



**Request for City Council Committee Action  
From the Department of Community Planning & Economic Development**

**Date:** June 23, 2005

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

**Prepared by:** Hilary Watson, Senior City Planner, (612) 673-2639

**Approved by:** Jason Wittenberg, Planning Supervisor, (612) 673-2297

**Subject:** Appeal of the decision of the City Planning Commission by James McComb

**Previous Directives:** At the May 23, 2005, City Planning Commission meeting, eight of the Planning Commission members were present. Six of the Planning Commissioners voted to deny the expansion of a nonconforming use to allow a one-story addition to an existing duplex in the R1 zoning district located at 2701 East Lake of the Isles Parkway. One of the Planning Commissioners voted to approve this application and one Planning Commissioner abstained. Five of the Planning Commissioners voted to deny the variance to reduce the front yard setback along West 27th Street from the required 25 feet to 11 feet to allow for a fireplace chimney and to 14 feet to allow for a one-story addition to an existing duplex located at 2701 East Lake of the Isles Parkway. Two of the Planning Commissioners voted to approve this application and one Planning Commissioner abstained. Please note that the President of the Planning Commission does not vote unless a tie vote needs to be broken.

<b>Financial Impact:</b> Not applicable
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<b>Community Impact:</b>
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<b>Ward:</b> 7
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<b>Neighborhood Notification:</b> At the East Isles Residents' Association meeting held on May 17, 2005, a motion to not take a position on this matter was approved.
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<b>City Goals:</b> See staff report
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<b>Comprehensive Plan:</b> See staff report
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<b>Zoning Code:</b> See staff report
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<b>Living Wage/Job Linkage:</b> Not applicable
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<b>Other:</b> Not applicable
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**Background/Supporting Information:** James McComb has filed an appeal of the decision of the City Planning Commission to deny the expansion of a nonconforming use to allow a one-

story addition to an existing duplex in the R1 zoning district and to deny a variance to reduce the front yard setback along West 27th Street from the required 25 feet to 11 feet to allow for a fireplace chimney and to 14 feet to allow for a one-story addition to an existing duplex located at 2701 East Lake of the Isles Parkway.

The original staff report and the minutes from the May 23, 2005, City Planning Commission meeting are attached.

The appellant has stated that the decision is being appealed for two reasons.

- “The Commission mistakenly believed that the addition would block views of Lake of the Isles from the public sidewalk and a neighboring home.”
- “The Commission concluded that the proposed addition would alter the essential character of the neighborhood. These bases for denying the variance are misplaced and should be reversed.”

The appellant’s complete statement and reasons for the appeal are attached.

**Department of Community Planning and Economic Development – Planning  
Division**  
Expansion of Nonconforming Use and Variance  
BZZ-2340

**Date:** May 23, 2005

**Applicant:** James McComb

**Address of Property:** 2701 East Lake of the Isles Parkway

**Project Name:** Not applicable for this application

**Contact Person and Phone:** James McComb, (612) 339-7000

**Planning Staff and Phone:** Hilary Watson, (612) 673-2639

**Date Application Deemed Complete:** April 27, 2005

**End of 60-Day Decision Period:** June 26, 2005

**End of 120-Day Decision Period:** Not applicable

**Ward:** 7      **Neighborhood Organization:** **East Isles Neighborhood Association**

**Existing Zoning:** R1, Single-family District

**Proposed Zoning:** Not applicable for this application

**Zoning Plate Number:** 24

**Legal Description:** Not applicable for this application

**Proposed Use:** Duplex

**Concurrent Review:**

**Expansion of a nonconforming use:** to allow a one-story addition to an existing duplex in the R1 zoning district.

**Variance:** to reduce the front yard setback along West 27th Street from the required 25 feet to 11 feet to allow for a fireplace chimney and to 14 feet to allow for a one-story addition to an existing duplex.

**Applicable zoning code provisions:** 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” and Chapter 531, Nonconforming uses and structures.

**Background:** The subject building was designed by the architecture firm, Long and Kees, in 1887 for William Donaldson. Donaldson was the founder of the mercantile store, Donaldson's, which was located on Nicollet Mall from 1888 to 1987 and was also designed by Long and Kees. Long and Kees are most notable for designing Minneapolis City Hall and the Flour Exchange and Lumber Exchange Buildings. The subject building is considered a contributing element to the 1984 survey of the proposed Lake of the Isles historic district which was eventually not designated as a historic district.

The building located at 2701 East Lake of the Isles Parkway was originally constructed as a single-family dwelling. According to the City's building permit records, the building was converted to a duplex in 1959. In 1971 the owner at the time submitted a building permit to convert the building back to a single-family dwelling, however, the building was never converted to a single-family dwelling. Therefore, the building is a duplex and has nonconforming rights as such.

Now, the owner of the property is proposing to construct a one-story addition on the north side of the existing building. Specifically the applicant wants to construct a casual gathering area off of the existing first floor kitchen. Because the duplex is located in the R1 zoning district an application for an expansion of a nonconforming use is required. In addition, the addition is being located in the required front yard along West 27<sup>th</sup> Street. Therefore, a variance to reduce the required front yard setback is required.

**EXPANSION OF NONCONFORMING USE** - to allow a one-story addition to an existing duplex in the R1 zoning district

**The Planning Commission may approve an application if it meets the following standards and all other applicable regulations in the zoning ordinance (this section shall not authorize a use prohibited in the zoning district in which it is located to be expanded beyond the boundaries of its zoning lot):**

**1. A rezoning of the property would be inappropriate.**

Duplexes are first allowed in the R2, Two-Family District as a permitted use. The properties located on all four sides of the subject site are zoned R1, Single-Family District. The properties to the north east and south contain single-family dwellings. The property to the west is Lake of the Isles. Given the zoning classification of the surrounding properties and the uses of those properties, the Planning Division does not believe that it would be appropriate to rezone the subject site to R2.

2. The enlargement, expansion, relocation, structural alteration or intensification will be compatible with adjacent property and the neighborhood.

The addition that the applicant is proposing is a one-story addition that will be constructed in line with the east wall of the existing building. The addition will project 12

feet from the existing north wall of the building and will be approximately 240 square feet in size. The location of the addition protrudes into the front yard of the adjacent house to the east and will diminish the sightlines from this house to the lake and along the street. Given this, the Planning Division does not believe that the addition will be compatible with the adjacent properties or the neighborhood.

3. The enlargement, expansion, relocation, structural alteration or intensification will not result in significant increases of adverse, off-site impacts such as traffic, noise, dust, odors, and parking congestion.

Constructing an addition to the existing building should not result in significant increases of adverse, off-street impacts such as traffic, noise, dust, odors or parking congestion. The addition is approximately 240 square feet in size. No additional dwelling units will be constructed as part of this addition and the addition does not impact the parking requirement.

4. The enlargement, expansion, relocation, structural alteration or intensification, because of improvements to the property, will improve the appearance or stability of the neighborhood.

For the reasons stated in finding number three above, the Planning Division does not believe that the addition will improve the appearance or the stability of the neighborhood.

5. In districts in which residential uses are allowed, the enlargement, expansion, relocation, structural alteration or intensification will not result in the creation or presence of more dwelling units on the subject property than is allowed by the regulations of the district in which the property is located.

No dwelling units are being added to the site as a result of this expansion.

6. The enlargement, expansion, relocation, structural alteration or intensification will not be located in the Floodway District.

This site is not located in the Floodway District.

**VARIANCE** - to reduce the front yard setback along West 27th Street from the required 25 feet to 11 feet to allow for a fireplace chimney and to 14 feet to allow for a one-story addition to an existing duplex.

**Findings as Required by the Minneapolis Zoning Code for the Variance:**

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

**Front yard setback:** The applicant is seeking a variance to reduce the front yard setback along West 27<sup>th</sup> Street from the required 25 feet to 11 feet to allow for a fireplace chimney and to 14 feet to allow for a one-story addition to an existing duplex.

The applicant has indicated that his property is unique for several reasons. First, the building is subject to two front yard setback requirements as it is a reverse corner lot. If the property were not a reverse corner lot the proposed addition would meet the required 10-foot setback for a corner side yard. Second, when the building was originally constructed the decision was made to set the building back 110 feet from the front property line. According to the applicant, this large setback decreases the options of where to construct an addition to the building. Lastly, the internal layout of the building does not allow for an addition to the kitchen except in the proposed location as the south wall of the kitchen contains the stairway that leads to both the basement and the second floor, the west wall of the kitchen contains a brick chimney, several water pipes and a plumbing stack and the kitchen cannot be expanded to the east as the driveway leading to the garage is immediately adjacent to this wall.

**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.**

**Front yard setback:** The location of the house on the site and the fact that the property is subject to two front yard setback requirements are unique circumstances of this parcel of land.

**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.**

**Front yard setback:** The location of the addition protrudes into the front yard of the adjacent house to the east and will diminish the sightlines from this house to the lake and along the street. Given this, the Planning Division believes that the addition will significantly affect the essential character of the area and would be injurious to the enjoyment of other properties in the area, particularly the property located at 2700 Irving Avenue South.

**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.**

**Front yard setback:** Staff believes that the granting of the variance would have little impact on congestion of area streets or fire safety, nor would the proposed setback be detrimental to welfare or public safety.

## RECOMMENDATIONS

**Recommendation of the Department of Community Planning and Economic Development – Planning Division for the expansion of nonconforming use:**

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the expansion of a nonconforming use to allow a one-story addition to an existing duplex in the R1 zoning district located at 2701 East Lake of the Isles Parkway.

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

The Department of Community Planning and Economic Development – Planning Division recommends that the City Planning Commission adopt the above findings and **deny** the variance application to reduce the front yard setback along West 27<sup>th</sup> Street from the required 25 feet to 11 feet to allow for a fireplace chimney and to 14 feet to allow for a one-story addition to an existing duplex located at 2701 East Lake of the Isles Parkway.

**Attachments:**

1. Project description, history of the property and renovation plan
2. Plat map of the site
3. Home's original building permit and additional building permit history
4. List of previous owners and occupants
5. Responses to the findings for an expansion of a nonconforming use
6. Variance findings and supporting material
7. April 27, 2005 letter to CM Goodman
8. April 27, 2005 letter to the East Isles Neighborhood Association
9. Comments from surrounding property owners
10. Zoning Map
11. Existing and proposed site plan
12. Floor plans and elevations
13. Photographs of the site and surrounding area

**Excerpt from the  
CITY PLANNING COMMISSION  
MINUTES  
Minneapolis Community Planning & Economic Development (CPED)  
Planning Division  
350 South Fifth Street, Room 210  
Minneapolis, MN 55415-1385  
(612) 673-2597 Phone  
(612) 673-2728 Fax  
(612) 673-2157 TDD**

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**MEMORANDUM**

DATE: May 24, 2005

TO: Steve Poor, Manager, Community Planning & Economic Development - Planning Division; Phil Schliesman, Licenses

FROM: Jason Wittenberg, Supervisor, Community Planning & Economic Development - Planning Division, Development Services

CC: Barbara Sporlein, Director, Community Planning & Economic Development Planning Division

SUBJECT: Planning Commission decisions of May 23, 2005

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The following actions were taken by the Planning Commission on May 23, 2005. As you know, the Planning Commission's decisions on items other than rezonings, text amendments, vacations, 40 Acre studies and comprehensive plan amendments are final subject to a ten calendar day appeal period before permits can be issued:

Present: President Martin, El-Hindi, Krause, Krueger, Kummer, LaShomb, Motzenbecker, Schiff and Tucker – 9

**6. James McComb (BZZ-2340, Ward 7) 2701 East Lake of the Isles Parkway ([Hilary Watson](#)).**

**A. Expansion of Non-Conforming Use:** Application by James McComb for an expansion of a nonconforming use to allow a one-story addition to an existing duplex in the R1 zoning district for the property located at 2701 East Lake of the Isles Parkway.

**Action:** The City Planning Commission adopted the findings and **denied** the expansion of a nonconforming use to allow a one-story addition to an existing duplex in the R1 zoning district located at 2701 East Lake of the Isles Parkway.

**B. Variance:** Application by James McComb for a variance to reduce the front yard setback along West 27th Street from the required 25 feet to 11 feet to allow for a fireplace chimney and to 14 feet to allow for a one-story addition to an existing duplex for the property located at 2701 East Lake of the Isles Parkway.

**Action:** The City Planning Commission adopted the findings and **denied** the variance application to reduce the front yard setback along West 27<sup>th</sup> Street from the required 25 feet to 11 feet to allow for a fireplace chimney and to 14 feet to allow for a one-story addition to an existing duplex located at 2701 East Lake of the Isles Parkway.

Staff Hilary Watson presented the staff report.

Commissioner Krause: How much of the variance is attributable to the stack for the fireplace or the hearth?

Staff Watson: That goes down to 11 feet.

Commissioner Krause: And if that wasn't there, what would the variance be required – so in other words, how much depth is just attributable to the hearth...is it 2 feet, 3 feet?

Staff Watson: It's about 3 feet. The applicant is going to bring this up today, but when you look at their site plan, and it's hard to see on the small, small version, but when you look at the full elevations and floor plans that they submitted, you can see that to the edge of the fireplace, it's 11 feet, 4 inches and then to the edge of the addition, it's 14 feet. So, we went down to 11 because 4 inches... I mean, people put bricks in the wrong spot sometimes, so just to err on the side of caution; we went to 11 feet and to 4. According to this drawing, it's a 3 foot, but if you measure the chimney, it's 2, so it's something with the drawing. This home is 17 feet from the front property line just for reference sake. But the required setback in this zoning district is the 25.

President Martin opened the public hearing.

Matt Collins (Attorney representing owner, Jim McComb): In addition to Mr. McComb speaking today, he's invited his architect who designed the addition for his home. If I could, I would open with a few opening comments and then pass it over to the other people and then I would request that I be permitted to speak again to some of our position. Mr. McComb bought the house. It had sustained damage due to the City of Minneapolis sewer work. At this time, he has an opportunity to update the house with new plumbing fixtures, heating, air conditioning and update or actually refurbish many elements of the original structure itself. What he's learned is that without the addition of this room to the kitchen, real estate agents have told him that the lot is too valuable to have this home as it exists today on the lot. That if he were to sell the house, the house would be demolished and new construction would be placed on the lot. Thereby taking

up that 110 foot front yard that faces Lake of the Isles. Today we are challenging the staff's recommendation because they based that recommendation on two things: That the site line from the neighbors' house will be diminished and the site line from the street will be diminished. As you'll see shortly, there are some pictures that will show that really the site line won't be diminished. For one, there's trees and other vegetation in the way, that's the only site line that will be diminished. Secondly, the staff's report addresses whether or not they believe the addition will improve the appearance and stability of the neighborhood. Well, if the addition is not built, the stability of the neighborhood will not be improved because the house will be torn down in the future. We won't have this piece of historical architecture in the neighborhood after the house would be sold. The setback is exaggerated. I don't believe the staff has taken into account the additional 3 feet that the sidewalk setback provides for the property line. And the staff report focuses on the injury to the other property, specifically the home located on Irving Avenue. And I believe under the ordinance and the statute, it's not just one single homeowner that should be taken into account, but the entire locality and we do not believe that the granting of the variance does anything but improve the locality of the neighborhood. And at this time, I would pass it over to Rosemary.

Rosemary McMonigal (McMonigal Architects, 1224 Marshall St. NE): Before I talk a little bit about the addition and the view issue, I wanted to touch some on the process and Hilary mentioned briefly that this wasn't a real clear-cut issue. And I just want to tell you, the Planning Commission a little bit about the issue that came in front of us. We received a phone call January 14<sup>th</sup> from Mr. McComb just talking about his project. And before we do one bit of work on any project that involves an addition or major remodeling, we talk to the City to the Zoning Department to talk about everything from setbacks to lot coverage to what the zoning is. And in fact, on January 19<sup>th</sup>, we received the confirmation that it was a 10 foot setback on 27<sup>th</sup> which of course is exactly what we look for before we start any design work. We did proceed with design based on that. We had it in writing faxed back to the Zoning Administrator who then reassured us that yes, that was the setback. We were very surprised when two months later, Mr. McComb came to us and said he had heard that no, that isn't what the setback is. We pulled out our files, nope, here it is, it's 10 foot, it's what we were given and told to work with. And then in turn, we immediately called the Zoning Administrator that we had worked with who said yes, the question had come up about it and now they weren't sure what it was. So, two more days went by and they decided to rule on it as being a reverse corner and then a 25 foot setback. We all know that mistakes can happen like that, but it was disappointed to us to have been two months underway on a project with information documented and then changed. So, just in terms of the process, I wanted to share that. In terms of the architectural character, this is a very, very small addition to a house that is much larger in stature and actually, we had a much larger addition when we understood the setback was the 10 foot setback that we were originally told. In fact, this addition and the 1-story nature of it is in keeping with houses of this character. We've worked on many houses from the 1800's and turn of the century. It's a small addition, being one story with a flat roof and coping, not unusual to what would be put on a low-level addition to a house of this character. I think there's been some confusion as to the character of the addition. And the character of the addition is taken

exactly from another detail on the front of the house – front meaning Lake of the Isles front. And on that front, there's a low projection on the house with windows closely banded together separated with wood trim and panels. And that's exactly the same character we picked up with on the side addition or the front reverse side on the property. So the addition isn't some completely different character, it's actually working from exactly what's there now. This 240 square foot addition, like I mentioned, is small given the size of this house and the character of the house. So the solution we feel architecturally is appropriate, is sensitive to the character of the house and there's also been apparently people confused that we don't think it's a historic structure. I want everyone here to know that we know it's historic. We did review all the records immediately. All the proportions of things we're proposing to do are in keeping with a historic structure. The McComb's are interested in this house and preserving it because of its historic character so there really shouldn't be any confusion about that. In terms of the setbacks, yes the 106 foot setback from the front is a hardship. It's a real hardship on this property. It pushes the house entirely to the back of the lot where there's very, very limited space. The side yard current setback is 25.5 feet; 23.8 feet at the bay. The adjacent property at 2700 Irving is 17 feet to their front porch. If you tore off their front porch, their house does not meet the 25 foot setback. So in fact, it is a hardship for the block here, the setback that we're talking about. The chimney is normally an accepted obstruction into the setback, but because we're not meeting the 25 foot setback, that's not acceptable. And the same thing you could argue about the 17 foot setback to the 2700 Irving is that their stairs project and obstruct within that, so their setback is less than the 17 foot. So coming back to hardships, once again, the large front setback leaves no space to enlarge the house to the rear at all. There is no space. Within the house, we are – I know there's the comment made by Hilary that you just change the house from within – we're charged with being wise with how we remodel houses. There is a stair in the house that serves the basement, first, second and third floors. That wraps on two sides of the kitchen and we can't just haphazardly say let's tear that stair out because there would be no way to the basement, there would be no way to the third floor. That same stair, we actually looked at very early on of tearing the stair and putting a new addition out just for the stairs so that the kitchen could enlarge within the footprint. However, if we put a stair addition on, the footprint would be same size, but four stories high instead of the one that we're proposing. Then also, not lightly is the existing boiler chimney, plumbing stack and main HVAC runs in the house which border the kitchen on the other side. That is also a hardship. The existing kitchen which is used for both the kitchen space and the eating table at its narrowest dimension is 7 foot by 8 foot, 2 [inches], which is very, very small given an existing house of that size and that location. I did bring some photos to respond directly to the issues of views. In terms of the views, there's been a series of photographs taken. Here's Lake of the Isles Parkway. Here's 27<sup>th</sup>. The numbers 1, 2 through 6 are all photographs taken along this view corridor that is being discussed. Here is the house; here is the so called property that's the front setback property. And then, in terms of the photos as you move along the view corridor... This is standing at the first viewpoint which is the corner of Irving and 27<sup>th</sup>. And you're seeing the sidewalk here, the boulevard area adjacent – about where the property line start, the McComb's house and outlined in black is the addition completely obscured by the landscape that's here in the front. So that's the first photo

that I want share which is right on the corner. Then if you move... The second photo that I want to point out [tape unclear, comments off microphone]... Thank you.

James McComb (applicant, 2701 East Lake of the Isles Parkway): I've owned the home for 30 years. When I bought it, it was a rooming house. We cleaned it up, converted it to a duplex. That unit has always been rented to somebody that serves as a caretaker for our property and takes care of our pets when we travel. So it is really a unit that is occupied by a person that receives a discounted rent in addition to providing us services to help us maintain and secure the property when we're out of the city. After buying the house, I had a house history done – well before the City did their study of Lake of the Isles. And I learned that the house was built by William Donaldson and designed by Long and Keys. At the time, I worked for Dayton companies. I thought it was always ironic that I was living in a house built by a competitor of my employer. But recognizing the historic character of the house, I decided that whatever I did should be respectful of the heritage of the house and its position on Lake of the Isles. I will tell you that our history showed that from 1887 to 1954, the house had always been occupied by an executive of a Minneapolis corporation. The most recent executive was the president of Northern States Power Company. He sold the house to a person whose last known occupation was caretaker who sold it to Madeline Owen whose occupation was beautician at the Arcade Beauty Salon. Madeline Owen, in 1958...

President Martin: Mr. McComb, this is interesting, but it would be helpful if you would talk about what's actually before us which is the addition.

James McComb: I'm approaching that. The house was converted to a duplex in 1959 and operated as a rooming house. So it went from executive housing to rooming house in 5 years. We still have the kitchen that was designed in 1887 for use by the servants for the Donaldson family. In fact, in the house, there are two rooms that were clearly caretaker bedrooms for the people that served the Donaldson family. Over the years, I have asked realtors – I am in the real estate business – what I should do with my house and they would walk through it and say great house, nice floor plan, but this kitchen – nobody wants a kitchen like this in a house of this size and caliber. Hence the desire to make a modest addition to the north side of the house because that's the only way that we can expand the house. I'm currently living in a house on Lake of the Isles that we're renting. It has a similar room to the one I'm proposing. It's 570 square feet in comparison. The suggestion that we could accommodate the kitchen somewhere else in the house is not really realistic or feasible because of the plumbing stacks, the chimney. My neighbor, Mr. Bales, suggested that we could put the kitchen in the dining room, move the dining room to the study and put my office upstairs in one of our three bedrooms. That was a gratuitous offer on his part, but it doesn't fit with the character of the house. The most original part of this house is the interior. That's what Long and Keys designed of what is visible today. The front of the house has been altered; the rest of it has been covered with stucco. We're intent, given the ability to have the variance, is to replicate the millwork that was in the house in 1887. We have found copies of that millwork in the building. We will have it custom made. We are having a custom made buffet re-installed in the dining room which became a bedroom when it

was a rooming house. We're doing everything we can to ensure that this house is a fully functional house for the kind of people that want to buy housing on Lake of the Isles and avoid the situation that occurred just a block away from us to the north where somebody bought a house for a little more than \$1.7 million and basically dismantled it. Our house is functional. It has structural issues which can be corrected. It is now free of all plaster on 3 floors. We can make all of the improvements at less cost than whatever could be done in the future. We had to have the house appraised to arrange the financing to make the improvements. The land value is \$1.6 million. The house value is \$1.8, meaning the building is worth \$200,000. My appraiser told me I'd be nuts to spend over \$500,000 to repair this house. It didn't make sense. The real estate community this last weekend confirmed that in their minds, the house is a tear-down. I'm disturbed by that. I'm extremely disturbed by that. I've lived in this house for 30 years, I've raised my kids there, [and] I love the house. I would not like to see it torn down and I'm trying to do everything in my power and putting my dollars behind it to see that doesn't happen. I don't know how much of the voluminous correspondence you've seen from my neighbor. But one of his e-mail's referred to people sitting in our new addition observing them dine on their porch. In 30 years, I've never paid a lot of attention to what Mr. and Mrs. Bales do with their house in the way of entertaining. As you saw by the plans, the windows are high – they're 6 feet above the floor to let the morning sun in, but not view out towards the Bales' property. They seem to think that people have an interest in what goes on at their house, but I can tell you that Maria Bales knows what time I get up in the morning (and I get up between 3:30 and 5 in the morning most mornings) and she's told me that. And she advised one of our neighbors across the street that she shouldn't take so many showers.

President Martin: Mr. McComb – Come on, will you really please talk about this.

James McComb: We've covered the issue of the views, the setbacks, the visual issues, the design. Basically, this is a once in a life opportunity for 2701 East Lake of the Isles to be updated and to be made compatible with today's lifestyles for a house of its type. This will never occur again. I need your help in permitting us the variance so they can add the addition that will change the house from being a tear-down candidate to a viable residence in the future. The neighborhood association... There were 9 votes in support of our position to add the addition because their motion to not support failed 8 to 9. The neighbors supported our effort. I did not pack the room with my supporters. I went with my wife. Mr. Bales had his supporters there. And we were able to, through the weight of the evidence; convince our neighbors that it was a worthy project to permit the variance and the addition to our house. I hope you will agree. Thank you.

Matt Collins: If I could just address a few of the points made in the staff's recommendation. First regarding...

President Martin: That we haven't already heard, Mr. Collins?

Matt Collins: Yes. Regarding the expansion of nonconforming use, the request for that, addressing finding number 2: The question is whether or not the addition would be

compatible with the adjacent property and the neighborhood. The staff focuses on the sight lines from the house to the lake and along the street. Whether that qualifies as compatibility in the neighborhood, I don't think it does. One, the sight lines that the home on Irving Avenue seems to protect are not protectable property interests. Sight lines are not protectable. Secondly, in case law interpreting variances statutes, they look to whether or not the home already exists. In this case, the home exists. It's just a 240 square foot addition which would not change the essential character of the locality. Second finding number 4 talks about the addition will not improve the appearance or the stability of the neighborhood. There really was no findings. The staff relied on findings number 3 which talk about traffic impacts. Clearly not the factual findings necessary to make a decision like this. You need to look at the historical significance of the home and the neighborhood to make a determination as to whether this will add to the appearance and stability of the neighborhood. Clearly, the addition will because it will prevent a tear-down of the existing home. Regarding the findings for a variance. Four findings must be made. First, the property cannot be put to a reasonable use. Second, circumstances are unique. The staff did find for Mr. McComb in those two findings. Finding number 4: The staff also found for Mr. McComb. They based their denial of the variance on their finding for number 3 which states whether the addition is within 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. Here again, the addition is in the front yard and it does not significantly diminish sight lines. Again, a view similar to the expansion of a nonconforming use analysis – a view is not a protected property interest to be considered. Secondly, whether it affects the essential character of the area as you saw from the pictures, the sight lines that it does affect – only take into account vegetation already existing. And I don't believe whether an injury to an enjoyment of other properties, specifically the Irving Avenue property that has been called out is enough to overcome. What the statutes talks about is altering the essential character of the locality. They're not focused in on one single home-owner, but the entire locality because obviously, in situations like this there is always an upset neighbor. That's why the board must look to the entire locality to see whether a granting of this variance will comply. Thank you.

James McComb: Could I just share a couple photos with you that I think are illustrative of...

President Martin: We've got those in our packets, Mr. McCombs. We have a whole set of them.

James McComb: Those are not in the packet.

President Martin: Well, we've got 6 or 7 or 8...

James McComb: This is the house at 2700 Irving Avenue South and you will notice that their Irving Avenue setback is about 5 feet and the view across the front yard is the 17 feet. The house at 2655 Irving Avenue, which is the corner of the intersection – the house and garage has roughly a 3 or 4 foot setback from the sidewalk. And the house

at 2645 Irving has a porch that extends within roughly 5, 6 feet of the sidewalk on the Irving Avenue side and maybe 8 to 10 feet... or, I'm sorry, on the 27<sup>th</sup> side it's within 5 to 6 feet and on the Irving side, 8 to 10 feet. The type of addition that we're proposing is consistent with the way houses have adapted to the streetscape at the particular corner that we're located on and I would hope you would take that into consideration. Thank you.

President Martin: Others who wish to speak to item number 6.

Christina Melloh (2642 Irving Avenue S): This does not directly affect my views as a homeowner, but I'm more concerned about our views as a community. I would like first say though that as a representative on the East Isles Executive Committee, that the East Isles Committee did not support this decision. What it did was it took a vote and the gentleman is correct that it was 9 to 8 and it was immediately followed by a vote of concern where the neighborhood voted to send no opinion on this issue because there were so many opinions – people should come and speak for themselves. So that's where we landed, I think that's a fair assessment. This is a historic site. It is a historic site for green and parkway. The gentleman who is the owner of this home kindly came to our neighborhood meeting and told us there is an amazing view from his home and he is right and it's from the front and it's from the side. And historically, this site in particular has a 25 foot setback for a reason and I would like to clarify that almost all of the housing on Irving Avenue South has a significant setback. The numbers that were just cited were related to homes that are exceptions and presumably, since I haven't seen any major additions in recent years, historical exceptions. So, just to the point, I would like us to see us preserve the historic nature of this home. This is the shortest distance from Hennepin Avenue to Lake of the Isles, one of the most visited state parks... or parks in the state of Minnesota. To introduce an 11 foot setback to this location, I would just ask you – hardship? This is a mixed blessing for this homeowner because their home was destroyed by the shaking of city property when they cleaned out the road and as a result, they have had their house ruined by that activity on the street and that's why it's being redone. The homeowner told our neighborhood that he has lived there 30 years with an adequate kitchen. So hardship, hardship for selling it maybe, but I didn't think that was what this variance... an exception from a variance was intended to do was to make it a more beneficial sale down the line. The goal here is to look at the neighborhood and try to address why do we have a variance and I would just encourage us all to know that as a community, we are losing our green space. If we are to allow this type of exception to expand the value of properties in this neighborhood, then we are just suggested that everybody is going to do this. And all I can say is say goodbye to our green space. This is a prime property – it has a 5,000 square foot home. There is no hardship. And I encourage you to support green space in the City of Minneapolis. There are no neighbors who have homes that have had major additions cutting out this type of green space in recent time with an exception of a variance in our immediate area because I would have received that notice. So, I just want to clarify that that has not happened and one of the reasons I love Irving Avenue South is that when I go down it, I see a lot of green and I don't see buildings and I think 5,000 square feet is enough.

Charles Rossley (2655 Irving Avenue South): I'm opposed to both A and B. I think they're not compatible with adjacent properties. All the houses on my block have a 25 foot setback as the ones do across the street. And I think they would impede on the views of adjacent neighbors.

Carla Rohwedder (1521 West 27<sup>th</sup> Street): I'm from one of the 6 houses up the street on both sides affected by this proposed addition. I would have a partly occluded view and one of our other neighbors here, who's also opposed, and if Mr. McComb represented that neighbors were not against this proposal, this is in error. There are several of us here. Mr. McComb never came to any one of us to show us the plans for this. The only way I found out about this was that I went to an East Isles Residents' Association meeting 6 days ago where the plans were given out. And I'm shocked. He has been my neighbor for 30 years and he could have come and told me what his plans were and explained to the rest of us what he was trying to do, but none of that has happened. And it seems to be propelled forward while the neighbor most affected is out of this country on a commitment and can't get back here until June 4<sup>th</sup>. So at the very least, I hope it's postponed, but I believe it deserves to be denied.

President Martin: Thank you. One more. I think we're getting the picture here.

Ellen Longmire (1520 West 27<sup>th</sup> Street): I also brought a picture. And I brought this picture to convey the following idea which is it's showing the approach to Lake of the Isles along 27<sup>th</sup> Street. This is one of the quickest approaches, if not the quickest from Hennepin to Lake of the Isles. It's used by hundreds of people on a nice day going to and from the lake. The nature of it, as it stands, is that both of the reverse corner lots on the lake which are in these positions, have a significant setback so as you approach the lake, you see this green opening up very nicely and I feel that it would be a big mistake to allow this variance for homes to get close to the sidewalk and obstruct this view. That's all I have to say. I wasn't at the neighborhood meeting because I had already communicated with the Zoning Committee of the neighborhood and didn't feel I needed to go and give a vote.

President Martin: Thank you. OK, I'm going to close the public hearing. Commissioners?

James McComb [off-microphone, tape unclear]: ... Rebuttal?

President Martin: No, we don't debate here, Mr. McComb, we take information....

James McComb: People who testified were dishonest.

President Martin: We're not going to get into that. You gave us your testimony. They gave us their testimony. We have to make our best judgment.

James McComb: Let me...

President Martin: No, sorry.

James McComb: They said that I did not ask to speak to them and I asked both Carla and Charlie if they wanted to speak with me and they did not. And I object to them lying to this august body over whether I asked to consult with them or not.

President Martin: OK. Public hearing is closed. Commissioners?

Commissioner Schiff: Madame Chair, I'll move to deny. The staff recommendation.

President Martin: Say that again.

Commissioner Schiff: Move to deny.

President Martin: So you want to approve.

Commissioner Schiff: Move to accept the staff recommendation; move to deny the variance (Krueger seconded).

President Martin: Alright, so you're moving to approve the staff recommendation which is to deny the expansion of the nonconforming use and the CUP? Or did you want to do them separately?

Commissioner Schiff: Separately.

President Martin: Second. Discussion?

Commissioner Schiff: I'll just say, if this property was individually historically designated, we wouldn't have to worry about the precedent setting nature of this variance, but I think we do have to be concerned about views for subsequent properties that are in this area and how this could help trigger a chain reaction. If this property was individually historically designated, then a variance of this type to the original structure could be granted by the Heritage Preservation Commission and would not be precedent setting to the overall character of the district. But this property is not designated individually and so we're stuck with the possibility of creating a precedence.

President Martin: OK, that was a motion to approve the staff recommendation on the expansion of nonconforming use. All those in favor of that motion, please signify by saying aye.

The motion carried 6 – 1 (Krause opposed; Tucker abstained)

President Martin: Variance.

Commissioner Schiff: Move to deny (Krueger seconded).

The motion carried 5 – 2 (Krause and Kummer opposed; Tucker abstained).