

Minneapolis Planning Department
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MEMORANDUM

DATE: October 2, 2003

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

FROM: Hilary Watson, City Planner

SUBJECT: Appeal of the decision of the Zoning Board of Adjustment by Gaida Inde

Gaida Inde, a neighbor who lives at 3131 East Calhoun Parkway, has filed an appeal of the decision of the Zoning Board of Adjustment. The appeal is associated with the decision of the Zoning Board of Adjustment to approve the variance to reduce the north interior side yard setback from the required 5 feet to 1-foot 8-inches to allow for an addition to an existing single-family dwelling. The actions from the August 27, 2003 Zoning Board of Adjustment meeting are attached.

The appellant has stated that the decision is being appealed for four reasons. First, the applicants acted in bad faith. Second, the unique circumstances of the homes along East Calhoun Parkway demand special attention to the effects of the addition. Third, the applicants failed to show “undue hardship” as required by the Minneapolis Zoning Code. And lastly, the Board of Adjustment failed to consider the effect that the variance would have on the sale price of the appellant’s home. The appellant’s complete statement of the action being appealed and reasons for the appeal is attached.

At the August 27, 2003 Zoning Board of Adjustment meeting, seven of the Board members were present. All seven Board member voted to approve the variance application.

HEARING AGENDA
ACTIONS/Testimony

August 27, 2003

Minneapolis Board of Adjustment:

Ms. Debra Bloom
Mr. David Fields
Mr. John Finlayson
Mr. Paul Gates
Ms. Tonia Johnson
Ms. Marissa Lasky
Mr. Barry Morgan
Mr. Peter Rand
Ms. Gail Von Bargaen

2:00 p.m.

2. 3139 Calhoun Parkway East (BZZ-1299, Ward 10)

Paul Ormseth has applied for a variance to reduce the north interior side yard setback from the required 5 feet to 1-foot 8-inches to allow for an addition to an existing single-family dwelling at 3139 Calhoun Parkway East.

Testimony:

Staff presented their report and recommendation to the Board of Adjustment.

Applicant: My name is Paul Ormseth, I am the architect for the project. My address is 75 West 5th Street, Saint Paul. I haven't much to add to the Planner's comments, but I can answer any questions regarding the plan. The basic reason for the variance request is that the existing house was built closer to the north property line than would currently be allowed by the zoning regulations. The houses along the block were built at an angle to the property line, so adding off of the back adds a situation that is consistent on the site plan and we have maintained the existing 1.8 side yard set-back.

Finlayson: Does anyone have any questions at this point? Anyone else to speak in favor? In opposition?

In Opposition- Neighbor: My name is Gaida Inde. I live at 3131 Calhoun Parkway – directly adjacent. I oppose this addition because it is going to be so close to our property line and the addition will not have any windows. I believe that windows would not be allowed in the addition because of the decreased setback. (The neighbor passed out pictures.)

Rand: The applicant's have an existing porch that they are going to take down. There are two existing windows on the side of the porch that will remain. It will only be the new portion that does not contain windows.

Neighbor: We do not want to look at an addition without any windows.

Lasky: Could you describe what we are looking at in the picture here.

Rand: She is demonstrating in the photographs the impact of a building without windows.

Watson: Please note that the photos are not of the adjacent property.

Bloom: I have a quick question. Is your only opposition to this proposal that there are no windows on this addition?

Neighbor: Yes. The porch is going to be six feet longer than it is today.

Bloom: Are you aware that they are putting a trellis on the side of the addition that faces your property in order to break it up?

Neighbor: That is what they said they would do.

Finlayson: The building code does not allow windows in walls that are closer than three feet to an interior property line. So windows are not an option therefore the trellis was added.

Lasky: I agree with you that windows cannot be added to the addition because of the building code. I feel like we are stuck between a rock and a hard place. I do think that the trellis softens the addition somewhat.

Neighbor: They could move the addition over a little more and build an addition with windows.

Rand: They could do that but they requested a variance to build an addition that is in line with the existing north wall of the house.

Finlayson: Anything further? Thank you. Anyone else to speak in opposition? The public portion of the hearing is closed. Board members – and comments or questions?

Rand: I vote to adopt the staff recommendation and I have one comment.

Bloom: I'll second the motion.

Rand: My only comment would be that I think the addition could have been constructed in a way that would allow windows. It wouldn't have to be built in line with the existing north wall of the house. It is too bad that they can't put a window in the addition. I still support the staff recommendation.

Lasky: I feel like the devils advocate here. Our responsibility is to find a hardship that the addition could not have been designed any other way. What I am hearing you say is that the addition could have been designed differently to allow for windows and still serve the needs of the applicant.

Rand: I don't know whether a different design would serve the needs of the applicant or not. But I am suggesting that this addition could be designed differently. The only opposition to this addition is from the adjacent neighbor who opposes it because the addition does not have any windows. I do not find this sufficient enough to oppose the project.

Lasky: Are there windows on the north side of the house that are not show in the elevations?

Rand: Yes there are. You can see them in the pictures.

Lasky: So the north side of the house will not be windowless?

Rand: That is correct.

Lasky: So it is just the addition portion that will not have windows - okay.

Finlayson: Any further comments? Please call the roll.

BOARD OF ADJUSTMENT ACTION:

Mr. Rand motioned to adopt the staff findings and **approve** the variance application. Ms. Bloom seconded the motion.

Roll Call Vote:

Yeas: Bloom, Fields, Finlayson, Johnson, Lasky, Rand, Von Bargaen

Nays: None

Absent: Gates and Morgan

The Board of Adjustment adopted the staff findings and **approved** the variance application subject to the following conditions:

1. The Planning Department shall review and approve the final site and elevations plans.
2. The exterior materials used for the addition shall be the same exterior materials as on the existing home.

Minneapolis City Planning Department Report

Variance Request
BZZ-1299

Date: August 27, 2003

Applicant: Marianne Norris and Eileen Scallen

Address of Property: 3139 East Calhoun Parkway

Date Application Deemed Complete: July 16, 2003

End of 60 Day Decision Period: September 15, 2003

Contact Person and Phone: Paul Ormseth, (651) 298-6789

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

Ward: 10 **Neighborhood Organization:** East Calhoun Community Organization

Existing Zoning: R1A

Proposed Use: Porch addition

Proposed Variance: A variance to reduce the north interior side yard setback from the required 5 feet to 1-foot 8-inches to allow for an addition to an existing single-family dwelling.

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

Concurrent Review: None

Background: The applicants are proposing to remove an existing screen porch located at the rear of the house and construct a new four-season porch in its place. The addition will occupy the footprint of the existing screen porch plus an additional six-feet. Please note that the current building code will not allow the applicants to construct an addition closer than 3 feet from the north interior property line that includes openings for windows or doors. In this particular situation the applicants are not proposing to have any openings in the wall of the addition that is located closer than 3 feet from the north interior property line.

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 interior side yard: The applicants are seeking a variance to reduce the north interior side yard setback from the required 5 feet to 1-foot 8-inches to allow for an addition to an existing single-family dwelling. The applicants have indicated that their home was built at an angle to the side lot lines and therefore the existing house is located less than the required 5 feet from the north interior property line. The applicants have indicated that although the addition will extend an additional 6 feet into the rear

yard that the distance between the house and the north interior property line will remain 1-foot 8-inches.

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 interior side yard: The irregular placement of the home on the lot is a unique condition 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.**

North interior side yard: Staff does not believe that the granting of this variance will alter the essential character of the surrounding neighborhood. The addition will be built in line with the existing north wall of the home and therefore will be no closer to the north interior property line than the existing home. In addition, not only is the applicants' home built at an angle to the side lot lines but so are the other homes along the block. Because of this the adjacent neighbor's home to the north is located more than 20 feet away from the applicants' home.

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 interior side yard: Granting the variance would likely have no impact on congestion of area streets or fire safety, nor would the proposed setback be detrimental to welfare or public safety.

Recommendation of the City Planning Department:

The City Planning Department recommends that the Board of Adjustment adopt the findings above and **approve** the variance to reduce the north interior side yard setback from the required 5 feet to 1-foot 8-inches to allow for an addition to an existing single-family dwelling subject to the following conditions:

2. The Planning Department shall review and approve the final site and elevations plans.
3. The exterior materials used for the addition shall be the same exterior materials as on the existing home.