

To: **Committee of Adjustments**
Through: **Ben Boike, Community Development Director**
From: **Melissa Houtsma, City Planner**
Date: **April 19, 2022**

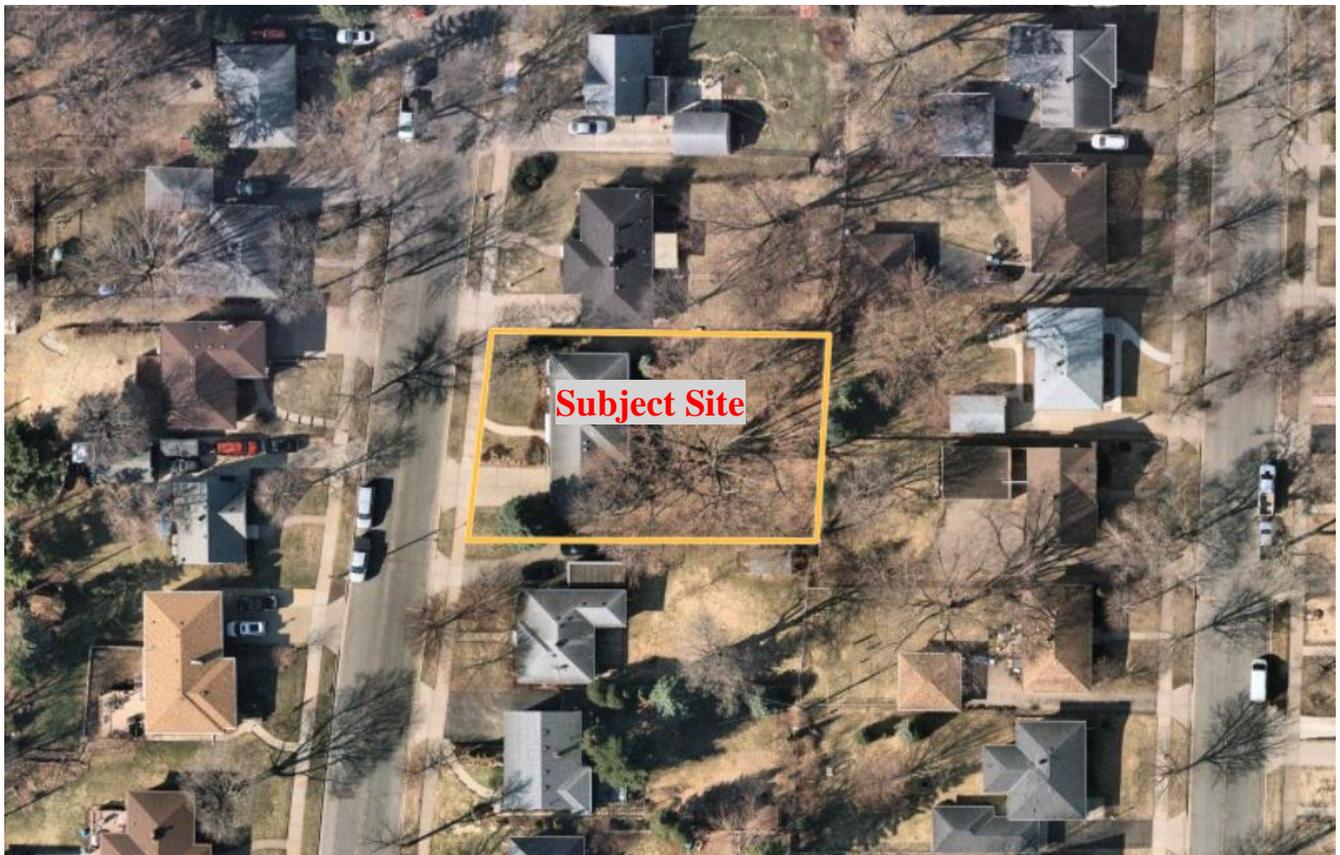
Variance to Exceed the Maximum Fence Height in a Rear Yard at 1264 Stryker Avenue – Brooklyn Petrich

REQUEST:

Brooklyn Petrich, homeowner of 1264 Stryker Avenue, has requested a variance in order to construct an eight-foot tall fence along the rear property line. As the code only allows fencing to be up to six feet in height, an eight-foot fence requires a variance.

ATTACHMENTS:

Application and Public Notice
Site Photos
Staff Presentation
Draft Findings of Fact



CURRENT USES AND ZONING:

	Use	Zoning
Subject Property	Residential	R1B – Single Family Residential
Properties to North	Residential	R1B – Single Family Residential
Properties to East	Residential	R1B – Single Family Residential
Properties to South	Residential	R1B – Single Family Residential
Properties to West	Residential	R1B – Single Family Residential

As it can be seen in the above chart, the subject property as well as all surrounding properties are residential, and zoned for single family homes.

VARIANCE REQUEST:

Variance to allow an eight-foot fence along the rear property line

§153.381 FENCES.

(D) Height; all districts. In all zoning districts within the city, fences shall meet the following height requirements.

- (1) Fences from the front building line to the rear property line shall not exceed six feet in height.

While the 1264 Stryker lot is relatively level, one property to the rear (southeast) has a 3-4 foot tall retaining wall due to a grade change. This creates a noticeably different elevation between the two properties. Currently the 1264 property has a 3 foot (estimated) tall chain-link fence along the rear property line; this brings the top of the fence nearly level with the existing retaining wall that sits on the property to the southeast (1267 Hall Ave.), which is shown in the photo below.



This photo shows the rear of the property looking southeast. The 3 ft. chain-link fence is along the rear (east) property line and the 6 ft. vinyl fence is along the side (south) property line.

Due to this, if a 6 foot tall privacy fence were installed along the rear property line, similar to what is shown above along the side property line the 6 foot fence would effectively be a 3 foot fence when viewed from the property to the southeast (1267 Hall). Therefore the property owner is requesting a 2 foot variance to install an 8 foot privacy fence along the rear property line.

ANALYSIS:

In reviewing variance requests, the following section of the Zoning Code, Section 153.027 A, is utilized:

(2) Criteria for Granting a Variance: A Variance may only be granted by the Committee of Adjustments when:

- a) The variance is in harmony with the general purpose and intent of the Ordinance;
- b) The terms of the variance(s) are consistent with the Comprehensive Plan; and
- c) The applicant for the variance establishes that there are practical difficulties in complying with the Zoning Ordinance.

(3) Definition of Practical Difficulties: “Practical Difficulties” as used in connection with the granting of a Variance means that:

- a) The property owner proposes to utilize the property in a reasonable manner;
- b) The plight of the property owner is due to circumstances unique to the property that were not created by the property owner; and
- c) The variance will not alter the essential character of the neighborhood.

(4) Restrictions on Granting Variances: The following restrictions shall be applied when considering granting a variance:

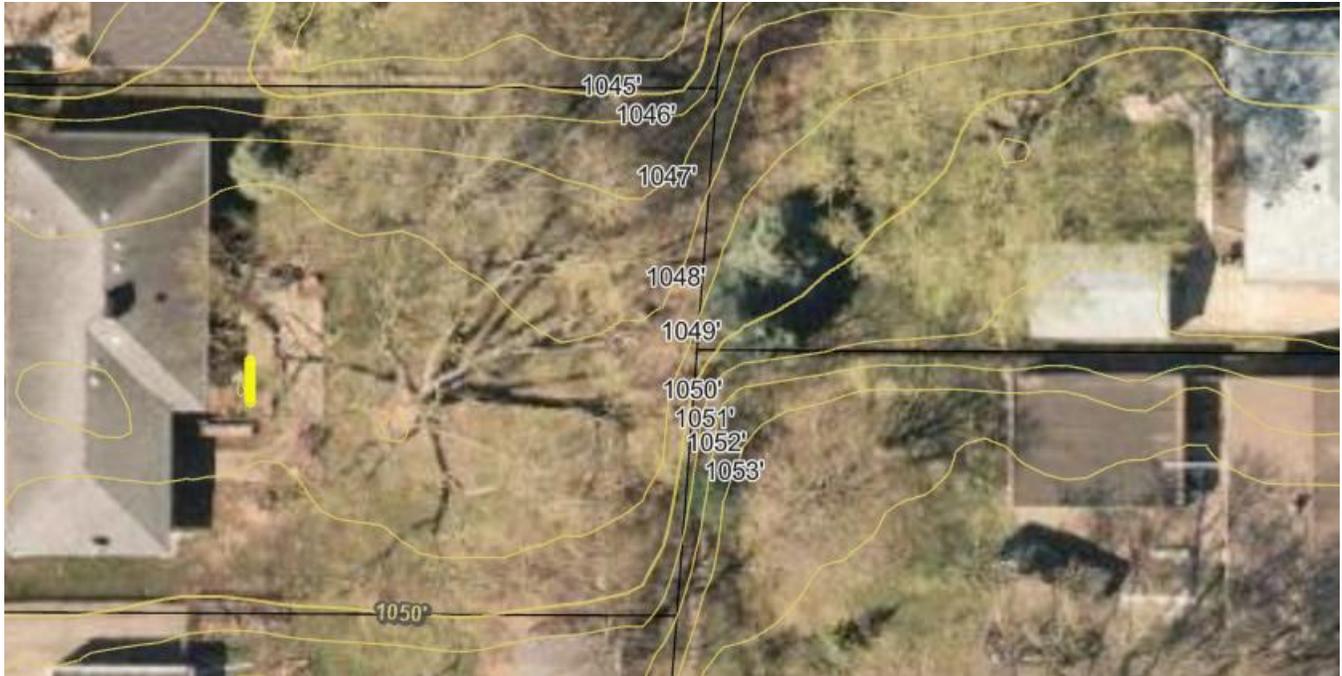
- a) Economic considerations alone do not constitute practical difficulties;
- b) The Committee of Adjustments may not permit as a variance any use that is not allowed in the Zoning Ordinance for property in the district where the affected person’s land is located (i.e. a use variance).

(5) Imposing Conditions: The Committee of Adjustments may impose conditions when granting a variance, however, conditions imposed must be directly related to and must bear a rough proportionality to the impact created by the variance.

REVIEW:

In review of the request, City Staff acknowledges that grade changes through multiple lots is not necessarily unique, as many properties in West St. Paul have grade changes throughout the lots. Some of these grade changes were created intentionally to support and direct proper flow and direction of stormwater drainage. However, City Staff believes that this situation is unique, as it is uncommon to see a retaining wall directly adjacent to a shared property line rather than adjacent to a public street or right-of-way. City Staff believes this retaining wall component may meet the above listed criteria for a variance.

However, as the retaining wall does not extend the entire length of the 1264 Stryker property, only adjacent to the 1267 Hall property, City Staff believes that the variance should only be applied to that section of the rear yard, approximately half of the rear yard of 1264 Stryker. As can be seen in the image below, the majority of the elevation change is located at the northwest corner of the 1267 Hall property rather than the entire length of the rear yard of 1264 Stryker.



Each yellow line represents one foot in change of grade/elevation.

With this in mind, City Staff is recommending approval of the variance, but only for the portion of the property that is adjacent to the retaining wall. Staff does not believe that the grade change for the other section of the rear property is significant or unique enough to meet the definition of practical difficulties. The fence can be eight feet in height for the section abutting the retaining wall and then taper down to a six-foot high fence.

Additionally, Staff is recommending that the fence be a few feet away from the retaining wall to ensure that there is adequate room to maintain, repair, and possibly reconstruct as is necessary.

STAFF RECOMMENDATION:

Based on the above comments, Staff recommends the Committee of Adjustments hold a public hearing and approve the variance request, subject to the listed conditions and the attached findings of fact,

1. The variance for the eight-foot fence shall only apply to the section of the property that abuts the adjacent retaining wall, after which the fence shall taper down to no taller than the six-feet allowed by code, and
2. The fence shall be constructed two to three feet back from the retaining wall to allow the adjacent property owner room to perform maintenance and/or reconstruction of the retaining wall as necessary.