

City of Bloomington, Minnesota
DEPARTMENT OF COMMUNITY DEVELOPMENT

CASE:	10972AB-15
APPLICANT:	Lawrence Lorraine Estate (Owner) Kent Lawrence (Personal Representative)
LOCATION:	1569 E 88 th Street
REQUESTS:	1) Variances to reduce the side yard setback from 5 feet to 2.2 feet and rear yard setback from 5 feet to 4.8 feet for an existing accessory building (10972A-15); 2) Variance to reduce the side yard setback from 10 feet to 8.7 feet for an existing principal dwelling (10972B-15).

FINDINGS OF THE HEARING EXAMINER

Variance Findings – Section 2.98.01 (b)(2)(A-C)

A) That the variance is in harmony with the general purposes and intent of the ordinance;

- The requested variances are for existing structures that have been in their respective locations since 1954 and the 1970s. Given that the requested variances are minimal and the neighboring property owners have submitted letters of consent for the request, the variances are not anticipated to detrimentally impact abutting properties. The only alternative is to remove the structure for the minor encroachment. The variance is in harmony with the general purpose and intent of the ordinance.

B) That the variance is consistent with the comprehensive plan;

- Accessory buildings are allowed in the R-1 Single Family Residential Zoning District. The request is consistent with the Comprehensive Plan.

C) When the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance.

- The applicant's practical difficulty is created by an error in location the dwelling correctly in 1954. This resulted in the existing principal dwelling and accessory building being located within the required setback areas since their original construction date. The principal dwelling was constructed by the previous landowner in a non-compliant location. The representatives of the estate were unaware of the non-conforming setbacks prior to attempting to sell the property.

Practical difficulties as used in connection with the granting of the variance, means that:

(i) The property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance;

- Both the existing principal dwelling and accessory building have existed in their present locations dating back to 1954 and the mid-1970s respectively. The variances would allow these existing structures to remain in their present location, which is a reasonable use not permitted by an official control.

(ii) The plight of the landowner is due to circumstances unique to the property not created by the landowner; and

- The principal dwelling was constructed within the side setback area by a different landowner prior to the applicant's parents purchasing the property. The accessory building was constructed in the 1970's by the applicant's parents. The representatives of the estate are seeking to address non-conformities prior to sale of the property. The representatives of the estate did not create the non-conformities they seek to resolve. The fact that the structures have existed in non-conforming locations for 40 to 60 years remains a unique circumstance.

(ii) The variance if granted will not alter the essential character of the locality.

- The principal dwelling and accessory building have existed in their present location for 40 years or more. In addition, the adjacent landowners have submitted letters of consent for the requested variances. It is not anticipated that the variances will alter the essential character of the locality.

RECOMMENDED CITY COUNCIL ACTION

Staff recommends the following motions:

In Case 10972A-15, I recommend City Council approval of variances to reduce the side yard setback from 5 feet to 2.2 feet and rear yard setback from 5 feet to 4.8 feet for an existing accessory building, subject to the conditions listed in the staff report.

In Case 10972B-15, I recommend City Council approval of a variance to reduce the side yard setback from 10 feet to 8.7 feet for the existing principal dwelling, subject to the conditions listed in the staff report.

- 1) The granting of the variances would not unduly interfere with the general intent and purpose of the Ordinance.
- 2) The granting of the variances would allow a reasonable use not permitted by the zoning ordinance.
- 3) The granting of the variances would not adversely affect the health, safety and general welfare of the residents or the public.

And subject to the following conditions:

- 1) The side yard and rear yard setback variances are only applicable to the encroachments of the principal dwelling and accessory building shown on the plans in Case File 10972AB-15.


Hearing Examiner
October 27, 2015