



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

Date: March 22, 2007

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

Referral to: Zoning and Planning Committee

Subject: Appeal of the Board of Adjustment action approving variances for property located at 2624 1st Avenue South (BZZ-3369) by Paul and Nancy Railsback.

Recommendation: The Board of Adjustment adopted the staff recommendation and **approved** a variance to reduce the required north side yard setback to 3 ft., a variance to required south side yard setback to 3 ft., and a variance to reduce the minimum lot width from 40 ft. to 29 ft. 8 in. to allow for a new two-unit dwelling at 2624 1st Avenue South in the R5 Multiple-family District filed by Greg Langford.

Previous Directives: N/A

Prepared or Submitted by: Molly McCartney, Senior Planner, 612-673-5811

Approved by: Jack Byers, Planning Supervisor, 612-673-2634

Presenters in Committee: Molly McCartney, Senior Planner

Financial Impact (Check those that apply)

- No financial impact (If checked, go directly to Background/Supporting Information).
- Action requires an appropriation increase to the _____ Capital Budget or _____ Operating Budget.
- Action provides increased revenue for appropriation increase.
- Action requires use of contingency or reserves.
- Business Plan: _____ Action is within the plan. _____ Action requires a change to plan.
- Other financial impact (Explain):
- Request provided to department's finance contact when provided to the Committee Coordinator.

Community Impact (use any categories that apply)

Ward: 6

Neighborhood Notification: The Whittier Alliance was notified on November 21, 2006.

City Goals: See staff report.

Comprehensive Plan: See staff report.

Zoning Code: See staff report.

Living Wage/Job Linkage: Not applicable.

End of 60/120-day Decision Period: On February 16, 2007, the applicant was sent a letter by Planning staff extending the decision period to no later than April 19, 2007.

Other: Not applicable.

Background/Supporting Information Attached:: Paul and Nancy Railsback have filed an appeal of the decision of the Zoning Board of Adjustment approving the variances at 2624 1st Avenue South. The Railsbacks are the adjacent homeowners to the north of the subject site. The Zoning Board of Adjustment voted 7-1 to approve the variances on February 1, 2007. The applicant's statement is included in the staff report.

Department of Community Planning and Economic Development – Planning Division Report

Variance Request
BZZ-3369

Date: January 18, 2007

Applicant: Gregory Langford

Address of Property: 2624 1st Avenue South

Contact Person and Phone: Gregory Langford, 612-743-4095

Planning Staff and Phone: Molly McCartney, 612-673-5811

Date Application Deemed Complete: December 20, 2006

Hearing Date: January 18, 2007

Appeal Period Expiration: January 29, 2007

End of 60 Day Decision Period: February 18, 2007

Ward: 6 **Neighborhood Organization:** Whittier

Existing Zoning: R5, Multiple-family District

Proposed Use: Construct a new two unit dwelling with attached garage

Proposed Variances: A variance to reduce the required north side yard setback to 3 ft., a variance to required south side yard setback to 3 ft., and a variance to reduce the minimum lot width from 40 ft. to 29 ft. 8 in. to allow for a new two-unit dwelling at 2624 1st Avenue South in the R5 Multiple-family District.

Zoning code section authorizing the requested variance: 525.520 (1) (1) (2)

Background: The applicant has previous applied for variances at this site to build a three-unit dwelling. On May 4th, 2006, the Board of Adjustment approved the variances. An appeal of the Board's decision was submitted by adjacent property owners and on June 16th, 2006, the City Council denied the original variance applications based on additional findings that are attached to this document (see attached Findings and Recommendation for full Council actions). The City Council's findings to deny the variances were largely based on documentation from a lot split in 1990 of the subject site by the former MCDA (now CPED) that the site was not considered a lot of record. The documentation stated that that the intensions of the lot split were for the subject site to remain green space for the adjacent apartment building at 2630 – 1st Avenue South and that the property was not legally established as a lot of record.

The applicant has since provided additional research on the title history of the property from the lot split of the subject site that was not presented to staff, the Board of Adjustment or City Council at the

time of the previous variance applications (see attached Memo from Applicant). The applicant states the additional research supports that the property is a lot of record with no deed restrictions to prevent development on the subject site. CPED – Planning and the City Attorney’s Office have reviewed the documentation and advised the applicant that variances may be applied for again to develop the property.

The subject site is a vacant, substandard-sized lot in the R5 Multiple-family District measuring 29 ft. 8 in. by 126 ft. 6 in. (3756 sq. ft.). A four-dwelling unit structure was demolished on this property in 1990. Historical permits do not specify the exact size of that structure. During the 1990s, a portion of this lot was split and sold by the City of Minneapolis to the property owner to the north. The subject property has been used as a community garden since the demolition of the four-unit building. The applicant is proposing to construct a new two-dwelling unit building with a rear, attached garage. A two-family dwelling has 5 ft. required side yard setbacks in the R5 District. The applicant is asking for a reduction for both side yard setbacks to 3 ft. The applicant is applying to build a two-unit dwelling and does not need the lot area variance, per the nonconforming lot requirement in the zoning code:

531.100. Nonconforming lots. (b), and notwithstanding any other provision to the contrary, in the R1 through R4 Districts and OR1 District, a single-family dwelling shall be permitted on a lot of record existing on the effective date of this ordinance, **and in the R5, R6, OR2 and OR3 Districts, a two-family dwelling shall be permitted on a lot of record existing on the effective date of this ordinance**, provided that the yard dimensions and all other requirements for the district in which the lot is located, not involving lot area or lot width, shall be met.

With the requested variances, the proposed structure will meet all other zoning requirements, including Site Plan Review Design Standards. The property receives the minimum 15 points for including a basement (5 points), exterior building materials of brick/stucco (4 points), not less than twenty (20) percent of the walls on each floor that face a public street are windows (3 points), a flat roof where there is at least one existing building with a flat roof within one hundred (100) feet of the site (2 points). In addition, the building is 23 ft. 8 in. wide and is setback 3 ft. on both the north and south side which will allow for windows per the Building Code (*Section 302.1 2000 IBC*).

The structure is two stories above grade, but has the appearance of a three story building because much of the basement projects out of the ground. However, the structure does not exceed the first floor height limit above grade for the basement to be considered a story. Much of the basement projects only 6 ft. out of the ground, which does not meet the definition of a story per 520.160 of the Minneapolis Zoning Code:

520.160. Definitions.

Story. That portion of a building included between the upper surface of any floor and the upper surface of the floor next above, or fourteen (14) feet, whichever is less, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. **If the finished floor level directly above a basement, cellar or unused under floor space is more than six (6) feet above grade, for more than fifty (50) percent of the total perimeter, or is more than twelve (12) feet above grade at any point, such basement, cellar or unused under floor space shall be considered a story.**

Currently, the properties across the alley to the west from the subject site are subject to a new construction building moratorium on Nicollet Avenue. This moratorium is on Nicollet Avenue, east and west, alley to alley, from Franklin Avenue on the north to the Midtown Greenway on the south. The moratorium is primarily concerned with the underdevelopment and underutilization of properties along Nicollet Avenue (580.20. Findings and purpose). This moratorium does not affect the subject site.

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.

North and south interior side yard setbacks: The applicant is requesting the side yard variances for a 23 ft. wide residential structure because the property is approximately 29 ft. wide. Per 535.90 of the zoning code, the structure must be a minimum of 22 ft. wide and the minimum building width cannot be reduced with a variance. Without the side setback variances, no residential structure could be built that meets the minimum building width requirement. Staff believes that a 23 ft. wide, two-unit dwelling is a reasonable use of the property and that strict adherence to the side setbacks creates a hardship on this property.

Minimum lot width: The applicant is requesting a reduction in the minimum lot width to allow for the construction of a two-unit dwelling. The minimum width for a two-unit building is 22 ft. wide. Without a reduction in the lot width, no structure could be built on this lot. Staff believes that a 23 ft. wide, two-unit structure is a reasonable use of the property and that strict adherence to the minimum lot width creates a hardship on this property.

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.**

North and south interior side yard setbacks, minimum lot area, and minimum lot width: The subject property is a substandard-sized lot that does not meet the minimum lot area and lot width requirements. Due to the width of the lot, any structure will require side yard setback variances. During the 1990s, a portion of this lot was split and sold by the City of Minneapolis to the property owner to the north, creating the substandard size. The conditions upon which the variances are requested are unique to this parcel and have not been created by the applicant and in fact were created by the lot split by the City.

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.**

North and south interior side yard setbacks and minimum lot width: Granting the side yard setback variances and the minimum lot width variance will be keeping with the spirit and intent of the ordinance and will not alter the essential character of the surrounding area. The side yard setback for a two story structure is 7 ft. and this building appears from the sides to be much like a three story building, which has 9 ft. side setbacks. The multiple-family building to the south is set back 9 ft. from the shared property line and the single-family dwelling to the north is set back approximately 22 ft. from the shared property line. Given the distance the adjacent structures are set back from the shared property lines, the proposed structure will not encroach on either property.

The property to the north has an existing 6 ft. retaining wall on the property. With only a 3 ft. setback, this space may be susceptible to illegal activity such as graffiti. The proposed structure has 56 sq. ft. of windows on the basement level of the building walls that face the adjacent structures. The applicant has indicated lighting along the sides of the building on the site plan and also plans indicate that a portion of the building will be treated with anti-graffiti paint. Staff believes that these features will help in deterring illegal activity.

The subject site is smaller than an average lot in Minneapolis and is in an area that has properties with larger lots. However, the surrounding area is predominantly multi-family and commercial uses and is located one block from Nicollet Avenue, identified as a Commercial Corridor in the Minneapolis Plan. A new construction moratorium on Nicollet Avenue was enacted by the City Council on October 6, 2006 as a result of underdevelopment of Nicollet Avenue. A study by CPED – Planning is underway to determine the feasibility of adding a Pedestrian Oriented Overlay District to this portion of Nicollet Avenue.

- 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.**

North and south interior side yard setbacks and minimum lot width: Granting the side yard setback variances and the minimum lot width variance would likely have no impact the congestion of area streets or fire safety, nor would the proposed structure be detrimental to the public welfare or endanger the public safety. A 3 ft. setback of the building from the property line will allow for windows per the Building Code (*Section 302.1 2000 IBC*).

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

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the findings above and **approve** the variance to reduce the required north side yard setback from 7 ft. to 3 ft., **approve** the variance to required south side yard setback from 7 ft. to 3 ft., and **approve** the variance to reduce the minimum lot width from 40 ft. to 29 ft. 8 in. to allow for a new two-unit dwelling at 2624 1st Avenue South in the R5 Multiple-family District, subject to the following conditions:

1. CPED-Planning review and approve final site plans, floor plans and elevations.

Board of Adjustment Hearing Testimony and Actions

Thursday, January 18, 2007
2:00 p.m., Room 317 City Hall

Board Membership: Mr. Matt Ditzler, Mr. David Fields, Mr. John Finlayson, Mr. Paul Gates, Ms. Marissa Lasky, Ms. Alissa Luepke Pier, Mr. Matt Perry, and Mr. Peter Rand

The Board of Adjustment of the City of Minneapolis will meet to consider requests for the following:

4. **2624 1st Avenue South (BZZ-3369, Ward 6)**

Gregory Langford has filed for a variance to reduce the required north side yard setback to 3 ft., a variance to required south side yard setback to 3 ft., and a variance to reduce the minimum lot width from 40 ft. to 29 ft. 8 in. to allow for a new two-family dwelling at 2624 1st Avenue South in the R5 Multiple-family District.

CPED Department Planning Division Recommendation by Ms. McCartney:

Mr. Gates moved and Mr. Ditzler seconded the motion to adopt staff findings and **approve** the variance to reduce the required north side yard setback from 7 ft. to 3 ft., **approve** the variance to required south side yard setback from 7 ft. to 3 ft., and **approve** the variance to reduce the minimum lot width from 40 ft. to 29 ft. 8 in. to allow for a new two-unit dwelling at 2624 1st Avenue South in the R5 Multiple-family District, subject to the following conditions:

1. CPED-Planning review and approve final site plans, floor plans and elevations.

TESTIMONY

Finlayson: Mr. Ditzler.

Ditzler: Excuse me Molly, did you say that in your conversations with the City Attorney that the attorney and the staff had determined that the extra documents submitted by the applicant are correct and in order and it is indeed a lot of record?

Ms. McCartney (staff): The research submitted is probably the due diligence that should have happened to begin with to determine that it is a lot of record. It is the type of due diligence that we would like to see to determine that it's a lot of record. But the previous denial by the City Council, the City Council made the finding that it is not a lot of record, so that is something that we had asked of the applicant in subsequent conversations that they needed to establish that. A lot of record in the zoning code is pretty loosely defined. It's something that has received a tax ID parcel with the County. It's not a very robust definition. Staff with the City Attorney's Office concludes with the findings from that memo submitted by the applicant that it is a lot of record.

Ditzler: Thank you.

Finlayson: Any further questions? Ms. Lasky.

Lasky: Molly, I'm looking at the neighboring balconies. How far do you estimate those to be from the property line or the fence? They look like they're really close.

Ms. McCartney (staff): On the survey shows 9'8" from the corner of the building to the property line. So even if those are 3' deep, with a 3' setback.

Finlayson: Any more questions of staff? Apparently not. Thank you. Is the applicant present? Name and address please.

Applicant: Good evening, my name is Greg Langford. I thank you guys for considering this today. I'll try not to be very long. I'm requesting three (3) variances to build a two (2) unit owner-occupied property at 2624 1st Avenue South. The project represents a great opportunity to take a narrow vacant graffiti ridden lot and place a two unit town home on it. The development is located in the Whittier Neighborhood as you all know. The project has gone before the Neighborhood Community Issues committee and the board of directors. The community issues and the board has given support for the variances requested. I believe there is a letter in your packet. The upper unit will be about 2500 square feet and the lower unit about 1500 square feet of livable space. There will be a two (2) car garage, one space for each owner. The units are going to be based at market rate. Since the triplex proposal, the project has been reduced in mass and actually also in height. The redesign was an effort to address the concerns of the Whittier Alliance and also the neighbor to the north. In meeting with the Whittier Alliance and listening to their concerns, the property will not block the back patio decks and balconies to the building to the south. The project will not adversely shade the tree to the properties to the north. In addition, the project all but eliminate the constant graffiti attack to the property to the north, six foot high and approximately 25' long retaining wall. The organization group that manages the property to the south, I believe there are rental units, and that particular unit has actually submitted a letter supporting the project. I'm hoping that I'm able to get the variances granted for this project. I think it is going to be a pretty clever project. I'm hoping to have a variety of sustainable features with this project. I'm looking to do a brick front along with some cement siding on the sides and the rear. The project will be of a concrete stick and brick composition. I'm looking to use low water usage fixtures. Cork flooring will be installed in the bathroom and kitchen area. Hardwood will be installed on the first floor living and dining room areas. We will be using high performance spray insulation on the lower interior of the house. During construction, several trees near and on the site will be preserved. We will be using high performance furnaces that will be selected for the heating and cooling. The patio over the garage is a great opportunity for a plant or garden. Instead of concrete we are looking to explore using permeable gravel for the walkway, drives that would allow the water to percolate into the ground more effectively. We are looking to use solar lighting panels to light up the front walkway and also the rear driveway to provide light without the use of connected electricity. The design is going to have a very loft feel to it, including the proposed loft around the upper level floor. The lower unit will have high ceilings adding a loft-like feeling to it. By granting the variances you will be

turning a vacant lot to the cities housing supply, promote growth and support private sector development efforts and the project is clearly inherent to the large number of goals cited by the city of Minneapolis and the Comprehensive plan which I'm sure you guys are more familiar with that I am, basically by growing and increasing your housing supply and also by supporting development of infill housing on vacant lots. The Whittier Alliance Group has solicited developers in their 2001 development plan. This site location has been identified as an opportunity site along with the Nicollet Avenue Corridor is clearly outlined in their 2001 development plan by BKB Architect group and urban planner land forms. This brochure was widely distributed to potential developers. The City of Minneapolis through CPED actively markets and sells narrow lots to individuals to build homes and also developers on an ongoing basis. Many of these lots have less square footage than the lot located at 2624 1st Avenue South. In conclusion I'm really hoping you guys grant the variances that I have requested. Thank you.

Finlayson: Any questions?

Lasky: I have a question about drainage. Inaudible...

Mr. Langford: What we are going to do is the drainage is actually going to come down and it's going to filter...we are going to build an underground drain system to filter it to the front and also to the rear. We know that properties on these sites that that's pretty much doable. One of the things we were also looking at, but we were having some challenges with the drainage that way is maybe put a cistern in underneath the garage and actually use pumps to basically irrigate the side landscape and also the front landscaping for the project.

Lasky: Inaudible ...walkways

Mr. Langford: We are going to put a walkway there on both sides to be able to get through there, but there is going to be basically a fence in the front and also a fence in the rear to stop traffic...unwanted traffic. It will be a permeable surface on the sides so that water actually percolates down into the gravel a little more evenly.

Finlayson: Any further questions? I see none at this moment. Thank you. Anyone else to speak in favor?

Speaking in Favor: Good evening everybody, my name is Mr. Anwar and I'm a designer. I live at 3210 Girard Avenue South and I've been working on this project for almost a year and I really feel it is a very challenging lot in terms of designing and creating spaces livable and very cost effective and energy efficient. Our intention is really to consider the concerns of the neighbors and from the beginning of the project we have reduced the size of the mass of the building and the square footage of the building as well. So I really strongly feel that on those challenging lots you should give some lenience and some kind of thing that can be built. Mr. Langford has intentions to make it like a sustainable architectural features and I'm also very much into green architecture and I really find this opportunity as example as a test this a small lot to do

something that is manageable and if we can prove something and it can be done on a smaller lot maybe we can do further on other projects as well. I really strongly feel that it should be built and we will see how it goes. Thank you very much.

Finlayson: Thank you. Anyone else to speak in favor? Anyone to speak against? Please.

Speaking Against: Good evening my name is Nancy Railsback. I live at 2624 1st Avenue and I've been there for 22 years. I too have kind of a prepared statement because I'm not a great speaker so, we'll give this a shot. No doubt there has been a lot of controversy over the development of this half platted lot which is zoned R5. Since the sale at auction October 5th, the developer and neighbors have been part of an exception to the rule in the community planning and economic development process. In standards with the zoning committees; and there has been a learning curve for all of us. With that said, let us make the right decision in the interest of all parties. Let's listen to the neighbors and look at our options. Do we grant variances to develop a half platted lot causing high impact? Or do we deny the variance? I oppose the variances for this plan because I believe the findings from the zoning and planning standing committee from the City Council still apply as follows. It is described as a half lot that is still zoned R5. The lot was split but that does not necessarily create undo hardship. Development of the proposed plan will alter the essential character and be injurious to the enjoyment of other properties in the vicinity. Shadowing would have a negative impact to the property on the north. Maintenance of properties on both property lines would be difficult. In the case of fire, there would be lack of space. My understanding is there would be 5.5 feet from the balconies and patios between the two buildings on the sides. The three strips on either side could attract illegal activity. The neighborhood would lose open green space. The multi family structure on a narrow parcel of this size in close proximity to the neighboring properties is not reasonable use of this site. History indicates that reasonable use would be side yard green space or playground. The neighbors and residents prefer open space with minimal impact. On the south half of the block where 2624 sits there is high density with 24 apartments; some with three and more children. There are in addition, six (6) town houses. We work with a tight alley servicing deliveries to many businesses on Nicollet and 26th street and there is high traffic on 1st Avenue as well as 26th Street. In addition we have congestion occurring on 27th Street and on Nicollet around the many restaurants and ethnic grocery stores. We have a petition. I'm not sure if you need to see that; with 30 names. This is our second petition concerning the development; including business owners on Nicollet and 26th Street who feel granting these variances would not be in the spirit of improving quality of life for the neighbors, nor would granting the variances impact the neighborhood fondly or favorably. Given these findings, I believe would be poor decision making to grant the variances for the proposed development at 2624 1st Avenue. When I showed the neighbors, when I went out and spoke with them, this was simply a couple of boxes. The outer box being the property line and the inside box being the building, the foot print. That was enough to convince them that this was an over-build and we were pushing limits and lot lines of the neighboring properties. After a decision with the Morrison Village 24 apartment properties management representative, the Village that

manages the 24 apartments, we learned that they neither support nor oppose granting of these variances. They recently checked back with Mr. Langford to confirm that he no longer plans to live in the unit as originally thought and they were surprised to learn that there is this opposition to the variances. They were happy to know that when we talked with the residents regarding this hearing, we found the apartment building to be in excellent order. JL Pope has taken care of lawn maintenance at 2624 since 1990. In conclusion, the building as proposed grossly pushes the limits of the zoning ordinance. Does the Board of Adjusters grant variances based on conformity to ordinance alone? Or are variances being granted when the design meets zoning code and consideration is given to proximity to neighboring buildings and impacts to neighboring properties. I'm sorry we have to go through this again, but thank you very much.

Perry: Mr. Chair, could we see a copy of the petition they have?

Finlayson: Of course.

Perry: If that could just be circulated.

Finlayson: Anyone else to speak against? Please

Speaking Against: Yes, my name is Paul Railsback and I live at 2620 1st Avenue South. That's my wife, Nancy of course. I just thought I would give you a little short history. My Great-Grandfather built our home in 1910. At that time this lot was a tennis court. His son went to architecture school in Chicago and designed our home. He was a principal with Purcell Almsley, so that we feel that our old historic home would be heavily impacted by this massive building three (3) feet from our property line. The MCDA split in the 1990's was intended to be an equal split with the lot divided in half. Yet, at that time, the Whittier Alliance petitioned the Council for the need for the children of the neighborhood to have additional green space. Such that we accepted 1/3 of the lot and they had 2/3, thus the remaining 29'8". If it had been split 50/50, there would be less than 20 feet and we wouldn't be here today. Rules are made to be broken and this plan is based upon exception to the rule. Molly just stated that it was a 5' setback, but yet in her paperwork, she's asking for a 7 to 3' setback. The building appears to be a three (3) story building. It has four different levels with a possible fly bridge on the fifth deck entry. Possibly five (5) levels. It is a large building with over 4500 square feet of living space, plus a 500 square foot garage attached and over 2000 square feet of roof top decking. We question the fact that the lot does not even meet a 30' minimum width rule at 29' 8"; and at the time that this lot was split, the MCDA assured us that no one could ever build there. Also the variance allows for a 22' wide building, yet the applicant proposes a 23' 8" building. The applicant states that the lot is a lot of record. That was never in contention. At the standing Committee of Appeals, the question was asked of Board Member Schiff from the City of Minneapolis Attorney if it was a lot of record and the Attorney said yes, the lot was a lot of record. Again we get back to exceptions to the rule. A non-conforming lot can then be made as a duplex once the triplex variances were thrown out. An exception to the rule. What we feel is that the children of our neighborhood need a play space. The children in the 90's, African American, low

income rent subsidized children needed it then, and the children today, the 2007 Somali refugees need it as well, as well as my children. Please vote not to approve the variances, that are the same that were requested last time that were over turned by a 5 to 1 City Council vote on appeal. Thank you.

Finlayson: Thank you. Anyone else to testify? I see no one. We'll close the public portion of this item. Board comment please. Mr. Gates.

Gates: Thank you Mr. Chairman. I can appreciate the neighbors concern about the loss of the open space to their south. That's an amenity that few people in the city have and I can appreciate that if you've got it you don't want to lose it. However, I feel that this is an entirely reasonable use of the property. It is the least dense building that we could put on the property and still comply with zoning. Anything less would be to simply do nothing or to make it a playground. The neighborhood has had that opportunity, that chance after 10 years I think they failed at that. The owner bought it, as anybody could have bought the property and paid market value for that. I think the process since 1990 has led the neighbor to be able purchase 10' of property for what I read to be a dollar, which is actually quite advantageous and again, there are few people in the city who get that opportunity to buy that much land for a dollar. So, on balance, staff is quite correct in this that it is a reasonable use of the property and that we should approve it. Thank you. I move that we approve the staff recommendation.

Finlayson: Is there a second?

Fields: Second.

Finlayson: Yeah, I second the motion. I want to just say that looking through the record I recall last time there were a lot of questions yet about the disposition of the land and if it was the lot of record and also I had questions, because it didn't seem to me that the neighborhood organization had done sufficient consideration of selling the lot or converting it to a so called community garden or playground and it appears that since then they certainly have. The neighborhood organization seems to determine that this lot is certainly appropriate for re-development. I agree. I think it is a good development for the lot. It is a substandard lot, but by bare 4". I've seen more dense developments go on smaller substandard lots in my neighborhood of Elliot Park and it is true the reason we are called the Board of Adjustment is because we make adjustments to the zoning code. That's why we are not the board of enforcement. We make adjustments like this when the projects seem reasonable.

Finlayson: Ms. Lasky.

Lasky: It's a case of should of, could of, would of. I have a couple of concerns which probably won't be addresses, one of course I'm concerned about the three (3') and the drainage, but the one I'm most concerned about and I don't know whether or not the board would be open to a friendly amendment, is the roof top green space, and even though the building is green and everybody wants green, I'm concerned about the privacy for the neighbor being a two-and-a-half story lookout over the neighbor is really

a hardship created for them, and if nothing else, I personally would like to see that removed as a play space. I just consider that a hardship to the neighbor.

Perry: That's interesting.

Lasky: You don't see that.

Finlayson: Ms. Lasky.

Lasky: Yeah, I know I understand your reasoning; I have a little trouble with that.

Fields: You have green on top of the building in stead of where it used to be where the building was.

Lasky: Yeah, I understand that, but because it creates a lack of privacy for the neighbor it bothers me.

Fields: I know; if it were a playground it would be lack of privacy for the neighbor too.

Lasky: Not on the grade. Not the same.

Finlayson: Luepke Pier.

Luepke Pier: Yeah, I guess I agree with Ms. Lasky in that I have some concerns about drainage also. Basically the equivalent of gravel for the three feet along the side, but then I see splash blocks and then basically a ditch running along both sides, it's shown in the detail. It does kind of call the question, is it really a pathway, or is it a soggy, gravelly ditch on both sides of the building and then it says roof garden on the plan, and I didn't hear a lot about that is it really a green roof or is it just, I guess I have questions about water management for a flat roof such as that and how it would impact the neighbors. I'm kind of undecided at this point.

Finlayson: Please call the roll.

Ditzler: Yes

Fields: Yes

Finlayson: Yes

Gates: Yes

Lasky: Yes

Luepke Pier: Yes

Perry: Yes

Rand: No

Motion passed, 7 to 1

Finlayson: Thank you