

Department of Planning and Zoning

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TO: Development Review Board
FROM: Ryan Morrison
DATE: October 2, 2018
RE: 18-0669VR; 1580 North Avenue

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Note: These are staff comments only; decisions on projects are made by the Development Review Board, which may approve, deny, table or modify any project. THE APPLICANT OR REPRESENTATIVE MUST ATTEND THE MEETING.

Zone: RL Ward: 7N

Owner/Applicant: Michael Walker

Request: Variance from front yard setbacks on a corner lot.

Applicable Regulations:
Article 12 (Appeals and Variances)

Background Information:

The applicant is seeking a variance from the applicable front yard setback on an existing, developed lot. The subject property fronts on North Avenue and Plattsburg Avenue. This corner lot is 5,640 sf in size, and contains a 720 sf home (built in 1961), with an attached garage (240 sf) and rear deck (160 sf). The shape of this lot is unique and not that of more common corner properties. The intersection of North Ave. and Plattsburg Ave. is more acute of an angle than more common 90° corners. As a result of the lot layout and neighboring properties, the front yard setbacks off of North Ave. and Plattsburg render this property almost entirely within required front yard setbacks off both streets. The applicant is proposing a 2 ft setback off the front property line (Plattsburg Ave. side) for the shed, and a 6 ft setback off the same property line for the extended driveway space.

No development is included in this variance request. A proposed fence and some existing but presently unpermitted items including the shed and widened driveway will be reviewed under separate zoning permit.

Previous zoning actions for this property are as follows:

- 5/21/85, Application to erect a 3' picket fence to run 40' along rear property line along Plattsburg Ave and 20' within the property lines to the corner of the house.
- 1/4/13, Application to replace aluminum siding with new vinyl siding and PVC trim, and to replace two second floor double hung windows with new, larger vinyl double hung windows.

Recommendation: Variance approval of front yard setback requirements as per, and subject to, the following findings and conditions:

I. Findings

Article 12: Variances and Appeals

Sec. 12.1.1 Variances

(a) That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property, and that unnecessary hardship is due to such conditions, and not the circumstances or conditions generally created by the provisions of the zoning regulation in the neighborhood or district in which the property is located.

The lot is small at just 5,640 sf, and has 94' of road frontage along North Ave., and 144' of frontage along Plattsburgh Ave. North Ave. and Plattsburgh Ave. do not intersect at a 90° angle, like more traditional intersections meet. They intersect at a much more acute angle, which directly affects the shape of the subject property. The requested variance relates specifically to this situation. The lot has two frontages which are subject to the front yard setback standards of Table 4.4.5-3 *Residential District Dimensional Standards*. The front yard setback is based on the average of 2 adjacent lots on both sides of the subject lot, +/- 5'. In this case, the front yard setback off North Ave. is based on the average of the two properties at 1586 and 1592 North Ave, and the front yard setback off of Plattsburgh Ave. is based on the average of the two properties at 36 and 42 Plattsburgh Ave. These properties all have one front yard – on North Ave. and on Plattsburgh Ave. The two North Ave. homes have front yard setbacks of 33' and 34', and the Plattsburgh Ave. homes have front yard setbacks of 23' and 22'. The average of these setbacks is 34' for the North Ave. frontage, and 23' for the Plattsburgh Ave. frontage. A 34' (+/- 5') setback on a 23' – 97' deep lot (North Ave. frontage), combined with a 23' (+/- 5') setback off of the Plattsburgh Ave. frontage results in an unbuildable lot (see attached aerial photo showing setback lines and buildable area). Compliance with the front yard setbacks is effectively impossible.

Affirmative finding

(b) That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning regulation and that the authorization of a variance is, therefore, necessary to enable the reasonable use of property.

As noted above, a 34' (+/- 5') front yard setback off the North Ave. frontage, combined with a 23' (+/- 5') front yard setback off the Plattsburgh Ave. frontage, results in virtually no building envelop. Compliance with these front yard setbacks is impossible. **Affirmative finding**

(c) The unnecessary hardship has not been created by the applicant.

The hardship relative to the front yard setbacks is related to the fact that front yard setback requirements are based on neighboring properties. The resultant setbacks affect almost the entire lot. It is not a hardship created by the applicant. **Affirmative finding**

(d) That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, substantially or permanently impair the appropriate use

or development of adjacent property, reduce access to renewable energy resources, nor be detrimental to the public welfare.

The variance from the requirements of the front yard setback would not alter the essential character of the neighborhood or district in which the subject property is located. The variance would enable the single family use to have a common accessory structure (shed) and a driveway of enough width to accommodate side by side parking – a very common situation for residential properties.

Affirmative finding

(e) That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least deviation possible from the zoning regulation and from the plan.

The requested variance is the minimum amount necessary to afford relief for the existing home, while allowing continued use of the relatively small, open back yard. Variance approval will allow the driveway and shed to be reviewed under separate permit. **Affirmative finding**

(f) The variance, if granted, will not result in the extension of a non-complying situation or allow the initiation of a nonconforming use of land.

The variance from the front yard setback requirement would not result in the extension of a noncomplying situation or allow a nonconforming use of land. The variance would simply enable the property owner the ability to have extra driveway space/parking, and an accessory structure that many other properties are able to enjoy. **Affirmative finding**

II. Conditions of Approval

1. This variance approval is for relief from the front yard setback requirement of Table 4.4.5-3, *Residential District Dimensional Standards*.
2. The shed may be setback a distance of 2 ft, and the extended driveway/parking space may be setback a distance of 6 ft, from the Plattsburg Avenue front property line.
3. Per Sec. 12.1.3, *Filing a Request, Public Hearing, and DRB Decision*, this variance approval shall be valid for a period of 2 years.