue should collectively be done in order to make the area more walkable. It would be a hardship to require strict adherence to this standard. Planning Staff recommends granting a variance from this provision due to the unique circumstances.

2. The subdivision will not be injurious to the use and enjoyment of other property in the immediate vicinity, nor be detrimental to present and potential surrounding land uses, nor add substantially to congestion in the public streets.

The proposed subdivision would separate two platted lots with a slight shift or alteration of the platted lot line to better accommodate future development on each lot. This would not be out of character with the area and would not add significant congestion to the public streets.

3. All land intended for building sites can be used safely without endangering the residents or users of the subdivision and the surrounding area because of flooding, erosion, high water table, severe soil conditions, improper drainage, steep slopes, rock formations, utility easements, or other hazard.

The site does not present the above noted hazards.

4. The lot arrangement is such that there will be no foreseeable difficulties, for reasons of topography or other conditions, in securing building permits and in providing driveway access to buildings on such lots from an approved street. Each lot created through subdivision is suitable in its natural state for the proposed use with minimal alteration.

The site is relatively flat and significant alterations to the properties appear unlikely. Access to the site would be located off of the public alley. All required permits will need to be attained before construction can commence.

5. The subdivision makes adequate provision for storm or surface water runoff, and temporary and permanent erosion control in accordance with the rules, regulations and standards of the city engineer and the requirements of these land subdivision regulations. To the extent practicable, the amount of stormwater runoff from the site after development does not exceed the amount occurring prior to development.

Existing utility and drainage provisions are adequate for the future development.

RECOMMENDATION:

Recommendation of the Department of Community Planning and Economic Development– Planning Division for the variance:

The Department of Community Planning and Economic Development– Planning Division recommends that the City Planning Commission **approve** the variance application to reduce the required front yard setback from 25 feet to 16 feet for a new single-family home as well as to allow a porch encroachment to approximately 12 feet, 6 inches to be located on the property at 2828 St. Louis Avenue subject to the following conditions:

1. Building permits must be attained for the single-family home proposed on Parcel A by November 30, 2010, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.
2. Submission of an Administrative Site Plan Review application for Staff review and approval for the proposed single-family home.
3. The single-family home shall comply with all applicable R1 district regulations as outlined in Chapter 546 as well as the standards outlined in Chapter 530 and Chapter 535.

Recommendation of the Department of Community Planning and Economic Development– Planning Division for the minor subdivision:

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission **approve** the minor subdivision with a sidewalk variance application for the property located at 2828 St. Louis Avenue.

Attachments:

- 1) Statement of proposed use and description of the project
- 2) Correspondence
- 3) Zoning map
- 4) Plans
- 5) Photos