



Request for City Council Committee Action from the Department of Community Planning & Economic Development - Planning Division

Date: August 12, 2010

To: Council Member Gary Schiff, Chair, Zoning & Planning Committee and Members of the Committee

Referral to: Zoning & Planning Committee

Subject:

Name of Appellant: Gary Ellis of Riverton Community Housing

Name of Original Applicant: Gary Ellis of Riverton Community Housing

Property Address: 2300 East Franklin Avenue

Ward #: 2

Appeal of decision of the Zoning Board of Adjustment to deny variances to reduce the required front and west interior side yards in order to allow for the construction of refuse storage area accessory to an existing multiple-family dwelling located at 2300 East Franklin Avenue in the R6 Multiple-Family District and PO Pedestrian Oriented Overlay District.

Recommendation:

The Zoning Board of Adjustment and staff recommend concurrence with the action taken on July 15, 2010, for the property at 2300 East Franklin Avenue, Ward #2, as follows:

5. 2300 Franklin Avenue East (BZZ-4799, Ward 2)

A. Variance: Gary Ellis, on behalf of Franklin Housing Co-op, has applied for a variance to reduce the required front yard along East Franklin Avenue from 15 ft. to approximately 14 ft in order to allow for the construction of refuse storage accessory to an existing multiple-family dwelling located at 2300 East Franklin Avenue in the R6 Multiple-Family District and PO Pedestrian Oriented Overlay District.

ACTIONS: The Board of Adjustment **adopted** the findings and **denied** the variance to reduce the required front yard along East Franklin Avenue from 15 ft. to approximately 14 ft. in order to allow for the construction of a refuse storage accessory to an existing multiple-family dwelling located at 2300 East Franklin Avenue in the R6 Multiple-Family District and PO Pedestrian Oriented Overlay District.

B. Variance: Gary Ellis, on behalf of Franklin Housing Co-op, has applied for a variance to reduce the required west interior side yard from 11 ft. to 0 ft. in order to allow for the construction of refuse storage accessory to an existing multiple-family dwelling located at 2300 East Franklin Avenue in the R6 Multiple-Family District and PO Pedestrian Oriented Overlay District.

ACTIONS: The Board of Adjustment **adopted** the findings and **denied** the variance to reduce the required west interior side yard from 11 ft. to 0 ft. in order to allow for the construction of a refuse storage accessory to an existing multiple-family dwelling located at 2300 East Franklin Avenue in the R6 Multiple-Family District and PO Pedestrian Oriented Overlay District.

Previous Directives: None

| |
|---|
| Prepared by: Shanna Sether, Senior City Planner, 612-673-2307 Approved by: Jason Wittenberg, Planning Manager, 612-673-2297 Presenters in Committee: Shanna Sether, Senior City Planner, 612-673-2307 |
|---|

Community Impact

- Neighborhood Notification: Seward Neighborhood Group was notified of the appeal application.
- City Goals: See staff report
- Comprehensive Plan: See staff report
- Zoning Code: See staff report
- End of 60/120-day decision period: On July 1, 2010, staff sent a letter to the applicant extending the 60 day decision period to no later than September 21, 2010.

Background/Supporting Information

Gary Ellis has filed an appeal of the decision of the Board of Adjustment denying variances to reduce the required front and west interior side yards in order to allow for the construction of refuse storage area accessory to an existing multiple-family dwelling located at 2300 East Franklin Avenue in the R6 Multiple-Family District and PO Pedestrian Oriented Overlay District. At its meeting on July 15, 2010, the Board of Adjustment voted 4-3 to adopt staff findings and deny the required variances. The appeal (attached) was filed on July 26, 2010. The appellant's complete statement of the action being appealed and reasons for the appeal are attached. The Board of Adjustment minutes and Planning Division staff report are also attached.

Department of Community Planning and Economic Development – Planning Division
Variance
BZZ-4799

Date: July 15, 2010

Applicant: Riverton Community Housing

Address of Property: 2300 East Franklin Avenue

Project Name: Franklin Housing Co-op Refuse Storage Area

Contact Person and Phone: Gary Ellis, (612) 331-3911

Planning Staff and Phone: Shanna Sether (612) 673-2307

Date Application Deemed Complete: May 24, 2010

End of 60-Day Decision Period: July 23, 2010

End of 120-Day Decision Period: (*Extension letter sent July 1, 2010*) September 21, 2010

Ward: 2 Neighborhood Organization: Seward, Cedar-Riverside across I94

Existing Zoning: R6 Multiple-Family District and PO Pedestrian Oriented Overlay District

Proposed Zoning: Not applicable for this application.

Zoning Plate Number: 21

Legal Description: Not applicable for this application

Proposed Use: New refuse storage area

Concurrent Review:

- Variance to reduce the required front yard along East Franklin Avenue from 15 ft. to approximately 14 ft. to allow for a new refuse storage area
- Variance to reduce the required west interior side yard from 11 ft. to 0 ft. to allow for a new refuse storage area

Applicable Code Provisions: Chapter 525, Article IX, Variances, Specifically Section 525.520(1) “to vary the yard requirements...”

Background: This application was continued from the July 1, 2010, Board of Adjustment public hearing to allow for notification of an additional variance.

The subject property is 138,887 sq. ft. (3.2 acres) and consists of two 4-story apartment buildings, with approximately 182 dwelling units, built in 1968. The applicant is proposing to construct a trash enclosure surrounding the existing trash dumpsters. Refuse containers are required be enclosed on all four (4) sides by screening compatible with the principal structure not less than two (2) feet higher than the refuse container or shall be otherwise effectively screened from the street, adjacent uses, per 535.80 of the zoning code. The property was recently cited for not having their dumpster enclosed. The applicant is proposing to construct a dumpster enclosure around the existing dumpsters, approximately 14 feet to the front property line along Franklin Avenue East and directly adjacent to the west interior side yard. The minimum required front yard along Franklin Avenue East in the R6 District is 15 feet and the minimum required interior side yard is 11 feet. Therefore, the applicant is requesting two variances; (1) to reduce the required front yard along Franklin Avenue East from 15 feet to 14 feet, and (2) to reduce the east interior side yard from 11 feet to zero feet, all to allow for a refuse storage area.

Staff has received a letter of support from the Seward Neighborhood Group. A copy of the letter is attached to the staff report. Staff will forward additional comments, if any are received, at the Board of Adjustment meeting.

Findings Required by the Minneapolis Zoning Code:

- 1. The property cannot be put to a reasonable use under the conditions allowed by the official controls and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

Both variances: The subject property comprises over 3 acres of land and is bound by Interstate 94, 24th Avenue South and East Franklin Avenue. The property to the west is The Cedars 94, a 238-unit multiple-family structure and there are two windows and one emergency exit along the east façade of the building, which would be directly adjacent to the refuse storage. There are a number of the existing parking spaces located in the required front yard along Franklin Avenue East, approximately 14 feet to the front property line. Staff believes that there are several reasonable alternative locations that are located outside of the required yards that would not create undue hardship. There is an existing refuse storage area in the northeast corner of the property that appears to be under utilized and there are several other locations on the site sufficient in area to support an additional refuse storage area.

- 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.**

Both variances: The conditions upon which the setback variances are requested are not unique to the property and have been created by the applicant. The property to the west is The Cedars 94, a 238-unit multiple-family structure and there are two windows and one emergency exit along the east façade of the building, which would be directly adjacent to the refuse storage area. There are a number of the existing parking spaces located in the required front yard along Franklin Avenue East, approximately 14 feet to the front property line. Staff believes that there are several reasonable alternative locations that are located outside of the required yards that would not create undue hardship. There is an existing refuse storage area in the northeast corner

of the property that appears to be under utilized and there are several other locations on the site sufficient in area to support an additional refuse storage area.

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.

Both variances: Staff believes that granting the variance will not keep within the spirit and intent of the ordinance. The purpose of required yards is to provide for orderly development and use of land and to minimize conflicts among land uses by providing adequate light, air, open space and separation of uses. The property to the west is The Cedars 94, a 238-unit multiple-family structure and there are two windows and one emergency exit along the east façade of the building, which would be directly adjacent to the refuse storage. There are a number of existing parking spaces located in the required front yard along Franklin Avenue East, approximately 14 feet to the front property line. There is an existing refuse storage area in the northeast corner of the property that appears to be under utilized and there are several other locations on the site sufficient in area to support an additional refuse storage area. In addition, the subject property is located in a PO Pedestrian Oriented Overlay District which was established to preserve and encourage the pedestrian character and promote street life and activity by regulating design. Siting a refuse storage area along East Franklin Avenue in a PO District does not keep within the spirit and intent of this 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.

Both variances: Granting of the variance would likely have no impact on the congestion of area streets or fire safety, nor would the proposed accessory refuse storage be detrimental to the public welfare or endanger the public safety. The trash dumpsters are presently located in this area, the project will now include a refuse storage to prevent views and odor from the site.

RECOMMENDATION:

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

The Community Planning and Economic Development Department – Planning Division recommends that the Board of Adjustment adopt the above findings and **deny** the variance to reduce the required front yard along East Franklin Avenue from 15 ft. to approximately 14 ft. in order to allow for the construction of a refuse storage accessory to an existing multiple-family dwelling located at 2300 East Franklin Avenue in the R6 Multiple-Family District and PO Pedestrian Oriented Overlay District.

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

CPED - Planning Division Report
BZZ-4799

The Community Planning and Economic Development Department – Planning Division recommends that the Board of Adjustment adopt the above findings and **deny** the variance to reduce the required east interior side yard from 11 ft. to 0 ft. in order to allow for the construction of a refuse storage accessory to an existing multiple-family dwelling located at 2300 East Franklin Avenue in the R6 Multiple-Family District and PO Pedestrian Oriented Overlay District.

Attachments:

- 1) Statement and findings from applicant
- 2) Copies of letters sent to Seward Neighborhood Group and CM Gordon
- 3) Correspondence from the neighborhood association
- 4) Zoning map
- 5) Site plans
- 6) Photos

Minutes of July 15, 2010, Board of Adjustment
2300 Franklin Avenue East
BZZ-4799

Action by Board of Adjustment:

2300 Franklin Avenue East (BZZ-4799, Ward 2)

A. Variance: Gary Ellis, on behalf of Franklin Housing Co-op, has applied for a variance to reduce the required front yard along East Franklin Avenue from 15 ft. to approximately 14 ft in order to allow for the construction of refuse storage accessory to an existing multiple-family dwelling located at 2300 East Franklin Avenue in the R6 Multiple-Family District and PO Pedestrian Oriented Overlay District.

ACTIONS: The Board of Adjustment **adopted** the findings and **denied** the variance to reduce the required front yard along East Franklin Avenue from 15 ft. to approximately 14 ft. in order to allow for the construction of a refuse storage accessory to an existing multiple-family dwelling located at 2300 East Franklin Avenue in the R6 Multiple-Family District and PO Pedestrian Oriented Overlay District.

B. Variance: Gary Ellis, on behalf of Franklin Housing Co-op, has applied for a variance to reduce the required west interior side yard from 11 ft. to 0 ft. in order to allow for the construction of refuse storage accessory to an existing multiple-family dwelling located at 2300 East Franklin Avenue in the R6 Multiple-Family District and PO Pedestrian Oriented Overlay District.

ACTIONS: The Board of Adjustment **adopted** the findings and **denied** the variance to reduce the required east interior side yard from 11 ft. to 0 ft. in order to allow for the construction of a refuse storage accessory to an existing multiple-family dwelling located at 2300 East Franklin Avenue in the R6 Multiple-Family District and PO Pedestrian Oriented Overlay District.

Minutes of Board of Adjustment for Z&P on Thursday, August 12th, 2010:

Planning Staff Shanna Sether presented the report

Gary Ellis: I am the Executive Director for Riverton Community Housing, which is located at 425 13th Ave. S.E., near Dinkytown. First, I just wanted to say when you are dealing with trash there is no easy solutions and so you are always looking for the most optimal solution, so we recognize it is always a problem that you deal with when you manage properties and it's a struggle. We are proposing, we think, is the most optimal solution given those limitations when you are dealing with dumpsters and garbage. The reason we are requesting the variance is because without that setback, with the 11 ft. setback, and building the fence around the dumpster, we are going to create a dead-area,

which is going to be problematic for keeping refuse out and also criminal elements could lurk there. People would probably sleep there. It would be a difficult area to police for the property, and that's one of the big issues. Also, by not having the variance and moving it further out into the parking lot, it's going to create a higher profile; not significantly, but a little bit, and a little less if it is tucked into that corner. I think the big thing is eliminating that dead-space, and you should have in your file as well, a letter from Cedar's 94, which is our next door neighbor.

Matt Perry – We do

Gary Ellis: ...and they give their unqualified support to our proposal because they recognize this, and I think they recognize the trade-off's with the windows being near the dumpster, but understand that that's probably a bigger problem creating that dead-space than having a nice enclosure for the dumpster. As well, you have the letter from the Seward Neighborhood Group, which, not only are they representing the neighborhood, but they are a neighbor of ours down and across the street. The motion was made by Jim Welna who has a hardware store down the block; He knows the area, knows us, and we have unqualified support from that group for our project, which I think is significant; it wasn't like with qualifications. To address a couple of things that were in the Staff Report; the main thing I guess is the idea that it is a big property, so there are lots of options on location of dumpsters. When you start looking at it, from what's available, if you take out Franklin Avenue, you're taking out the South side. The East side is just a street front, so you really can't do anything there. The West side certainly has spaces you might think, but with traffic flow, and needing a front loader to get in to take our dumpsters out, and then you combine that with the snow fall during the winter-time, that West side is really difficult, so now you are only looking at the North side as probably a possibility to locating this site. It was suggested that the North side.....well, first of all the dynamics of the building are such that they're two separate buildings, so the one in the Northeast corner is located near the front of the 2328 South 9th Street building and the other is the 2300 Franklin building. The dumpsters are not under-utilized. We have four pick-ups a week per dumpster, so they get their fill, and depending on the time you may be there it may look like it's not getting its use, but you can come by towards the end of the month, beginning of the month, and believe me, we're getting our use out of there. With it being two separate buildings, to suggest that we expand that site, not would it only, in my mind, place an undue burden on that particular building, the 2329 building, and that entrance, but the traffic is such that the buildings aren't connect, so in order for people to access, if we were to create a big site at that location, people in that 2300 building would now have to go outside through the other building and the traffic flows really wouldn't work when you start looking at it from any normal perspective to expect people to do that. You would wind up with a lot more garbage that would be around the site and such. I think that covers the points I had, and I will answer any questions you may have of me on that.

Matt Perry: Thanks for coming down and giving your testimony. Any questions for the applicant? I see none. Thanks. Is there anyone else here to speak in favor of this

application? I see no one. Is there anyone here to speak against this application? I see no one. Let's close the public hearing; Any Board comments? Mr. Finlayson.....

John Finlayson: At this point I am inclined to follow Staff recommendation and would like to hear the comments of my other Board members.

Matt Perry: o.k. Thank you. Other Board members....Mr. Manning....

Bruce Manning: Thank you Mr. Chair. I am hesitant to over-rule or to disregard entirely the outset; the unanimous recommendation of the neighborhood group; the strong support received from the neighboring property whose egress of uncertain use and windows of uncertain opening and uncertain view are apparently the ones affected here. I am also cautious to disregard questions of pedestrian and traffic management in a 3 ½ acre site with 238 rental units on it. It's hard enough to get folks to come 50 feet out their front door to put the trash back into their bins when it blows off or something of that sort. I have a hard time imagining human nature being that much stronger to get the rental folks or the occupants of the 2300 East Franklin building to neither hoof it back to the Northwest corner or hoof it back and around to the Northeast corner to properly dispense of their trash. I am additionally concerned knowing this area of the city as I do, that creating any kind of screened or blocked or sort of dead-space, in the applicant's words, is a good idea. I can very well imagine that even if nothing bad ever happened, the on-going anxiety for the residents for the people who parked near that dead-spot or people who walk through it at night, or people who had to go by it in the course of going to their home, I'm cautious about that as well. I am not persuaded that the carefully tucked-away enclosure on Franklin Avenue damages the Pedestrian Overlay District. This is a city block of parking spaces. It's not going to become a Main Street and Excelsior anytime soon and so I am not persuaded by the Staff on the third finding for sure.

Matt Perry: Thank you Mr. Manning. I should have noted at the beginning of this that the Chair does not typically vote, except in a case of a tie and we have six people here, so I may be voting and so I may be asking questions. Sorry I didn't say that at the beginning. Are there any other Board comments? Mr. Sandberg.....

Dick Sandberg: Thank you Mr. Chair. I agree with the applicant that he's probably proposing the optimal space for trash enclosure based on current parking and traffic flow, but I am inclined to agree with Staff that there are other alternatives available. I think if there are reasonable alternatives available, I think it's our responsibility to let those alternatives be pursued. I am inclined to agree with Staff recommendation at this point

Matt Perry: Alright. Thank you Mr. Sandberg for those comments; Other Board comments? Mr. Keobounpheng.

Souliyahn Keobounpheng: I am also inclined to support Staff Recommendation on this one. The one foot variance off of East Franklin Avenue is a little bit questionable to me; why not just stay within the existing Zoning and go to 15, which is one foot over, and if the location of the trash is an issue, on what Mr. Manning had expressed and people

getting their garbage out, then the current location of it would say that that's the best location for people to bring their trash to. Given that, I see that a variance to enclose this, adjacent to the property; I see that it doesn't really need that. They can stay within the existing setbacks and still have the location of the dumpster there. So, even if the trash dumpsters stay where they are, it is still within a reasonable use of the property. Also, in addition to that there are also many other places here as well.

Matt Perry: Alright. Thanks for those comments. I think Mr. Manning; you had your hand up first, and then Mr. Finlayson.

John Finlayson: I move Staff recommendation.

Matt Perry: O.k., is there a second?

Dick Sandberg: I'll second.

Matt Perry: There's a motion to second. I'm sorry Mr. Manning...Mr. Manning...

Bruce Manning: Yes, I would like to be heard. I'm not going to be supporting this. I'm not convinced that I should support the Staff Recommendation yet. I think Mr. Keobounpheng makes sensible points on the 15 ft. vs. 14 ft. along Franklin. I'm assuming that's in order to preserve an appropriate minimum width; parking space across the entirety of that western front, but it is probably reasonable to lose the parking space for purposes of maintaining that 15 ft. setback. I understand that the property has sufficient spots according to the Code, which the Codes designation of parking spots is sometimes a double-edged sword. I suspect the 150 spots is not enough for the 238 units, and results in over-flow parking and some sort of on-going neighbor contest about getting appropriate parking. Nevertheless, we're constrained by the Code having to determine that's a reasonable amount, so I think I am neither here nor there on the Franklin Avenue setback. The 11 ft. setback along the western property line continues to have me disturbed. Even if it were to stay, and what the applicant believes is in the appropriate Southwestern corner, pulling it 11 ft. off, may disturb the curb-cut in the exits, as I understand the plan, and will create a space behind the dumpster 11 ft. deep and 15 ft. wide, which won't have lighting and won't be easily visible, and sounds like a great place to dump trash that doesn't fit in the dumpster that maybe you should throw out or hazardous paints. I am concerned that that 11 ft. setback applies all the way along the western front of the property. The dumpster I suppose could be moved to be contiguous to the entrance of the building, which would eliminate the worry that the Franklin Avenue residents having to go that far, but if we're concerned about a non-used egress window at Cedar 94, we should be typically concerned about putting the dumpster up against where people live. I agree that we're not here to investigate reasonable uses, but by their own admission, and I am not criticizing Staff for it, they didn't investigate garbage pick-up truck routes or traffic routes or residential parking routes. The use of the bin in it's current location, the factors that might lead to increased litter or harm the community if it had been removed, this is a classic case, frankly, the market determining the ideal place for this bin and sporadic enforcement call triggering the need for a

variance, it appears to have been their quite happily by most everybody. So, I don't see, frankly, a reasonable alternative to the location that is maximally far from the windows of the residents, but so maintains traffic flow and principally security. I am very concerned about creating security problems. For that reason I will not be supporting the motion on the table.

Matt Perry: Alright; thank you Mr. Manning. I have a comment, just as point for the record....you referred a couple of times to the 238 units; I think that is the unit next door, and it's not the subject unit. The subject unit is 182 dwellings, so it is a 56-unit dwelling difference. You're point, I think, is still well taken, but I just wanted to have that corrected.

Bruce Manning: I appreciate the clarification, except that I don't think it changes anything, but thank you for pointing that out.

Matt Perry: Secondly, could Staff please bring up the picture....I want to explore this dead-zone a little bit. I don't know what that means. There is a fence and there is possibly an enclosure.....

Shanna Sether: or a combination of them.

Matt Perry: So, I would like to get an explanation. We will try to derive, or I will, what a dead-zone means in terms of safety considerations.

Shanna Sether: O.k., so, right now, this is the view from Franklin Avenue, so there is a landscaped area here. Along the West property line is the chain-link fence. The applicants are proposing to literally build the trash enclosure right here. So, the trash dumpsters themselves would all be relocated within a space that is 21 deep, 21 here, and kind of angled off to make sure that it's easily picked up from the trash trucks. So, what you would see if you moved it out 11 ft. and up 1 ft. is probably in conflict with the drive-isle, so, that would be problematic and trigger the need for another variance. However, when Staff looked at this particular project they had identified a space in between the two buildings, that might....and again, it is not for us to design the project, but looking at alternative locations...something that could be relocated. Let's say here, that's outside of all the required yards and accessible for people on this end of the building. What was meant by under-utilizing the trash enclosure on the Northeast corner is that it is not full of dumpsters as is the case, more or less.

Matt Perry: So, for starters, the area between....if the applicant were not granted the variance and wanted to build at that same location, there would be potentially the enclosure side and a chain-link fence, which is not opaque.

Shanna Sether: It would still have to have an enclosure on all four (4) sides because the opacity is required to be...

Matt Perry: But that's not a safety hazard; that's wherever that is, is the way that is built, it has to be opaque.

Shanna Sether: That is correct.

Matt Perry: What I'm talking about is between the property; the chain-link fence, which is not opaque and the enclosure.

Shanna Sether: Yes. That is correct. So, it would be a chain-link fence, and then if it were to be adjusted in such a way, it moves over 11 ft. and up 1 ft., and doesn't conflict with the drive-isle, then you would have a solid, maybe a cedar wall here, and then a chain-link fence here, and then Cedars 94, the residential building.

Matt Perry: O.k. I'll address the safety issue based on that in just a second....my thoughts on that. Can you put up the picture with the current trash enclosure?

Shanna Sether: Oh sure.

Matt Perry: Alright. So we have a dumpster and then smaller....

Shanna Sether: for residential-style...yes.

Matt Perry: And so Staff identified this as under-utilized...acknowledging that this would mean that folks from the building, what we are calling the South building, would need to get to this enclosure if the dumpsters were moved there.....o.k.....

Shanna Sether:as a possible alternative.

Matt Perry: As one possible alternative...o.k.....very good. You've answered my questions and shown me the pictures I need to see. Mr. Nutt...

James Nutt: Thank you Chairman. First off, I've done a lot of this planning, and I've done a lot of work and urban work in neighborhood's where you would be concerned about these concealed spaces, and I share your concern with this concealed space. I know it is not our job to design things here, but I do see other options along the West side that wouldn't be up against a street, as in, you could pull a truck in, back-up and actually get more straight than angled, so I am not inclined that that's the only and best place for that, but I am deeply concerned about creating that space. I do believe that would be a concern for both this tenant and the tenant next door, and the tenant next door has said their also concerned about that. I believe that should carry some weight. I also believe that even if the Northeast dumpsters are too empty, I think there is human nature in trash and some laziness, and I believe that is a factor for that, so even if it was under-utilized I just don't think it would work, so those are my comments, so I would intend to agree with the Staff recommendation on the 1 ft. from Franklin Avenue, I think, that is real easy to solve; it doesn't have to be a fence, it could be a planter, it could be a lot of

things, but I'm not in agreement with keeping the setback from the West that would create that space....it is a very unsafe space and against most CPED rules.

Matt Perry: O.k. Thank you Mr. Nutt. Mr. Koch.

Chris Koch: It seems that....to me it seems common sense that this is the location for the dumpster, and this a case that this Board was made to address and say "o.k., generally, it is a bad idea, but this is clearly a case where the trash should go there". I mean, it just makes sense. It is a high-density neighborhood....14 ft., 15 ft. That I am not as concerned about, but really, it belongs where the neighbor's want it; Where everyone in the complex uses it; Where the owners have currently placed it...enclose it fine...but to me it just makes sense to have it there and that's why this Board is in place, to say, "yea, here's an example that Staff followed the letter of the law, but not the intent".

Matt Perry: O.k. Thanks for those comments. Anybody else? I think everybody has spoken on this matter at least once. So, we have a motion on the floor that has been seconded and that is to adopt Staff recommendation and to **deny** both variance requests. Clerk, please call the Roll.

Susan Schempf: Yeas: Finlayson, Keobounpheng, Sandberg, Perry
Nays: Koch, Manning, Nutt

Matt Perry: For the reasons that I have alluded to, I will be voting yes for the motion and supporting Staff recommendation to deny the variances. While I understand and appreciate all the comments that my colleagues who were voting against this motion stated, and I do appreciate those, and I also appreciate the property owners interest to provide safe and easy access for getting folks' trash out, I think there are reasonable alternatives for the property, and I think that because of that, there is not enough to warrant granting the variances. I also am not....I'll have to say, even though I'm not a student of CPED, the Crime Prevention through Environmental Design, I really do not feel that the safety issue is as strong as some of my colleagues do, and that's primarily because the fence with the adjacent property is a chain-link fence that you can see through, so I don't think there's this area that's being created even if the trash goes to where the people are, is going to lead to the kind of safety issue that the applicant has said that their concerned about. I certainly appreciate the fact that they've taken that into mind and have that concern; I just don't see it myself. So, with that, the motioned passes. The variance requests are **denied**. You can see Staff about your options.

