

Board of Zoning Appeals

July 28, 2020 – 7 pm

REGULAR MEETING AGENDA

This meeting will be held via Webex in accordance with the local emergency declaration made by the City under Minn. Stat. § 12.37. The public may monitor this meeting by calling 1-415-655-0001 and entering the meeting code **133 743 2368**. If you incur costs to call into the meeting, you may submit the costs to the City for reimbursement consideration. For technical assistance, please contact the City at 763-593-8007 or webexsupport@goldenvalleymn.gov.

1. Call to Order

2. Approval of Agenda

3. Approval of Minutes

June 23, 2019, Regular Meeting

4. 2301 Indiana Ave N

Tom Schirber, Applicant

Request: § Section 113-88, Single Family Zoning District, Subd. (f)(1)(a) 14.8 ft. off of the required 30 ft. to a distance of 15.2 ft. at its closest point to the Front yard (east) property line.

5. 4310 Tyrol Crest

Alyson Frahm, Applicant

Request: § Section 113-152, Screening and Outdoor Storage, Subd. (c)(1)(a) 4 ft. over the allowed 4 ft. in height for fences in a front yard to a total of 8 ft.

6. 1325 Castle Court

Andrew Schwanke, Applicant

Request: § Section 113-88, Single Family Zoning District, Subd. (f)(1)(a) 6 ft. off of the required 30 ft. to a distance of 24 ft. at its closest point to the Front yard (west) property line.

7. Adjournment



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Board of Zoning Appeals

June 23, 2020 – 7 pm

REGULAR MEETING MINUTES

This meeting was held via Webex in accordance with the local emergency declaration made by the City under Minn. Stat. § 12.37. In accordance with that declaration, beginning on March 16, 2020, all Board of Zoning Appeals meetings held during the emergency were conducted electronically. The City used Webex to conduct this meeting and members of the public were able to monitor the meeting by calling 1-415-655-0001 and entering the meeting code **133 535 5486**.

Call to Order

The meeting was called to order at 7 pm by Chair Orenstein.

Roll Call

Members present: Nancy Nelson, Richard Orenstein, Chris Carlson, Sophia Ginis, Kade Arms-Regenold, Adam Brookins– Planning Commissioner

Members absent:

Staff present: Planning Manager Jason Zimmerman and Planner Myles Campbell

Approval of Agenda

MOTION made by Ginis, seconded by Brookins to approve the agenda of June 23, 2020, as submitted. Staff took a roll call vote and the motion carried unanimously.

Approval of Minutes

MOTION made by Ginis, seconded by Nelson to approve the May 26, 2019, meeting minutes as submitted. Staff took a roll call vote and the motion carried unanimously.

Before moving to the first Variance request, **Chair Orenstein** requested staff review the standards by which the Board evaluates a variance request. He then explained the meeting procedure to the applicants.

1. 75 Brunswick Ave N

Michael Anderson, Applicant

Request:

§ Section 113-88, Subd. (f)(1)(b) - 11.2 ft. off of the required 25 ft. to a distance of 13.8 ft. at its closest point to the rear yard (west) property line.

Myles Campbell, Planner, presented the history of 75 Brunswick Ave N and the variance request by the applicant. The variance, as proposed, was generally in line with the City's Zoning Code and Comprehensive Plan. **Campbell** pointed out that it also met the practical difficulties standard for a



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variance. It was noted however, that a similar outdoor area could be achieved through the construction of a patio that would not require a variance due to a less significant rear setback requirement. For this reason, staff recommended denial of the variance.

Member Carlson asked for clarification on the setback requirements for a patio and **Campbell** explained the City has a 3 ft. setback from rear and side property lines. The applicant explained he had considered both the deck and patio options, but decided a deck would be a more practical option. He referred to the grade of the rear lot requiring additional consideration for a patio, as well as the elevated location of the existing backdoor. Additionally, the applicant was concerned about the potential need to remove an existing tree in the rear yard if he were to build a patio.

Board Members asked the applicant if the alternative recommendation of a patio would be feasible for his uses. The applicant responded that he was not made aware by staff that a patio would have the reduced setback amount, but that he still felt a deck would be his first choice. **Member Ginis** raised the idea of a wooden deck that was elevated off the ground by a concrete slab, as an option to have the aesthetic of a deck while still keeping the structure below 8 inches in height. **Chair Orenstein** asked for clarification on where measurement would be taken from. Staff stated they would still be looking at total distance from grade, but the slab could be partly buried in portions in order to achieve level grade and still meet the height requirement. Board members continued to discuss the potential a patio with the applicant, while acknowledging their understanding of his use of the rear yard.

With no other questions for the applicant, **Orenstein** opened the public forum. **Member Arms-Regenold** requested that the Chair read aloud the neighbor's letter for the record. **Orenstein** agreed and read the letter submitted by John and Kathy Watkins, the owners of 112 Paisley Lane. In response to the letter, the applicant stated he did not plan to use the rear of his yard in a disruptive manner.

Orenstein opened discussion amongst the Board. **Planning Commissioner Brookins** stated that he was sympathetic to the applicant's desire to use his rear yard. He suggested a possible compromise to allow for a variance in the 8 inches of height, rather than the setback variance requested. The Board discussed this and had concerns about how to rephrase or draft the language of a new request to mirror Brookins' comments. Staff suggested the variance request, as written, be kept and a condition limiting the maximum deck height be attached. **Carlson** asked staff if the Board was able to amend a request. **Campbell** replied that the Board was able to modify variance requests if they felt the modification might make an impact on their decision. **Orenstein** asked the applicant if the modification to the request would be amenable. The applicant replied he was open to some type of compromise if that would help the Board come to a decision on the matter. **Member Nelson** stated that occasionally the Board has acted to table a vote on a particular case to allow time for the applicant to work with staff to find a compromise. There was some discussion of this idea amongst the Board and the applicant, who is eager to begin work on the project this summer. **Arms-Regenold** raised the possibility of a special meeting to allow for some review time while expediting things slightly. **Campbell** asked if the Board were comfortable with the setback, as shown on the proposal from the applicant, in which case they could take a vote at this meeting with the height condition as

stipulated by Brookins. Discussion occurred and consensus occurred on the deck's location with the height condition.

MOTION made by **Chair Orenstein** to approve the variance of 11.2 off the required 25 ft to a distance of 13.8 feet at the rear lot line for the deck, with the added condition that said deck not exceed 12 inches in height from grade. The motion was seconded by **Brookins**. Staff took a roll call vote and the motion passed unanimously.

2. 5505 Phoenix Street
Daniel Supalla, Applicant

Request:

Section 113-152, Subd. (c)(1)(a) - 2 ft. over the allowed 4 ft. in height for fences in a front yard to a total of 6 ft.

Myles Campbell, Planner, started with a background of the applicant and presented on the variance request for the increase in front yard fence height. The home is located across the street from Highway 100 and while not directly abutting, staff felt the request for a taller privacy fence was reasonable. **Campbell** further stated that the City was considering an amendment to its code language around screening to address these types of locations in the near future, and that staff was recommending approval of the variance. With no questions for staff from the Board, the applicant, gave a brief presentation. He stated that with the recent stay at home order, he was looking to make greater use of his rear yard and that while the noise mitigation from the highway was a central concern, there was also a high level of traffic and activity along Lilac Drive. Board Members did not have any questions for the applicant.

Member Nelson commented that she is always sympathetic to corner lots that effectively have two front yards despite how the lot itself is used. **Members Nelson, Arms-Regenold, and Brookins** all noted that similar variances had been approved in the past. **Member Ginis** added that she would be reluctant to deny the variance given staff comments about an upcoming change in the zoning code that might allow the project by right. Members discussed briefly before taking a vote.

MOTION made by **Brookins** to approve the variance as requested by the applicant at 5505 Phoenix Street, it was seconded by **Nelson**. Staff took a roll call vote and it passed unanimously.

Adjournment

MOTION made by **Nelson**, seconded by **Orenstein** and the motion carried unanimously to adjourn the meeting. Staff took a roll call vote and the meeting adjourned at 9:03 pm.

Richard Orenstein, Chair

Amie Kolesar, Planning Assistant



MEMORANDUM
Physical Development Department
 763-593-8095 / 763-593-8109 (fax)

Date: July 28, 2020
To: Golden Valley Board of Zoning Appeals
From: Myles Campbell, Planner
Subject: 2301 Indiana Ave N
 Tom Schirber, Applicant

Introduction

Tom Schirber, the property owner, is seeking a variance from the City Code to construct a roof over a patio area in the rear yard of his property. The applicant is seeking the following variances from City Code:

Variance Request	City Code Requirement
The applicant is requesting a variance of 14.8 ft. off of the required 30 ft. to a distance of 15.2 ft. at its closest point to the Front yard (east) property line.	<p>§ Section 113-88, Single Family Zoning District, Subd. (f)(1)(a) Front Yard Setback Requirements</p> <p>Decks and open front porches, with no screens, may be built to within 30 feet of a front lot line along a street right-of-way line.</p>

Background

The home at 2301 Indiana Ave N was originally built in 1958 as part of the Cumberland Hills Addition. The lot itself is approximately 13,619 sq. ft. and has an irregular shape. The property is below both the lot coverage and impervious surface requirements currently, and the proposed roof would not increase hardcover on the site as it would be located over an existing paved area.

The home is located on a cul-de-sac, and has a significant section of public right-of-way in the front yard of the home. The existing home location is approximately 24.2 feet from the front property line, which would be less than the required 35 feet.



However, there is approximately 35.8 feet of right-of-way between the property line and the curb, effectively creating a separation of 60 feet between the home and the cul-de-sac itself.

Summary of Requests

The applicant is seeking to construct a roof over a portion of the paved patio/driveway in the front of the home. They are hoping the roof will provide greater opportunity to use the space for social gatherings as well as providing some weather protection between the driveway and the home's primary entrance. The roof would extend roughly 9 feet off of the existing home façade.

This roofed area would be completely open and unscreened on the sides, and as such is treated as an open front porch for the purposes of the zoning code. Code allows for open front porches to be slightly closer to the front property line than the principal structure, 30 feet versus 35 feet. Given the large right-of-way, the existing home is only 24.2 feet from the property line. The roof would extend another 9 feet off of the existing home façade, putting it at 15.2 feet from the property line.

Analysis

In reviewing this application, staff has maintained the points of examination to the considerations outlined in Minnesota State Statute 462.357 – that the requested variance is in harmony with the general purposes and intent of the Zoning Chapter, that it is consistent with the City's Comprehensive Plan, and that a property exhibit "practical difficulties" in order for a variance to be granted.

Staff finds that the variance is in line with both the purpose of the Zoning Code as well as the purpose of the Single-Family Residential (R-1) Zoning District, which is "to provide for detached single-family dwelling units at a low density along with directly related and complementary uses." The requests would not allow for additional unit density in the neighborhood and the proposed roof would not have any egregious impact on the welfare of neighboring properties.

In the City's 2040 Comprehensive Plan, one of the stated objectives of the Land Use Chapter is to *protect existing residential neighborhoods* (p. 2-35). Staff feels that this request would not cause harm to the neighborhood at large. Additionally, in the Comprehensive Plan's Housing Chapter is an objective to *support the rehabilitation and reinvestment of the housing stock as structures continue to age*. This type of reinvestment in a mid-century home helps to keep these properties in good repair, and increase their usability by residents.

In order to constitute practical difficulties:

- 1. The property owner must propose to use the property in a reasonable manner.**

A roofed patio on the front of the home is a reasonable use of a residential property and can be found already in many residential neighborhoods throughout the city. The proposal does not increase overall hardcover on the site, and by keeping the sides open limits the amount of obstruction caused by the addition.

2. The landowners' problem must be due to circumstances unique to the property that is not caused by the landowner.

The lot itself is of a unique shape, however the greatest limiting factor on the site is the amount of the front yard that is taken up by public right-of-way. The area of right of way extending past the curb is in itself enough to meet a 35' front setback, but then leaves very little space for the home and roofed section.

3. And the variance, if granted, must not alter the essential character of the locality

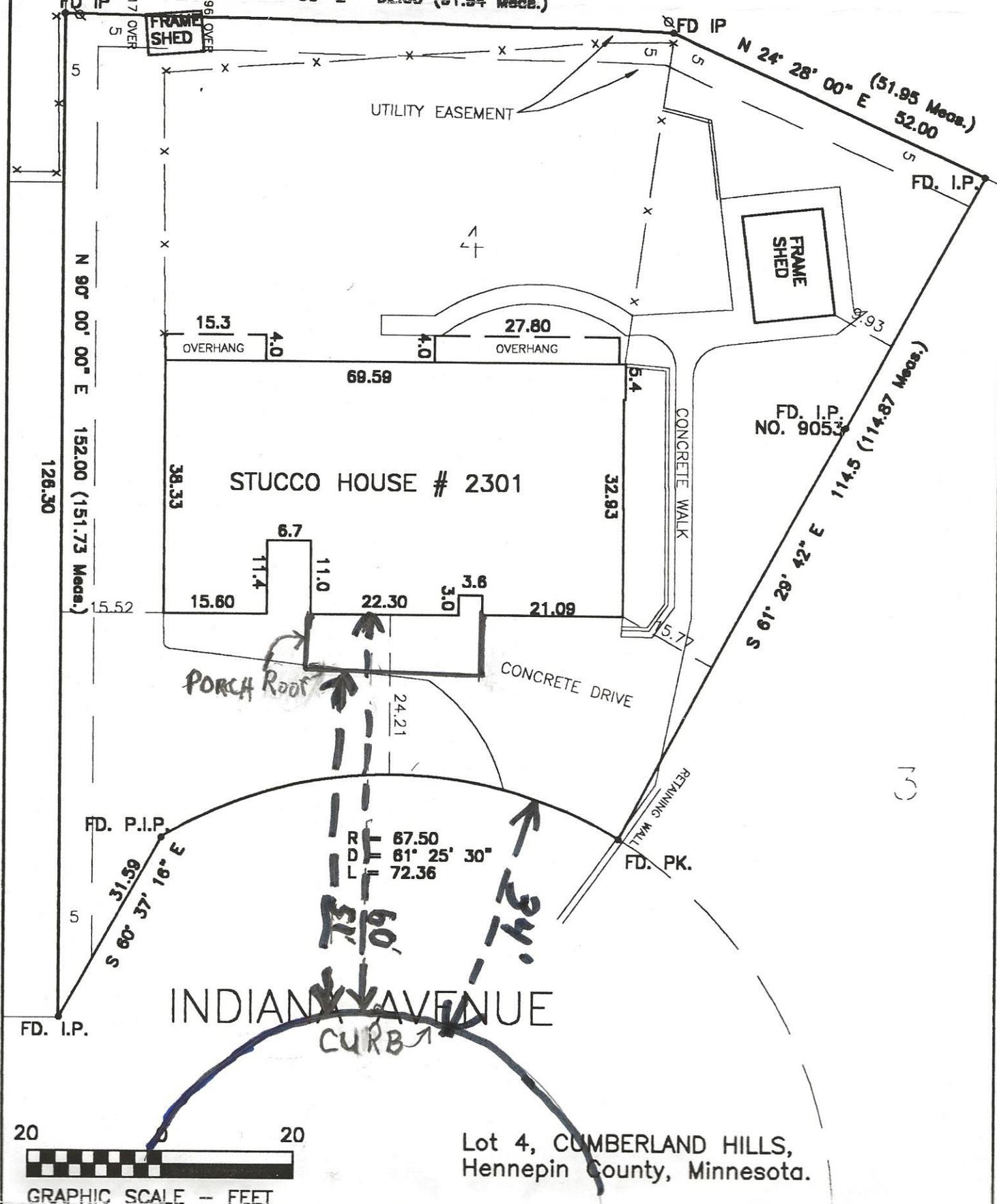
Covered porches and patios are not uncommon in the city, and this proposal would be consistent with existing cases. This roof would project off the front of the home and modify the façade, however it is set back significantly from the road and would not alter the character of the cul-de-sac.

Additionally, staff assesses whether other options are available to meet the applicant's needs without requiring a variance. Given the home already being located less than the required front setback, a variance is required for this use.

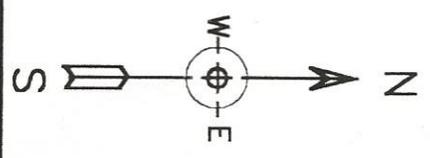
Lastly, staff assesses whether the proposal requests the smallest variance necessary to meet the applicant's needs. Reducing the roof depth would impact the actual coverage of the paved area and staff would not recommend such an action.

Recommendation

Staff recommends **approval** of the variance request of 14.8 feet off the required 30 feet to a distance of 15.2 feet at its closest point to the front yard property line.



Lot 4, CUMBERLAND HILLS,
Hennepin County, Minnesota.



I hereby certify that this survey, plan, or report was prepared by me or under my direct supervision and that I am a duly licensed Land Surveyor under the Laws of the state of Minnesota.

Signed the 12TH day of SEPTEMBER A.D., 1994

Edward J. Casey
Edward J. Casey







MEMORANDUM
Physical Development Department
 763-593-8095 / 763-593-8109 (fax)

Date: July 28, 2020
To: Golden Valley Board of Zoning Appeals
From: Myles Campbell, Planner
Subject: 4310 Tyrol Crest
 Alyson Frahm, Applicant

Introduction

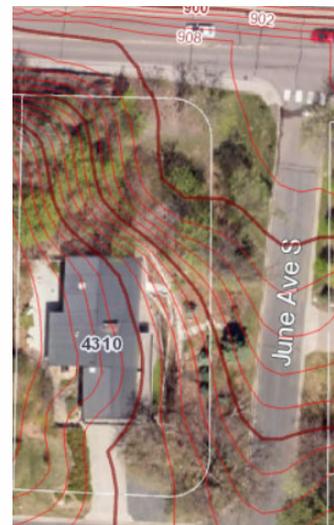
Alyson Frahm, the property owner, is seeking a variance from the City Code to construct a fence on their property at the corner of Wayzata Boulevard and June Ave S. The applicant is seeking the following variances from City Code:

Variance Request	City Code Requirement
The applicant is requesting a variance of 4 ft. over the allowed 4 ft. in height for fences in a front yard to a total of 8 ft.	<p>§ Section 113-152, Screening and Outdoor Storage, Subd. (c)(1)(a) Height Requirements</p> <p>Fences in all front yards shall not exceed four feet in height. Fences in side and rear yards shall not exceed six feet in height.</p>

Background

The home at 4310 Tyrol Crest was originally built in 1966 as part of the Kennedy's South Tyrol Hills Addition, and an addition was approved in 1989. The lot itself is approximately 19,401 sq. ft. and abuts a public right-of-way on three sides. The home primarily faces Tyrol Crest, abuts June Ave S to the east, and the rear yard abuts Wayzata Boulevard, a frontage road for Interstate 394. There is a significant amount of publicly owned right-of way between the property line and the curb itself at June and Wayzata.

There is a significant degree of grade change from the frontage road up to the principal structure, approximately a 16' drop in grade from the Northeast corner of the home to the corner of the intersection.



Additionally there is some existing vegetation in the proposed area of the fence, a combination of lilacs and silver maples.

Summary of Requests

The applicant is seeking to construct a fence in the Northeast corner of the property, facing the intersection of Wayzata and June Ave. The proposed fence would be approximately 75' in length and would have a height of 8'. The new fence would provide additional visual privacy from Lilac Drive as well as helping to reduce the noise impact from Interstate 394.

Because this corner of the lot abuts two public streets, it is considered to be a front yard. The City typically only allows fences located in the front yards of homes to be 4 feet in total height. There is an exception to this rule from § 113-152, Subd. (d)(2)

A wall or fence not exceeding six feet in height is permitted in the front yard of all properties directly adjoining a minor arterial street, as designated by the City.

While I-394 is a large Principal Arterial roadway, Wayzata Blvd. is considered a local frontage road and therefore does not qualify for the aforementioned height exception. 8 feet in height is also higher than the 6 feet that would normally be allowed for a property abutting an arterial road.

Analysis

In reviewing this application, staff has maintained the points of examination to the considerations outlined in Minnesota State Statute 462.357 – that the requested variance is in harmony with the general purposes and intent of the Zoning Chapter, that it is consistent with the City's Comprehensive Plan, and that a property exhibit "practical difficulties" in order for a variance to be granted.

Staff finds that the variance is generally in line with both the purpose of the Zoning Code as well as the purpose of the Single-Family Residential (R-1) Zoning District, which is "to provide for detached single-family dwelling units at a low density along with directly related and complementary uses." A fence to provide greater privacy is a complementary use to the home itself, although its height is somewhat atypical for a residential property. The existing vegetation mitigates the impact on adjacent properties to an extent.

In the City's 2040 Comprehensive Plan, one of the stated objectives of the Land Use Chapter is to *protect existing residential neighborhoods* (p. 2-35). Staff feels that this request somewhat atypical for residential neighborhoods due to the height being proposed. There are no exceptions under code in which an 8' fence could be built on a residential property, even in a true side or rear yard. It is located and oriented towards the frontage road and intersection however, so its impact may not be overly drastic.

In order to constitute practical difficulties:

- 1. The property owner must propose to use the property in a reasonable manner.**

Staff feels the request for a privacy fence on this property is reasonable given the presence of Interstate 394 opposite the proposed location. Additionally it would be set back far enough from the intersection to not impact the visibility triangle for vehicles. However, an eight foot tall fence is much larger than what code allows, and seems unnecessary here. This is especially true given that the 14-16' change in grade will eliminate a lot of the benefit from the additional two feet of screening.

2. The landowners' problem must be due to circumstances unique to the property that is not caused by the landowner.

The problem of increased noise and nuisance from I-394 is not by the creation of the property owner, and is unique to those properties that indirectly abut the principal arterial. The additional burden of significant changes in grade is also not by the creation of the landowner.

3. And the variance, if granted, must not alter the essential character of the locality

The height of the fence would be unusual for a residential property and for this neighborhood. Other properties along Wayzata have had variances approved for taller fences due to the frontage road, but not at 8'. The existing vegetation and orientation towards the intersection may mitigate part of this impact.

Additionally, staff assesses whether other options are available to meet the applicant's needs without requiring a variance. A 4' fence would not have the same impact in terms of noise reduction and privacy.

Lastly, staff assesses whether the proposal requests the smallest variance necessary to meet the applicant's needs. Staff understands the applicant's desire for more privacy and the abatement of nuisance from the highway, but would suggest a height of 6' for the privacy fence, a reduction of two feet from what was requested.

Recommendation

Staff recommends **denial** of the variance request of 4 ft. over the allowed 4 ft. in height to a total of 8 ft. for the fence.

However, staff recommends **approval** of a modified variance request of 2 ft. over the allowed 4 ft. in height to a total of 6 ft. for the fence.

■ fence placement

fence design

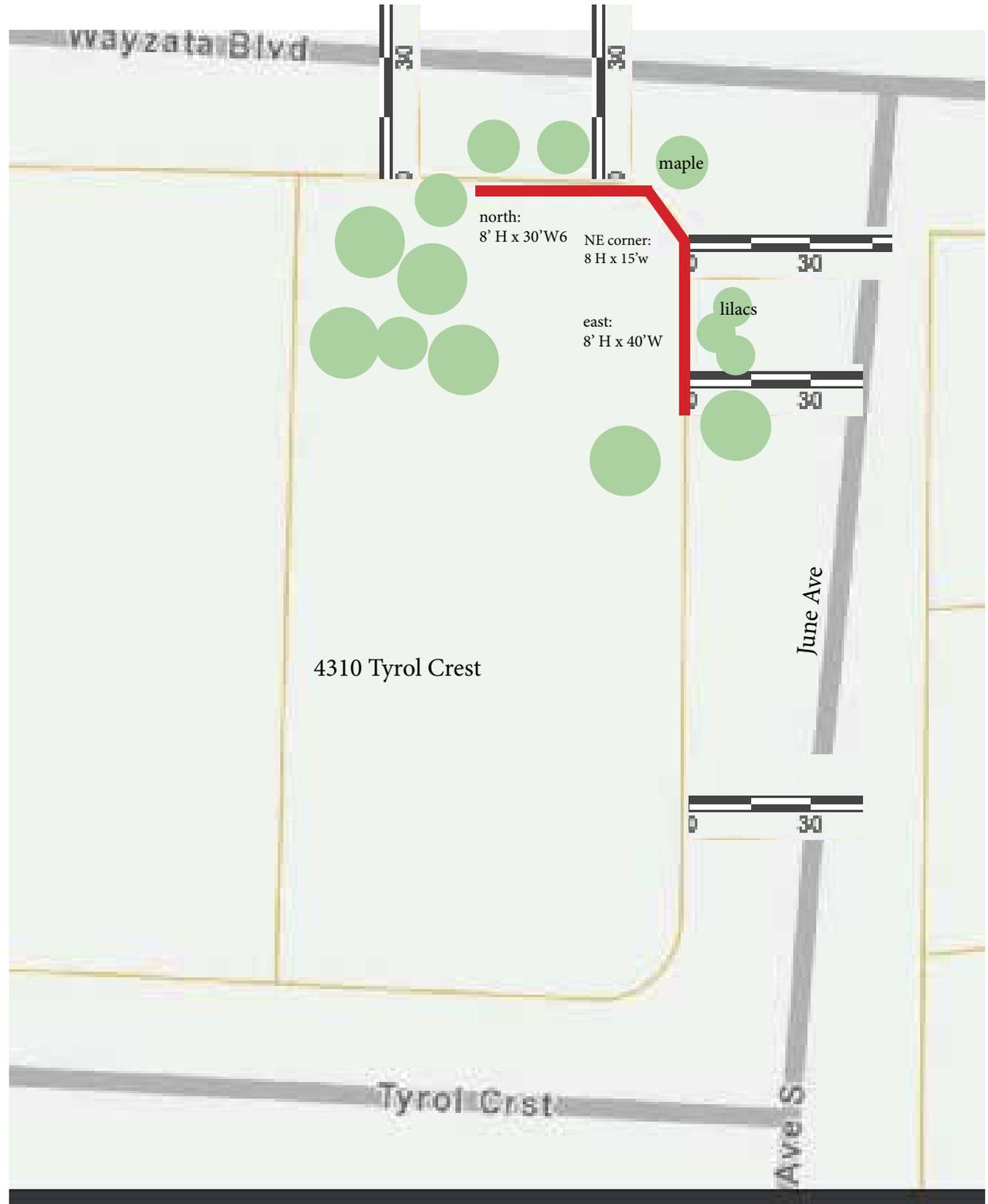


Description:

An six 8 privacy fence to block sound and provide privacy from the busy frontage road and June Ave. This fence is intended to be a noise buffer and protection for our small children.

The design will be thoughtful and period appropriate matching our mid century designed home.

Due to the property lines, this fence will not interfere with the sight-lines of traffic coming from June Ave to Wayzata Blvd protecting the safety of our neighbors.





Facing west. Frontage road is to the right.
The fence will live to the left of the silver maple enclosing the gap between the trees and lilacs.



Facing northwest from June ave.
The fence will be on the inside of those lilacs and barely visible from June ave.



MEMORANDUM
Physical Development Department
 763-593-8095 / 763-593-8109 (fax)

Date: July 28, 2020
To: Golden Valley Board of Zoning Appeals
From: Myles Campbell, Planner
Subject: 1325 Castle Court
 Andrew Schwanke, Applicant

Introduction

Andrew Schwanke, the property owner, is seeking a variance from the City Code to construct a deck of the rear of his home in what is technically considered a front yard of his property. The applicant is seeking the following variances from City Code:

Variance Request	City Code Requirement
The applicant is requesting a variance of 6 ft. off of the required 30 ft. to a distance of 24 ft. at its closest point to the Front yard (west) property line.	§ Section 113-88, Single Family Zoning District, Subd. (f)(1)(a) Front Yard Setback Requirements Decks and open front porches, with no screens, may be built to within 30 feet of a front lot line along a street right-of-way line.

Background

The home at 1325 Castle Court was originally built in 1962 as part of the Castle Downs Addition. The lot itself is approximately 13,374 sq. ft. and is a double frontage lot, with the home primarily facing Castle Court and with its rear yard abutting Zealand Avenue N.

While a double frontage, the rear yard does have a significant change in grade up to Zealand Ave that creates a fairly clear separation between the two, and causes the rear yard to feel more private. The change is around 10 ft. in height up to the street, and greater toward the Northwestern corner of the lot, around 18 ft. The property is



below both the lot coverage and impervious surface requirements currently, and the proposed deck would not cause it to exceed these limits. There is a locally managed floodplain at the front of the home that would not be impacted by or intruded on by this deck.

Summary of Requests

The applicant is seeking to construct an 11'x18' deck off of the home's rear. Normally a rear yard deck would not require a variance to construct so long as it met the zoning guidelines for an attached deck; however, given the double frontage of the lot, this yard is considered a front yard and is subject to stricter restrictions. For an open deck in a front yard, the required setback is 30 feet, leaving approximately 5 feet of space off the existing home to build a deck without a variance. This would be largely insufficient, leading the applicant to seek a variance.

The applicant is seeking an additional 6 feet of depth for the deck. This would allow the full use of the relatively flat area of the backyard and bring the deck to around the area of where grade begins to climb more drastically.

Analysis

In reviewing this application, staff has maintained the points of examination to the considerations outlined in Minnesota State Statute 462.357 – that the requested variance is in harmony with the general purposes and intent of the Zoning Chapter, that it is consistent with the City's Comprehensive Plan, and that a property exhibit "practical difficulties" in order for a variance to be granted.

Staff finds that the variance is in line with both the purpose of the Zoning Code as well as the purpose of the Single-Family Residential (R-1) Zoning District, which is "to provide for detached single-family dwelling units at a low density along with directly related and complementary uses." The deck is a related and complementary use to a primary residence and would improve the use of the property without creating an additional safety or welfare concerns for surrounding properties.

In the City's 2040 Comprehensive Plan, one of the stated objectives of the Land Use Chapter is to *protect existing residential neighborhoods* (p. 2-35). Staff feels that this request would not cause harm to the neighborhood at large. Additionally, in the Comprehensive Plan's Housing Chapter is an objective to *support the rehabilitation and reinvestment of the housing stock as structures continue to age*. This type of reinvestment in a mid-century home helps to keep these properties in good repair, and increase their usability by residents. Additionally, avoiding any additions or redevelopment in the front of the property which abuts a floodplain is in line with the City's Goals and Policies from the Water Resources chapter to *reduce the risk and impact of floods*.(p. 5-34)

In order to constitute practical difficulties:

- 1. The property owner must propose to use the property in a reasonable manner.**

A deck in a rear yard is a reasonable use of a residential property, and this proposal in to scale with the rest of the home and the property.

2. The landowners' problem must be due to circumstances unique to the property that is not caused by the landowner.

The fact that this is a double frontage lot is in itself a unique circumstance, however the other consideration here is the grade change. This change means the home is relatively separated from Zealand Ave, and also would complicate the use of something like a patio, which would require more significant grading and levelling work in the rear yard and potentially affecting the flow of stormwater.

3. And the variance, if granted, must not alter the essential character of the locality

As mentioned, while a double frontage, the grading of the site means that this deck would not be visible from either public right-of-way. Otherwise it would have limited impact on the neighboring properties, essentially the same as any other rear yard deck might have.

Additionally, staff assesses whether other options are available to meet the applicant's needs without requiring a variance. A patio could be considered here, but staff would have concerns about the impact that the necessary grading work would have on the flow of stormwater, given the significant grade change.

Lastly, staff assesses whether the proposal requests the smallest variance necessary to meet the applicant's needs. Reducing the deck depth would impact the usability of the structure, and staff would not pursue this option.

Recommendation

Staff recommends **approval** of the variance request of 6 feet off the required 30 feet to a distance of 24 feet at its closest point to the front yard property line.

