



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

Date: November 19, 2008

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

Referral to: Zoning & Planning Committee

**Subject:** Appeal of the decision of the Board of Adjustment to deny the variances to reduce the front yard setback along Russell Avenue South and east interior side yard setback from 6 ft. to 1 ft. to allow for new decks to an existing single family dwelling located at 5307 Russell Avenue South in the R1 Single-family District.

**Recommendation:** The following action was taken by the Board of Adjustment on October 15, 2008 (BZZ-4567):

### 1. 5307 Russell Avenue S (BZZ-4567, Ward 13)

**A. Variance:** Mike Rudh, on behalf of Shelby and Patrick Scheuerman, has applied for variance to reduce the front yard setback along Russell Avenue South to allow for a deck to an existing single family dwelling located at 5307 Russell Avenue South in the R1 Single-family District.

**ACTIONS:** Dick Sandberg moved and Matt Ditzler seconded a motion to **adopt** the findings and **deny** the variance to reduce the front yard setback along Russell Avenue South to allow for a deck to an existing single family dwelling located at 5307 Russell Avenue South in the R1 Single-family District.

**B. Variance:** Mike Rudh, on behalf of Shelby and Patrick Scheuerman, has applied for variance to reduce the east interior side yard setback from 6 ft. to 5 ft. 5 in. to allow for a deck to an existing single family dwelling located at 5307 Russell Avenue South in the R1 Single-family District.

**ACTIONS:** Dick Sandberg moved and Matt Ditzler seconded a motion to **adopt** the findings and **deny** the variance to reduce the east interior side yard setback from 6 ft. to 5 ft. 5 in. to allow for a deck to an existing single family dwelling located at 5307 Russell Avenue South in the R1 Single-family District.

**C. Variance:** Mike Rudh, on behalf of Shelby and Patrick Scheuerman, has applied for variance to reduce the west interior side yard setback from 6 ft. to approximately 1 ft. to allow for a deck to an existing single family dwelling located at 5307 Russell Avenue South in the R1 Single-family District.

**ACTIONS:** Dick Sandberg moved and Paul Gates seconded a motion to **adopt** the findings and **deny** the variance to reduce the west interior side yard setback from 6 ft. to approximately 1 ft. to allow for a deck to an existing single family dwelling located at 5307 Russell Avenue South in the R1 Single-family District.

**Ward:** 13

Prepared by: Shanna Sether, Senior Planner (612-673-2307) Approved by: Jason Wittenberg, Planning Supervisor Presenters in Committee: Shanna Sether, Senior Planner
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**Financial Impact**

- No financial impact

**Community Impact**

- Neighborhood Notification: Fulton Neighborhood Organization was notified of the applications.
- City Goals: See staff report
- Comprehensive Plan: See staff report
- Zoning Code: See staff report
- End of 60/120-day decision period: On October 28, 2009, staff sent a letter to the applicant extending the 60 day decision period to no later than January 19, 2010.

**Supporting Information**

Mike Rudh, on behalf of Shelby and Patrick Scheuerman, has filed an appeal of the decision of the Board of Adjustment to deny the variances to reduce the front and interior side yard setbacks to allow for the extension of existing decks to an existing single family dwelling located at 5307 Russell Avenue South in the R1 Single-family District. At its meeting on October 15, 2009, the Board of Adjustment voted 6-0 to adopt staff findings and deny the three variances requested by the applicant. The appeal (attached) was filed on October 26, 2009. The Board of Adjustment minutes and Planning Division staff report are attached.

The appellants have revised their design to reduce the amount of decking shown to the Board of Adjustment and are instead asking the Zoning and Planning Committee to approve their new proposal, which would replace the existing concrete areas with new decks and add a landing and stairs to the west side of the property. Therefore, the appellants are appealing the decision of two of the three variances; the variance to reduce the front yard setback along Russell Avenue South and the west interior side yard setback from 6 ft. to 1 ft. to allow for a new deck. The variance to reduce the east interior side yard setback is no longer required, based on the revised drawings. Site plans showing the original and revised plans are attached. The appellant's complete statement of the action being appealed and reasons for the appeal are attached.

**Department of Community Planning and Economic Development - Planning Division Report**  
Variance  
BZZ-4567

**Date:** October 15, 2009

**Applicant:** Mike Rudh

**Address of Property:** 5307 Russell Avenue South

**Project Name:** 5307 Russell Avenue South

**Contact Person:** Mike Rudh, (612) 354-2549

**Planning Staff:** Shanna Sether, (612) 673-2307

**Date Application Deemed Complete:** September 21, 2009

**End of 60-Day Decision Period:** November 20, 2009

**Ward:** 13      **Neighborhood Organization:** Fulton Neighborhood Association

**Existing Zoning:** R1 Single Family District and SH Shoreland Overlay District

**Zoning Plate Number:** 35

**Legal Description:** Not applicable

**Proposed Use:** Expansion of existing roof-top decks and balconies to an existing single-family dwelling

**Variance:** to reduce the front and interior side yard setbacks to allow for the extension of existing roof-top decks and balconies to an existing single family dwelling.

**Zoning code section authorizing the requested variance:** Chapter 525, Article IX Variances, Specifically Section 525.520(1) "to vary the yard requirements, including permitted obstructions into required yards not allowed by the applicable regulations."

**Background:** The subject property is approximately 50 ft. by 120 ft. (6,000 sq. ft.). The property consists of an existing two-story dwelling with a tuck-under garage. The dwelling was constructed in approximately 1925. There is an existing roof-top deck that covers the majority of the roof of the existing single-family dwelling, an existing 12 ft. by 12 ft. detached sun porch in the rear yard and two 9 ft. by 10 ft. concrete roof-top decks over the existing tuck-under garage. The applicant is proposing to extend the existing roof-top decks over the tuck-under garage towards Russell Avenue South to approximately 16 ft. 6 in. to the front property line and to the east interior side property line to approximately 5 ft. 5 in. In addition, the applicant is proposing to construct an additional deck, approximately 10 ft. wide and 18 ft. deep, on the west interior side, approximately 1 ft. to the property line.

As of writing this staff report, staff has not received any correspondence from the Fulton Neighborhood Association. Staff will forward comments, if any are received, at the Board of Adjustment meeting.

**Findings Required by the Minneapolis Zoning Code - Variance:**

- 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.**

The applicant is seeking a variance to reduce the front, east and west interior side yard setbacks to allow for the extension of an existing roof-top deck and a new deck on the interior side of an existing single-family dwelling. The existing dwelling has a roof-top deck over the majority of the structure, two 9 ft. by 10 ft. roof-top decks over the existing tuck-under garage and a 12 ft. by 12 ft. detached sun porch in the rear of the lot. The applicant has stated that the current size of the space does not allow for room to sit and relax. Strict adherence to the regulations would not allow for the deck as proposed. Staff believes that reasonable use of the property currently exists with the existing decks, patios and porch.

- 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.**

The circumstances upon which the setback variances are requested are not unique to the parcel of land. The alternative to the variance would not cause a hardship to the property owner by not allowing for adequate use of this property. The existing dwelling and roof-top decks over the tuck-under garage are located within the required front yard. Staff does not believe further encroachments into the required yards are necessary to accomplish a reasonable outdoor area that would serve the property owner. The proposal that would locate new decks in three of the required yards is a circumstance that would be created by the applicant.

- 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.**

Staff believes the proposal of the roof-top deck located 16 ft. 6 in. to the front property line, 1 ft. to the west interior side and 5 ft. 5 in. to the east interior side property line may alter the essential character of the surrounding neighborhood and be injurious to the surrounding property. The adjacent structure to the south has windows on the north side of their building that would face the new roof-top deck and the potential for nuisance is likely. Staff believes that the proposed decks will likely be injurious to the use or enjoyment of other property in the vicinity, due to the projection of them into three required yards.

- 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.**

Granting the yard setback variances would likely have no impact on the congestion of area streets or fire safety, nor would the proposed decks to the existing single-family dwelling be detrimental to the public welfare or endanger the public safety.

**ADDITIONAL FINDINGS FOR THE VARIANCE PER THE SHORELAND OVERLAY DISTRICT:**

**1. The prevention of soil erosion or other possible pollution of public waters, both during and after construction.**

The applicants will be required to prevent soil erosion and possible pollution of public waters, both during and after construction of the proposed addition. The applicants will be required to install a silt fence during construction and will be required to follow all applicable City requirements to prevent any type of water pollution.

**2. Limiting the visibility of structures and other development from the protected waters.**

The surrounding properties consist of single-family dwellings with similar height. Staff believes the proposed project will be no more visible than the adjacent dwellings. The view of the Minnehaha Creek will not be further limited with the proposed decks.

**3. The suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate.**

The proposed variance should have no impact on the types, uses, and numbers of watercraft that occupy Minnehaha Creek.

**Recommendation of the Department of Community Planning and Economic Development - Variance:**

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the findings above and **deny** the variance to reduce the front yard setback along Russell Avenue South to allow for a deck to an existing single family dwelling.

**Recommendation of the Department of Community Planning and Economic Development - Variance:**

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the findings above and **deny** the to reduce the east interior side yard setback from 6 ft. to 5 ft. 5 in. to allow for a deck to an existing single family dwelling.

**Recommendation of the Department of Community Planning and Economic Development - Variance:**

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the findings above and **deny** the to reduce the

Department of Community Planning and Economic Development – Planning Division  
BZZ-4567

west interior side yard setback from 6 ft. to approximately 1 ft. to allow for a deck to an existing single family dwelling.

**Attachments:**

- 1) Written descriptions and findings submitted by the applicant
- 2) Copy of e-mail sent to neighborhood organizations and CM Hodges
- 3) Zoning map
- 4) Survey/Site Plan
- 5) Deck site plan
- 6) Deck elevations
- 7) Photographs

**Minutes of Board of Adjustment**  
**October 15, 2009**  
**5307 Russell Avenue South**  
**BZZ-4567**

**Bruce Manning:** The first item on our Agenda is 5307 Russell Avenue North. So, there's a typo in our Agenda. We'll just correct that. Ms. Sether?

**Shanna Sether:** Good afternoon Mr. Chair, members of the Board. The first item for discussion is for the property located at 5307 Russell Avenue South. It's a variance to reduce the front yard setback along Russell Avenue South, east and west interior side yards to allow for the expansion of the existing rooftop deck of the existing family dwelling. This is the proposed site plan that shows here in the hatched area the proposed expansion of that deck. The existing single family dwelling was constructed in 1925, it has two stories and there is an existing rooftop deck over the majority of the structure. In addition, to the rear of the structure is a 12-by-12 screen porch and then there are also two existing 9-by-10 concrete rooftop decks over the existing tuck under garage. This drawing that's in your packets illustrates those 9-by-10 decks over the garage. The applicant is proposing to expand the decks towards Russell Avenue South to approximately 16 feet 6 inches to the front property line, approximately 5 feet 5 inches to the east property line and 1 foot to the west property line. Staff is recommending denial of all three variance requests based on the following findings:

Finding number 1: As previously mentioned there are existing rooftop decks over the single family dwelling and then the concrete rooftop decks over the existing tuck under garage and a sun porch to the rear. The applicant had stated that there is insufficient size to allow for enough space to sit and relax and enjoy the outdoors. Strict adherence to the Zoning Ordinance wouldn't allow for the decks as proposed. Staff believes that reasonable use of the property already exists.

Further, number 2: That the circumstances were not created by the parcel of land. Staff does not believe that further encroachment into the required front yard and interior side yards is necessary in order to accomplish reasonable outdoor area to serve the residents. Presently the house is already encroaching into the front yard setback and there is an existing patio on the west property line that's about 1 foot to the property. Instead we believe that the circumstances were created by the applicant.

The third finding: That the proposed deck is not keeping within the spirit intent of the ordinance which does allow for some encroachment into the required yards with decks and balconies and open front porches. This goes far beyond anything that would be allowed as a permitted obstruction and would likely be injurious to the use and enjoyment of other property, especially adjacent to. Seeing how its constructed one foot to the west property line and 5 feet 5 inches to the east and outdoor deck space has the potential of creating nuisance due to noise.

Staff believes that the fourth finding and the three findings associated with the Shoreland Overlay have been met, however, does not find there are sufficient findings to be made for 1, 2 and 3 for the variances for the proposed encroachments to recommend approval of this application and is therefore is asking the Board of Adjustment to deny all three variances. And with that I can take questions.

**Chris Koch:** Ms. Sether, could you, on the site plan give me an idea on roughly - mark where the encroachment is?

**Shanna Sether:** OK. So as you can see this is a situation where the string test applies in the greater setback is that established by the adjacent property owner. So this line represents the setback.

**Chris Koch:** OK.

**Shanna Sether:** There are existing concrete decks located here and here. Everything that is hatched is proposed to be made of a wood material instead and will encroach 1 foot here to the west, it will be 5 feet 5 inches to the east, and approximately 16 ½ feet to the front.

**Chris Koch:** So is it safe to say everything, I'll just call it north of the string test line that's not currently in red would be new and require a variance?

**Shanna Sether:** Everything that's hatched and not red would be new. Everything that would not require a variance essentially would be just to change the decking material on the existing concrete decks. We wouldn't require the variance to go from concrete to wood.

**Chris Koch:** OK. So those are kind of, technically I guess we'd call them grandfathered in?

**Shanna Sether:** Yes, exactly. So the interior side yard setback requirement is 6 feet. So that end's approximately there and approximately here. So there is a portion right adjacent to the structure that could be allowed as additional decking. Currently there's a concrete patio on this portion of the property which is also grandfathered in in its present location. But to go from the patio to the deck requires the variance.

**Chris Koch:** Could they change the material on that side yard patio or can they not do anything to it?

**Shanna Sether:** Because the patio doesn't require a building permit we don't know that they've essentially secured vested rights to have a structure or a patio in that location. So to change from the patio to the deck requires a variance for the encroachment.

**Chris Koch:** OK. Thank you.

**Paul Gates:** Ms. Sether I'm having some questions with regard to that patio on the west side becoming a deck. I wonder if you could comment with regard to the elevation?

**Shanna Sether:** Sure

**Paul Gates:** The vertical elevation of the new deck, is it raising above what the current patio is?

**Shanna Sether:** It's approximately 4 risers up from the grade and as you can see from some of the drawings, this drawing in particular, you can see that this is where the existing is and here, and there's substantial grade change from where the existing deck, or I'm sorry, the existing patio is down to street level, but from this area of the grade it's approximately 4 risers up. It's right around 2 feet.

**Paul Gates:** That's concrete right now, how is that supported at that elevation? Is there a wall around that, do you know? Looks like I'm counting 3 risers up based on the drawing but that would put the deck 18 inches above grade.

**Shanna Sether:** I don't have any photos of the existing patio but perhaps you could ask the applicant?

**Paul Gates:** Sure, I'll do that. Thank you.

**Bruce Manning:** Any other questions for staff? If the record would reflect that Ms. Lasky has arrived. She will not be voting on this item but will be here for the next item. Is the applicant here? And do either or both of you wish to speak? Or someone on your behalf? Please step up and let us know your name and address and whatever it is you have to say.

**Pat Schueurmann:** Pat Schueurmann, 5307 Russell Avenue South. The way this balcony started out was to replace concrete that was letting water intruding into our basement. I don't have overhead pictures I can show you, but I do have a picture of the front of the house

**Bruce Manning:** You can use the overhead. Ms. Sether can help you out if you need it.

**Pat Schueurmann:** This area right here is letting water into a basement that is directly underneath it. Our initial plan was to redo all the cement. As we got some estimates and concerns on what would happen once we did that, we didn't like the potential outcome of that. So we met with some contractors and we discussed the idea of putting a balcony over the existing structure and tying it in to both of these right here, coming out what see is 5 feet. When you were speaking of the concrete on this portion, what we are attempting to do is tie it all into one level. At least to the - you can maybe see it here. There's an entrance to our house right here and what we're attempting to do is make this all one level as you come up the steps. The main premise of the project is to put a sealant over the cement to prevent the water intrusion and rather than just do concrete over it

again, our goal was to upgrade our house and put a balcony on the front. We do have a gazebo in the back, it has a glass roof that has a crack in it. It won't be lasting many more years. Our plan for the balcony is to be able to sit out in the front of our house and enjoy our neighborhood. Our daughter is 5-years-old, she rides around the block. We want to sit out on our balcony and watch her. We do have rooftop seating up here, but it's used on rare occasions – weekends, barbequing, stuff like that. And as you can see right here, we felt the need to upgrade our railings. We are proposing a clear glass railing which is alot more safe. I don't even know if this would be considered up to code – it's climbable, overlooking our tuck under garage. Anything else I need to add you think Mike?

**Mike Sibley:** Good evening. My name is Mike Sibley, I work for BEI Exterior Maintenance, and we are the contractor that has proposed this balcony here.

**Bruce Manning:** Can I get an address too please?

**Mike Sibley:** Of the company is ...

**Bruce Manning:** Or you own, whichever you've got handy.

**Mike Sibley:** Let me get that for you real quick. It's 405 West 60<sup>th</sup> Street in Minneapolis. Right across from Bachmans. One thing I'd like to mention is that per the policy of the City, this was taken to the neighborhood association there and it is my understanding that the neighborhood has an opportunity to object to projects such as this, that variances are being looked at, and it's my understanding that the neighborhood had no objections. I requested to get that in writing and was told by the neighborhood chairperson that they do not provide letters of acceptance, they only provide letters of objections. So it's my understanding you would not have in your package a letter of objection from the neighborhood. I would also like to point out that as you can tell by this photo, it's a very unique style home we're looking at here. And if you've ever been in this part of the neighborhood on Russell Avenue every home is very unique. They're all quite different. It's unlike many of the other parts of Minneapolis. And I think that uniqueness is an opportunity to at least look at some creative solutions to solving problems such as with the cement roof patio leaking into the basement here. I'd also like to clarify, it was also said earlier that this is going to be a wood deck. It is not. It's a composite deck. You may be familiar with those, but I would also like to point out this is going to be much more attractive in the neighborhood than big blocks of cement. The finished look of this balcony here will be - the front will have a glass railing with white posts and a white top rail going across the front. And I think that would be very attractive with this style of home and the colors that the homeowner selected. I would hope that the Council would at least consider that as well. And as the young lady from the City pointed out, the home is already out of variance just because of when the Code was established well after the home was built. So it's already an exception and I guess what we're looking at is an exception to an exception here. And in front of this balcony, once you have those glass panels installed with the white posts and the white top railing, the homeowner has talked about putting some very nice shrubbery in front of that which

will also soften that look quite a bit. So we want the Council to at least consider those issues as well. Thank you.

**Bruce Manning:** Are there questions for the applicant or his representative? Yes, Mr. Gates.

**Paul Gates:** Further to my questions to Ms. Sether about the elevation of the proposed deck on the west side. Is that going to be raising the existing level of the existing patio?

**Mike Sibley:** The thing would be, well actually the patio is going to sit on top, will rest on top of this so the elevation would be just the thickness of the composite material.

**Paul Gates:** So is there some sort of a ...

(Unintelligible conversation by unidentified parties)

**Mike Sibley:** It would also be the same height here. To the patio, the extension on to, farther out away from the home it would be slightly elevated. Yes, it would maintain that same elevation as this part here. So right now you've got this section here and you have 2 steps down to another patio and basically those 2 steps would be eliminated and that far west patio, I believe that might be what you're referring to, would be raised consistent with this.

**Paul Gates:** So the new elevation of the west deck is going to be a foot higher or so, 18 inches higher than the existing concrete patio?

**Mike Sibley:** Yes.

**Paul Gates:** Thank you. That's all I had.

**Bruce Manning:** Mr. Ditzler.

**Matt Ditzler:** Could you speak a little bit as to how you feel that this deck system will take care of the water intrusion issue? I'm assuming that there will be gaps between the boards and will the water not end up on the concrete anyway?

**Mike Sibley:** What will be in place is a rubber membrane on top of the existing cement and run slightly up the sides of the building, and that rubber membrane that will sit under this composite material will prevent any water leaking.

**Matt Ditzler:** Thank you.

**Bruce Manning:** Mr. Koch?

**Chris Koch:** Is there anything preventing you from using that same system under the current nonconforming decks? Or would it just be nicer to have a bigger deck?

**Mike Sibley:** You couldn't just put this rubber membrane on top of the existing cement because it wouldn't take the wear and tear of somebody walking on it.

**Chris Koch:** No, no, but I believe that staff is in agreement that you could resurface or put this timber tech material on top of the existing concrete without getting a variance. So the question is: is there anything preventing you from just doing just that? I mean, it looks like it's just nicer to have a bigger deck. Is that really what you're asking for? Or is there something that - no we need to, in order to mitigate the water situation, enlarge this thing and do this new system?

**Mike Sibley:** I believe that, to answer your question, yes, you could do that. You could put that rubber membrane and run it down the side of the existing cement.

**Chris Koch:** OK. Thanks.

**Mike Sibley:** You're welcome.

**Bruce Manning:** Is there another question for the applicant?

**Matt Ditzler:** I'm assuming the answer will be no because it would be included, but do you have a front elevation drawing of what it will look like when it's complete? Because one of the things I'm struggling with is I can't tell what it will look like from the front, from Russell, when this deck is built. How massive it's going to be and part of that is because architecture is not a part of my training and I have issues with that. So I didn't know if there is a drawing from your firm, or does anyone have a front elevation of this project?

**Shanna Sether:** I don't believe a front elevation was included. We have two side elevations and then we have a top view.

**Matt Ditzler:** OK. Thank you.

**Bruce Manning:** Any other questions of the applicant? Mr. Koch?

**Chris Koch:** Yeah, it looks like this is going to extend out over the roof of the garage, right, beyond the doors of the garage?

**Mike Sibley:** Yes

**Chris Koch:** Is it going to be cantilevered then? Are there going to be posts out there?

**Mike Sibley:** There would be a beam placed in front of that.

**Chris Koch:** Oh.

**Mike Sibley:** In front of the garage. So it would not ....

**Chris Koch:** So essentially you're making the garage bigger as well.

**Mike Sibley:** No, it's just kind of a balcony over the garage.

**Chris Koch:** OK, so the garage door essentially remains in place but you're essentially extending the roof over the garage.

**Mike Sibley:** Right.

**Chris Koch:** OK. Thanks.

**Bruce Manning:** I see no further questions for applicant. Thank you sir. Are there any other folks here to speak in favor of this application? I see nobody. Is there anybody to speak in opposition? I see nobody. I will close the public hearing for this application and turn to the Board for comment. Mr. Finlayson?

**John Finlayson:** I'm inclined to follow staff's recommendation. That's not a motion at this point. I'd like to hear further comment.

**Bruce Manning:** Mr. Koch?

**Chris Koch:** I'm inclined to agree. It seems that the string test, like it or hate it, is in effect and I see no compelling reason to kind of go against other situations. The lot is not particularly unique. I mean, like I said before, the idea of having a bigger front deck, patio/porch to sit on and watch your kids play is wonderful, but when it's in the city there's some rules in place to say we don't want people building out to the street because we like the idea of a front yard and we like the neighbors on each side to enjoy wide angle views and I think this would encroach upon that. I think that staff has got this right when they say, you know, it's not really a compelling reason to allow further encroachment into the front yard setback.

**Bruce Manning:** Mr. Ditzler?

**Matt Ditzler:** I think you can get Mr. Gates first, I think he beat me to the punch.

**Bruce Manning:** Alright, I apologize for not watching the horses that carefully. Mr. Gates?

**Paul Gates:** Thank you. Yeah, I believe I concur with what I've heard so far. I think it'll be very difficult even if our sympathies are with the applicant to actually construct a case for hardship here. It's a pretty conventional lot. There is some slope to the front yard which might be a mitigating circumstance. I'm struggling for how that would warrant the expansion of the deck to the north to the street and despite the fact that it may provide the applicant with a nicer yard I don't know how we can find an argument that there is a

hardship here. So if other members can articulate one I'd more than happy to hear that. But lacking that I think I'm going to agree with staff.

**Bruce Manning:** Mr. Sandberg? Mr. Ditzler?

**Dick Sandberg:** I don't have too much to add. I think that this project could be potentially done in an attractive way. It sounds like the architecture that's going into this is well thought out. However, it is a deck and I'm disinclined to set a precedent of permitting a deck as a variance on the front of a, you know, an encroachment in the front yard of a house. Consequently I think based on what I've heard I'd be willing to move staff's recommendation.

**Bruce Manning:** We have a motion, do we have a second?

**Unidentified:** Second

**Bruce Manning:** I'm afraid ma'am that we are, we're on the ... Mr. Ditzler?

**Matt Ditzler:** I just want to state quickly for the record that I think that, I think that there is some uniqueness to the lot and the placement of the house on the lot and the design of the house that's on the lot even though the lot is of larger size than a standard lot in Minneapolis. However, I agree with what's been said that I don't think that it warrants expansion of the already encroachment (sic) and if we were to grant, or if I were to grant expansion of encroachment as I stated before, I do not have, I don't have the right drawings in front of me to be able to do that because I am unable to really ascertain as to what it is I'm looking at. Maybe that's partly a short sight of, a short coming of mine not being able to visualize it, but in the past when this Board has granted expansion in this case that typically we are given alot more data - visual data to look at so we know exactly what it is that we are approving. In this case I don't think we've been that and for that reason in addition to the ones that have been stated before I will be supporting the motion.

**Bruce Manning:** I think the motion needs a second.

**Unidentified:** Second

**Bruce Manning:** Alright we have a motion and a second. Will the clerk please call the roll?

**Clerk:** Mr. Gates?

**Paul Gates:** Aye.

**Clerk:** Mr. Ditzler?

**Matt Ditzler:** Yes.

**Clerk:** Mr. Finlayson?

**John Finlayson:** Aye.

**Clerk:** Mr. Koch?

**Chris Koch:** Yes.

**Clerk:** Mr. Manning?

**Bruce Manning:** For the last two years the Chair has declined to vote, but I will not be following that tradition and I will vote in favor of the motion.

**Clerk:** Mr. Sandberg?

**Dick Sandberg:** Yes.

**Clerk:** The motion carries.

**Bruce Manning:** Thank you. You can speak with Ms. Sether about your options going forward.