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

Date: July 29, 2010

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

Referral to: Zoning & Planning Committee

Subject:

Name of Appellant: Jerry Nordenstrom
Property Address: 3008 26th Street E
Ward #: 2
Appeal of Board of Adjustment action denying a variance to the requirement for an enclosed off-street parking space for a new single-family dwelling established after November 1, 2009, to allow for a parking pad in lieu of a garage.

Recommendation:

The Board of Adjustment adopted the findings **denied** the variance to the requirement for an enclosed off-street parking space for a new single-family dwelling established after November 1, 2009, to allow for a parking pad in lieu of a garage to allow for the construction of a new single-family dwelling located at 3008 26th Street E in the R1A Single-Family District.

Previous Directives: N/A

Prepared by: Chris Vrchota, City Planner, 612-673-5467 Approved by: Jack Byers, Planning Supervisor, 612-673-2634 Presenters in Committee: Chris Vrchota, City Planner

Financial Impact

- No financial impact

Community Impact

- Neighborhood Notification: 10-Day notices sent.
- End of 60-120-day decision period: July 11, 2010 (60-day)/September 9, 2010 (120-day)

Background/Supporting Information

The Applicant submitted applications requesting two variances for the property- one to reduce the minimum width for a new house from 22 feet to 16 feet, and to the requirement

for the provision of an enclosed off-street parking space for a new single-family dwelling established after November 1, 2009, to allow for a parking pad in lieu of a garage.

At their July 1, 2010 meeting, the Zoning Board of Adjustment approved the variance to reduce the minimum house width from 22 feet to 16 feet and denied the variance to the requirement for the provision of an enclosed off-street parking space for a new single-family dwelling established after November 1, 2009, to allow for a parking pad in lieu of a garage.

Supporting Material

A. Appellant statement of appeal and additional information submitted by Appellant

B. July 1, 2010 Board of Adjustment Meeting Minutes and Actions

C. July 1, 2010 Board of Adjustment Staff Report with Attachments

Community Planning and Economic Development - Planning Division Report

Variance Request
BZZ-4788

Date: July 1, 2010

Applicant: Jerry Nordenstrom

Address of Property: 3008 26th Street E

Contact Person and Phone: Jerry Nordenstrom, 612-807-0745

Planning Staff and Phone: Chris Vrchota, (612) 673-5467

Date Application Deemed Complete: May 22, 2010

End of 60 Day Decision Period: July 11, 2010

Ward: 2 **Neighborhood:** Seward

Existing Zoning: R1-A/Single-Family Residential

Proposed Use: New Single-Family Dwelling

Proposed Variances:
- Variance to reduce the minimum required width of a new dwelling from 22 ft. to 16 ft.
- Variance to the requirement for an enclosed off-street parking space for a new single-family dwelling established after November 1, 2009, to allow for a parking pad in lieu of a garage.

Zoning code section authorizing the requested variances: 525.520 (12) (30)

Background: The subject property measures 30 x 96, totaling 2880 square feet. The property is currently vacant. It previously contained a single-family dwelling, which was demolished in 2008. The Applicant is proposing to construct a new, single-story single-family dwelling, totaling 778 square feet.

The Applicant is proposing to construct the house at a width of 16 feet, due to the narrow width of the lot, which is 30 feet.

The Applicant is also proposing to omit the required enclosed off-street parking space, due to the size constraints of the lot. The Applicant is proposing to use the existing driveway on the property to provide one off-street parking space on the property.

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.**

   House width: The Applicant is seeking a variance to reduce the required minimum width of the house from 22 feet to 16 feet. The subject property is 30 feet wide, 10 feet narrower than the district requirement of 40 feet. When the required side yard setbacks of 5 feet are factored in, it is not possible to build a 22 foot wide house on the subject property. Strict adherence to the regulations of the zoning ordinance would not allow for construction on the subject property without the need for a variance.

   Enclosed off-street parking space: The Applicant is seeking a variance to the required provision of one enclosed off-street parking space for a new single-family dwelling established after November 1, 2009. The subject property is 30 feet wide by 96 feet deep, totaling 2,880 square feet. The lot is 10 feet narrower than the R1-A district requirement of 40 feet, and 2120 square feet smaller than the district requirement of 5,000 square feet in area. Despite this, there are design options available that could allow for the provision of a garage on the property. These include shortening the house and adding a second story to create more space in the rear yard, constructing a side loaded garage between the house and the rear property line, or constructing an attached garage. The property could be put to a reasonable use under the conditions allowed by the official controls and strict adherence to the regulations of the zoning ordinance would not cause undue hardship.

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.**

   House width: The Applicant is seeking a variance to reduce the required minimum width of the house from 22 feet to 16 feet. The subject property is 30 feet wide, 10 feet narrower than the district requirement of 40 feet. When the required side yard setbacks of 5 feet are factored in, it is not possible to build a 22 foot wide house on the subject property. The original platting of the property that established the lot width is not a circumstance created by the applicant.

   Enclosed off-street parking space: The Applicant is seeking a variance to the required provision of one enclosed off-street parking space for a new single-family dwelling established after November 1, 2009. The subject property is 10 feet narrower than the district requirement of 40 feet, and 2,120 square feet smaller than the required area of 5,000 square feet. While the lot is smaller than the district requirements, there are design options available that would allow for the construction of a garage on the site. These include shortening the house and adding a second story to create more space in the rear yard, constructing a side loaded garage between the house and the rear property line, or constructing an attached garage. There are not circumstances

unique to the parcel of land for which the variance is sought that were not 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.

House width: Staff believes that the house width variance meets the intent of the ordinance. The surrounding area features a number of narrow lots, with narrow houses on them, though these houses are predominantly two-story dwellings. Staff does believe that the proposed design of the house is not in keeping with the essential character of the locality. While narrow houses are found on the block, they are all 1.2 or 2 story dwellings. The proposed single story dwelling is not in keeping with the neighborhood character. Staff believes that the granting of the variance is in keeping with the neighborhood, and will not be injurious to the use or enjoyment of other property in the vicinity.

Enclosed off-street parking space: The intent of the ordinance is to ensure that enclosed, off street parking is being provided when new homes are constructed. There are design options that would allow for the construction of a garage on the subject property. Other, similarly sized lots on the street have detached garages. Staff does not believe that granting the variance is in keeping with the spirit and intent of the ordinance.

4. The proposed variance will not substantially increase the congestion of the public streets, or increase the danger of fire, or be detrimental to the public welfare or endanger the public safety.

House width: Granting the house width variance would likely have no impact on the congestion of area streets or fire safety, nor would the proposed variance be detrimental to the public welfare or public safety.

Enclosed off-street parking space: Granting the variance could have an impact on fire safety, or be detrimental to the public welfare or public safety. The existing driveway/parking pad is located right next to the proposed house, and approximately 5 feet from the house on the adjacent property to the east. Granting the variance would likely have no impact on the congestion of area streets.

Recommendation of the CPED Department Planning Division:

The CPED Department Planning Division recommends that the Board of Adjustment adopt the findings above and **approve** the variance to reduce the minimum required width of a new dwelling from 22 ft. to 16 ft to allow for the construction of a new single-family dwelling located at 3008 26th Street E in the R1A Single-Family District subject to the following conditions:

1. The Applicant shall apply and receive approval for administrative site plan review.
2. CPED-Planning review and approve the final site plan, building plans, and elevations.
3. The Applicant shall obtain all necessary permits and approvals prior to construction.

The CPED Department Planning Division recommends that the Board of Adjustment adopt the findings above and **deny** the variance to the requirement for an enclosed off-street parking space for a new single-family dwelling established after November 1, 2009, to allow for a parking pad in lieu of a garage to allow for the construction of a new single-family dwelling located at 3008 26th Street E in the R1A Single-Family District.

Attachments:
Appendix A: Statement of proposed use and variance findings- Submitted by Applicant
Appendix B: Letters to neighborhood organization and Council member- Submitted by Applicant
Appendix C: Zoning map
Appendix D: Survey, Site Plan, Building Plans and Elevations- Submitted by Applicant
Appendix E: Photographs- Submitted by Applicant

Minutes of July 15, 2010 Board of Adjustment
3008 26th Street East BZZ-4788

Matt Perry: Let's move on to item number 3. Mr. Vrchota, you are the staff person today. You're up again.

Chris Vrchota: Thank you Chair, members of the Board of Adjustment. The subject property is located here along 26th Street East, just east of 30th Avenue South. The property is zoned R1A and is located in the Seward neighborhood. Shown here, the property measures 30 feet by 96 feet totaling 2,880 square feet. The property previously contained a single story house which was demolished in 2008. The Applicant is proposing constructing new single story 778 square foot house as shown here. The Applicant is requesting two variances for this project. The first is to reduce the minimum width of the new house from 22 feet to 16 feet. The second is to eliminate the requirement – the provision of an enclosed off street parking space with parking instead provided on the existing driveway. Regarding the four findings – the first that the property cannot be put to a reasonable use under the conditional allowed by official controls and strict adherence to the Zoning Ordinance would cause undue hardship. Regarding the house foot variance, again the Applicant is requesting a variance to reduce the minimum width of the house from 22 feet to 16 feet. In this case the subject property is 30 feet wide. The required side yard setbacks in this zoning district are 5 feet, meaning that when you take 10 feet off of this 30 foot lot it is not possible to build a 22 foot wide house on the subject property. Further reducing the buildable area is the existing driveway on the property. The Zoning Code does require that at least one off-street parking space be required for any housing unit. And there's another requirement that one be provided an off-street, excuse me, an enclosed parking space. And so removal of the driveway would still not allow for a conforming house and would create the need for a new variance. Regarding the garage provision, the Applicant is again seeking a variance to the requirements that at least one off street parking space be provided for a new single-family dwelling established after November 1st, 2009. Despite the narrow width and the small area of the lot, there are design options available that would allow for the provision of a garage on the property. These include possibly shortening the house, possibly adding a second story, and constructing a front facing detached garage at the rear of the lot. Or, under the current configuration, providing a side loaded garage at the rear of the lot. So the property could be put to a reasonable use under the regulations without this variance. The second finding is that 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. Again, the subject property is 30 feet wide as it exists. When you take out – which is ten feet narrower than the district requirement. When you factor out the driveway and the required side yards it is not possible to construct a conforming single-family house on the subject property. And the original platting of this property was not a circumstance created by the Applicant. Regarding the garage, again while the lot is smaller than the district requirement there are design options available that would allow for the construction of a garage on the property. So staff does not find that there are unique

circumstances to the property that weren't created by the Applicant that prevent the Zoning Code requirements from being met. The third finding is that 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 the property. The Ordinance was not intended to prevent development on existing zoning lots. The City cannot prohibit any development from taking place on this lot, because that would be considered a taking. Taking a look again at the overhead map, narrow lots and narrow houses are the norm in the neighborhood although again, two-story construction is more typical than the one-story proposed by the Applicant. And so while again, the design is not necessarily in keeping with the character of the locality, granting of the variance would be. Regarding the garage, the intent of the Ordinance is to ensure that an enclosed off-street parking space is provided when new houses are constructed. And there are design options that would allow for that in this case. So granting the garage variance would not be in keeping with spirit or intent of the Ordinance. The fourth finding is that the proposed variance will not substantially increase the congestion of public streets or increase the danger of fire, or be detrimental to public welfare, or endanger public safety. The construction of a new single-family dwelling on an existing lot that previously contained a single-family dwelling would not have an impact on congestion or public safety. However, for the proposed garage variance the Applicant is proposing to have parking on the existing driveway, which would mean parking right next to the house and within 5 or 6 feet of the house on the neighboring property. Staff does find that that could create a potential impact on fire safety and public welfare. So CPED Planning recommends that the Board of Adjustment adopt the findings above and approve the variance to reduce the minimum required width for a new dwelling from 22 feet to 16 feet to allow for the construction of a new single-family dwelling located at 3008 East 26th Street East in the R1A Single-family District subject to the following conditions: That the Applicant shall apply and receive approval for administrative site plan review; CPED-Planning review and approve the final site plan, building plans, and elevations; and that the Applicant shall obtain all necessary permits and approvals prior to construction. Regarding the garage variance CPED Planning recommends that the Board of Adjustment adopt the findings above and deny the variance to the requirement for an enclosed off-street parking space for a new single-family dwelling established after November 1, 2009. I can answer questions that the Board might have and the Applicant is here.

Matt Perry: Thank you Mr. Vrchota for presentation number 3. Questions of staff? I see none. Thank you. Is the Applicant present? Would you like to speak, testify? Great. If you'd state your name and address for the record.

Wade Russell: My name is Wade Russell, I live at 3320 Skycroft Drive, St. Anthony. I am contractor for Community First Development. We actually, it's just a coincidence that we had the project right before this one. We do 3 or 4 projects a year and we just thought we'd be killing two boards with one storm (sic) trying to get the variances at the same time. The background on this particular property – I'm a real estate broker also and I work with some professionals in my office are REO, which bank foreclosure representatives. And this particular house – there was a house on this lot, it had been on

the market for about 8, 9 months and they contacted me saying sometimes we understand you do some rehabilitation, things like that. I said yes, I haven't done anything in this neighborhood, but I met with the City, I said here's what I'm planning on doing are there any restrictions I would run into, because it's obviously a small lot. They just instructed me no, it's just a regular variance process. You know, blah blah blah. The house when we bought it would not – could not be rehabilitated. The foundation was rotten. It was collapsing into the house to the west of it. We weren't ready to do the project right away, but in good faith to the neighborhood and the neighbor we incurred the expense of demolishing the house. And that was in the fall of 2008, okay? We've been working with the City, I met with them last summer to find out – to talk about what designs might be optional, okay? This was before the garage ordinance was put in place. What I thought would be great in this neighborhood- you know it's a smaller lot like alot of the ones in the block – would be let's try and go green and build this small sort of like a micro house and do a tuck under garage. We're just bouncing some ideas off one of the staff people and said that's a non-starter, we won't approve that, why don't you bring back some different designs. Okay? Jerry? I just want to give you some background and I'd like Jerry, my project manager, to talk about the actual project we have in front of you.

Matt Perry: So you're done with your testimony sir?

Wade Russell: Yes.

Matt Perry: Alright, thanks.

Wade Russell: Unless you have any questions.

Matt Perry: Any questions? Mr. Russell?

Wade Russell: Alright, thank you.

Matt Perry: Yup, thank you. Yes sir, and again, I know you've already done this once but if you could give your name and address for the record again please.

Jerry Nordenstrom: Jerry Nordenstrom, 4843 Grand Avenue NE.

Matt Perry: Thank you sir.

Jerry Nordenstrom: This has been interesting. The one that the staff denied, the garage, you brought up a point Mr. Manning, that on the last one when you said: well if we can't get there from the alley you obviously can't get there from the front on that size lot. That lot was 3 feet wider than this one. So I, you know, I'm not sure where we're going with this thing, but in order to get a – we were told by staff 20 feet, the setback from the property line in front was critical. We have to do that or get a variance for it. Which we can get – maybe. But, if we meet the setback by code, that's 20 feet. If we build the house that we were looking at and you wouldn't have any green on this thing

left. If you put a house, or a garage here facing forward, with the door facing forward, not building a side loaded garage, you have back 75 feet in a narrow driveway along side the house. Which I'm not sure many people would do it on a daily basis without bumping the house and in the winter time you might have a significant problem getting rid of the snow there on that backyard. The other thing is that's really critical on this, the ratio is wrong. You end up with – you're closing in on 70% coverage here for the impervious surface, or over that. You know, over the I think 65%. So we're over that with this design and we end up with very little green space and no back yard. Zero, to speak of. So to me this is a – that was a problem we looked at and tried to accommodate, tried to make some differences. Because we were held up, nearly at gun point, 'cause something was sent to the City Attorney to say you gotta build a story and a half or two-story. Okay, we looked at that. We looked at it very seriously. We've got plans for it. We tried to work with staff. We said can we meet and talk with you about this? We were told no, we do not meet with owners or contractors or developers. We will not talk to you, you gotta go through with this process because we had started it. And at that point, like Wade said, we had started this some time before November of last year when it was – the garage ordinance went in. Okay, I can understand that, you know, and that can happen, but we applied for the variance. We looked at shortening the house and I've got it planned for a two-story. Even with shortening the house by this much and building a 16 foot wide two-story house, we're still over the 65% impervious. So that didn't work and backing out of this garage doesn't work. I don't know what the safety issue is because alot of people have that in this area. I've got all kinds of pictures here, there is in the block east and west there are two houses that have got 30 foot wide lots that have got a garage. Neither one is using the garage in back. They're storage in it. They don't use them. There are fences in front of them. So it just, and because it's what Mr. Manning said, you're not going to use that. There's no way to – it's not functional. This does not have an alley to is so there's backyard access. You know, the houses that are – that have garages that are being used on the 30 foot lots all have either this corner lot or have alleys. Okay? As far as being not in character, what we were looking at originally was a bungalow, and Minneapolis has got bungalows all over. That's what we were looking at. But, we were willing to talk about going to a two-story to shorten the house, but it still doesn't work as far as – this lot is only 30 by 96. That's a platted lot. The previous one was 33 by 113 so it's quite a bit bigger and was a platted lot. We have the lot on the other side that is 33 by 113 and it is a buildable lot. But I don't know what to say besides it's interesting how the process works. I ah, if you want to look, these are – you can have them. But it's really frustrating to do what we think is the right thing so that you can build something green and affordable and improve the neighborhood. Because if you looked at that neighborhood right now and looked at the lot directly to the east and directly to the west, you'd say my God, you're building a really nice piece of property here, that's what you're doing. And it's easy for somebody to come in afterwards and say something. And I'll guarantee you, whoever comes up and says well I think they should do this, I can tell them why we're not doing it and we thought about it too. We're professionals in this. I've been doing this for 40-plus years. I know what works and what doesn't work as far as layout on this kind of stuff and it's just awfully hard to listen some of the stuff that goes on when these discussions are there because I can't respond.

Matt Perry: Sir, you have an opportunity right now.

Jerry Nordenstrom: I know, but, but …

Matt Perry: So if you have ….

Jerry Nordenstrom: There's other stuff and I won't get to geez.

Matt Perry: Do you feel that you've made your points about – staff is recommending – maybe let me give a slight explanation of something. Staff makes recommendations. This body makes the final decision. So staff may make a recommendation, but this body is not bound to that …

Jerry Nordenstrom: I know that …. (unintelligible parties talking over each other)

Matt Perry: There's additional, and the reason why is there is additional testimony that we hear today. Things like your testimony that may change the outcome of what is the appropriate decision, and that's why we're here doing what we're doing today. Do you think you have raised the points that you want to on the variance that staff is not recommending, the garage? Do you feel that you have conveyed the issues?

Jerry Nordenstrom: I hope so.

Matt Perry: Okay.

Jerry Nordenstrom: Because it's the impervious ratio.

Matt Perry: Okay.

Jerry Nordenstrom: It's the non-functionality of backing out 75 feet.

Matt Perry: Yup.

Jerry Nordenstrom: It's lack of a backyard …

Matt Perry: Okay.

Jerry Nordenstrom: …completely, and it's not the character of the neighborhood that has that.

Matt Perry: Let's see if any of the Board members have any questions of you to get clarification on any of those points that you made. Mr. Sandberg.

Dick Sandberg: Thanks Mr. Chair. Thank you Mr. Nordenstrom. You're associate mentioned that you pursued the concept of a tuck under garage, could you elaborate on why that would or would not work?

Jerry Nordenstrom: You bet. We met with a couple of people from Zoning and were told that a tuck under will not work. And I'm not saying that they were wrong on that. They just said that isn't going to work because there isn't another one like that on the street. You know, there are a whole bunch of houses that don't a garage facing forward, but there isn't another tuck under on the street. And that I think would be a – somebody would say, you know, you can't do that. And that's what we're told. You can't do that, that's not going to work, that's not going to be approved.

Matt Perry: Okay. Did that answer your question Mr. Sandberg? Mr. Manning? I'm sorry, Mr. Koch.

Chris Koch: So you've done the calculations for the impervious surface? Is that the assumption that that is a fully impervious surface driveway?

Jerry Nordenstrom: Driveway, building, garage, sidewalk, decks, porch. That's everything.

Chris Koch: So the design you are thinking would meet the impervious surface, right?

Jerry Nordenstrom: No, we shortened it up to go to a two-story and it still doesn't.

Chris Koch: Okay.

Jerry Nordenstrom: It, you know, if you had the single-story here it would be alot worse.

Chris Koch: Okay, thank you.

Matt Perry: Does anybody else have any questions of the Applicant? I see none. I would like staff to address this impervious surface questions so it doesn't linger. Do you need time to do any calculations? Well, if you haven't done them I would just, to move the meeting along, I'd ask for other testimony. I'm not, that's not – I'm sorry the way that came across.

Chris Vrchota: Thank you for that Chair Perry.

Matt Perry: I apologize. Perhaps sir.

Chris Vrchota: I don't have a full impervious surface calculations because I haven't tried to redesign the entire project.

Matt Perry: No, I think the question I think the question I'd like to know is, what we have before us, not potential designs that have been considered at one time or another or may be considered in the future but before us what the calculations are for that and whether if falls within the requirements of the City ordinance governing that matter.

Chris Vrchota: Sure. Chair, a couple of those (unintelligible) the proposed for the part of the house, including the porch is 832 square feet. The minimum allowable size for a garage would be 12 by 18, which would be 216 square feet. The existing driveway is 9 feet wide. The depth of the lot is 96 square feet, I trying to refrain from doing that math on the fly off the top of my head.

Matt Perry: Okay.

Chris Vrchota: However, there are other design options rather than a full width driveway. We do allow what's referred to as a trail driveways, or essentially we have the wheel tracks which would reduce impervious surface…

Matt Perry: Alright, okay.

Chris Vrchota: But I don't have set calculations on what those final numbers would be.

Matt Perry: And I will say publicly that I pride myself on good manners and I am embarrassed that I asked the question in the way that I did, so I apologize again for that. Does any – got myself flustered here. Is there anyone else here to speak in favor of this application? I see no one. Let's look at those that wish to speak against this application. Yes sir, Mr. Mains, if you'd state your name and address for the record.

Sheldon Mains: Chairman Perry, members of the Board, thank you. My name is Sheldon Mains. I reside at 2718 East 24th Street in Minneapolis. That's in the Seward Neighborhood. I have lived there for about 30 years. I am Board President of the Seward Neighborhood Group. Our business address is 2233 East Franklin Avenue. Commissioner Perry I've made really worse comments to, by accident to staff when I was on the Planning Commission, so those things happen. I'm here because the Chair of our Development Committee is off on business selling guitars in Montreal. The volunteer Secretary of the Development Committee is also off on business. I find if very unique for a Seward Neighborhood Group to be here opposing a variance. The last time I was to the Planning Commission it was in favor of a variance. We pride ourselves in working with developers, working with owners to come to a yes. In fact, the last time it was for a variance for increased hours for a daycare center where the immediate neighbors were opposed to it, but the neighborhood group was in favor of it. So we don't take opposing a variance lightly. I'm also concerned because, as I said, we'd like to work with developers and come to a yes and I'm concerned that all these discussions were going on with your staff and there was never a suggestion that Mr. Nordquist (sic) come to the neighborhood group and work with us. We probably would have gone to bat for a tuck under garage. There, you know, so that being said, we're basically opposed to this. I have one question for staff, I thought there was also a variance to build on an undersized lot? We were informed that there was needed, there was a variance for building on a 2,880 square foot lot instead of a 5,000 square foot lot.

Matt Perry: That does not appear to be a variance that is requiring (unintelligible due to both parties speaking at the same time)
Sheldon Mains: Okay, I will not talk – comment about that.

Matt Perry: You could check with staff after as to why that's not …

Sheldon Mains: Okay, no, that's not a big deal. You have out letter.

Matt Perry: We do have that letter.

Sheldon Mains: I will not go through that in detail, I will not go through the minutes in detail. Let me just make some points on the findings of fact. I think that may be the most efficient way of dealing with this.

Matt Perry: I appreciate that.

Sheldon Mains: The first finding of fact. There are other uses that property could be put to. The building immediately to the east of it is now, I believe, in condemnation. It had a fire. Combining those two lots would make a buildable lot. This lot could be split in half, sold to each adjoining property. This lot could be sold to either adjoining property or they could buy either adjoining property. Item two, unique to the parcel of land. Economic conditions alone shall not constitute undue hardship. Let me just remind you to keep that in mind when you're looking at what options there are available. The main item I want to talk about is item three, granting of a variance shall be in keeping with the spirit and intent of the Ordinance and shall not alter the essential character of the locality. Basically the staff is saying it doesn't fit in the neighborhood, but then comes to a conclusion that it does fit. Let me point out a few things that don't fit. The proposed building is one story with bedrooms in the basement. This is a shot I took a couple of days ago of that street front. Right here is where that lot is. You'll notice they're all two to two and a half story houses with front porches. You'll also notice the setback. If you go to D-7 you will see, I have to find D7, you will see the roof slope. Compare that to the roof slope of these houses. It doesn't fit. If you go to D-2 you will see the set proposed site plan. It doesn't conform to the setback of the existing houses if you look on either side of the houses, on either side on D-2, that is a setback for that whole block. This house is set back considerably. There it does not have as large a back yard as the rest of the neighborhood. It basically does not conform to the neighborhood. There are other houses that have been built in the last two years within two to three blocks of this that are two-story, steep pitched, conforming to the front yard variance that are being sold at market rate and they were built by for profit developers. So if the lot were usable they could build a house that fit into the neighborhood. We do agree with the staff with the lack of a garage and the problem with parking the car in front. None of the other houses have car parking in front. That street, 26th Street, is the only through street from Hiawatha, the only street that goes through from Hiawatha to the River Road. It does have a fair amount of traffic. It's not officially a through street, although everyone seems to use it as that and we're trying to fight that. But it also has a fair amount of truck traffic for the industry that's on the south side of that street. So having cars backing in and out

of that location could be a safety hazard. Also having a car parked in front of the house, that close to the house next to it, I did not check, but I don't believe the house next to it has a 5 foot setback from the side yard. So that house would be closer than 5 feet to a parked vehicle. I think that concludes my comments. Oh, one more thing. I always view that when a developer comes for a variance you'd think that they'd pay attention to how they treat the neighborhood. This is their lot. That tarp has been up there at least since spring. I did notice it was finally mowed. You'd just think out of common courtesy and to be a good neighbor they would maintain the lot a little better. Just my own personal comment. Thank you. Don you have any questions?

Matt Perry: Does anyone have any questions of Mr. Mains? I will point out – thank you Mr. Mains for coming down and testifying. I will point out that what the property owner is doing with the lot is not before us and while I recognize that it's always good practice to be a good neighbor it's not our job here to define what a good neighbor is and I would ask us not to discuss that, instead to focus on the variances in front of us. Likewise, we're not here to discuss the design of the house that may or may not be built on that property, so if we could again focus on the variances at hand I would appreciate it. Is there anybody else here – which is not to, it's not a comment on any of Mr. Mains comments at all. I just want to make sure that the Board is focusing on the responsibilities here in front of us. Is there anybody else here to speak against? Yes ma'am, if you'd come forward and state your name and address for the record I'd appreciate it.

Megan Sheridan: My name is Megan Sheridan. My address is 2310 Milwaukee Avenue.

Matt Perry: Thanks so much.

Megan Sheridan: Yup. I am here both as a neighbor, I rent in the neighborhood, and I'm also staff at Seward Redesign, the nonprofit community development corporation for that area. First of all, I'd just like to say that, and as you see in the letter that was submitted by Katya Pilling, our Associate Director, that we support the opinion of the Seward Neighborhood Group to oppose the variance presented here today. My second point is that I see you also have copies of a couple of e-mails that were submitted. I also wanted to let you know that our office has received numerous phone calls from neighbors who are concerned about the variance and are in opposition to it being approved. My third comment is that I agree with Mr. Mains on his perspective on staff finding number 1. We also agree with Sheldon on staff finding number 3. So to keep things brief. Any questions?

Matt Perry: Thanks so much. Any questions? Thanks for coming down and testifying. Is there anybody else here to speak in opposition to this? Yes, if you could state your name and address for the record please.

Anna Schula : Anna Schula and I live at 2537 30th Avenue South. My property abuts to the north of this property and I'm opposed to this development. I'm not opposed to small

building but this particular proposal doesn't look right to me and most of my points have already been made.

Matt Perry: Okay, thanks for coming down and testifying. Is there anyone else here to speak in opposition to this? I see no one. We're going to close the public hearing and I'd like to have Board comment. And again, if folks could focus on the variances in front of us I'd appreciate. Thanks so much. Board comment? Mr. Manning.

Bruce Manning: It is a fully platted valid lot it's entitled to have a home on it. It's entitled to have a residential home on it. The home has to be narrow. I will support staff's finding on the width of the house and the staff has done a good job with a very small lot and a very awkward position. There apparently is some issues related to the front yard setback. It's clear that when these tiny little lots were cut up along 26th Street and houses were built people them directly on the street and in fact, they do tend to make a nice row of home and they don't have front yards basically but they do have porches and it has a nice feel to it. Front yard setback down to 5 feet would require a variance and I have no idea what the communications were between the builder and the neighborhood and the staff about why you wouldn't try a string trussed (sic) variance – I couldn't predict what would happen if such a variance were required for it, were required, so I feel it's a bit unfortunate that there is this 20 yard – 20 foot front yard. It might be nicer if the house were thrust forward. But nevertheless, they're entitled to have a house. I don't have any problem with the width. I think the staff's analysis on the width is correct. I do find myself struggling to support staff as to the enclosed off street parking space. I'm having trouble imagining a 16 foot wide house with a full tuck under under it as an acceptable option. I have significant concerns about trapping the property owner and developer between a rock and a hard space, proverbially speaking, of trying to put a full size garage that's accessible and a reasonably sized functional home that meets the minimum square footage requirements for homes. And no matter what you did with the driveway, being able to reach it without blowing the minimum coverage issues. I suspect that part of the reason that we require garages in new homes is to deal with off street parking issues. I think Mr. Gates would probably find a nice way of saying it, but I'm not sure that such pro-car development on a lot this size in a neighborhood with good public transportation is necessarily required. I could have – I think I've got sketched findings over at least area, maybe all four, that would find in favor of doing away with the off street parking space on this lot. But that's all for now.

Matt Perry: Alright, thank you Mr. Manning. Other Board comment? Mr. Ditzler?

Matt Ditzler: I just wanted to say that I agree with Mr. Manning and I'm having a difficult time with the - to force the property owner without completely squishing the house to one side of the property to be able to put an off street parking space on there with no alley. I think it's a difficult situation because staff cannot do design calculation. It's not staff's job to design anything, so therefore, obviously staff is not going to do calculations of impervious surface on a design that they don't have. We don't have time for them to do that, but that being said, I have to take somewhat of what the Applicant has said into consideration. The fact it seems like it's not that we're dealing with an

impervious surface that would be kind of borderline and close to what the Code allows. It would seems to be significantly over it and so I agree with Mr. Manning. I'm having a hard time forcing the property owner to required on a lot of this size to require one off street parking space – covered off street parking space. And that being said, since there's no alley, I don't think the Code would allow him to have an uncovered off street parking space. So it's probably a question for staff, but if you can't park in the front or side yard we're going to have the impervious surface anyways so what is that – I just, I just seem to be getting into a design area which we don't have any information for so…

Matt Perry: Well, I think maybe you did ask something that was not a design question.

Matt Ditzler: Can you…

Bruce Manning: I don't think the answer makes a difference

Matt Ditzler: I think Mr. Manning has summed it up. I don't think the answer makes a difference in this particular case so let me withdraw before I steer us further off track than I already have.

Matt Perry: Thank you Mr. Ditzler. Mr. Koch?

Chris Koch: Well we're not here to design or redesign anything. The idea of us as design professionals, that's not what do up here. So to assume that it can't be done is also wrong. So …

Matt Perry: Good point.

Chris Koch: They to cover an off street parking under current regulation and I have been shown that there is, again it's not my job to design everything and ultimately decide okay, they're right there's not. So I have to give the benefit of the doubt to the staff. I mean, I'm kind of supporting staff's position on this. That's my inclination.

Matt Perry: Okay, thanks Mr. Koch. Mr. Finalyson?

John Finlayson: Well if I was to try to enumerate all things about this project that I like it would be a very short list. But I think Mr. Vrchota put it quite well when he said that if the City said you can't build on it it's a taking. So the City has to allow them to build something on it. So in the process of allowing something to built on this it's going to be messy. And it is. I'm going to, on that basis, accept staff's opinion on it.

Matt Perry: Is that a motion:

John Finalyson: Yes.

Matt Perry: There's a motion to adopt staff finding for both variances and grant the – approve the variance to reduce the minimum required width of new dwelling from 22 feet

to 16 feet subject to those conditions and to deny the variance to the requirement for enclosed off street parking space for a new single family dwelling established after November 1st, 2009. Is there a second?

Dick Sandberg: I'll second that.

Matt Perry: There's a second. Further Board discussion? Mr. Manning.

Bruce Manning: Thank you Mr. Chair. I will not be supporting the motion. I am recognizing both of what Mr. Koch has said and I'm fully embracing Mr. Finlayson's comments. Nevertheless, I am not convinced that there is a solution here. I think the builder has worked very hard to find a solution on a very difficult lot to build a reasonable home in this neighborhood on a difficult space. Staff – so for that reason I am not persuaded by the staff's analysis as to the off street parking space. I'm not persuaded that there is a (sic) injury to fire safety. I think there are not – the breach of the essential character of the neighborhood caused by this design is not related to lack of the garage, it's related to pushing it back 20 feet which is another rock and a hard phrase (sic) the builder was caught between. So I don't – I disagree with staff on that as to the garage. Given the 75 foot potential backup along a - what might be a 6 foot privacy fence for much of the neighboring side, the snow loading, the average talents of most drivers, I'm not sure that there's a garage option that makes sense. Therefore, I would find that doing a way with parking in a high density area with good public transportation on a lot this size are circumstances unique to this parcel of land not created by the Applicant. I understand the neighborhood's desire that perhaps someone would purchase the burned down duplex and create something beautiful and high value, but that's not something we can require of this property owner. And finally then, I would find that the Code's requirements of the off street parking space is unreasonable and untenable in this particular situation. So for those reasons I will not be supporting the motion.

Matt Perry: Any other Board comment? We have a motion to second. Clerk please call the roll?

Clerk: Mr. Cahill?

Sean Cahill: Yes.

Clerk: Mr. Ditzler?

Matt Ditzler: No.

Clerk: Mr. Finalyson?

John Finlayson: Yes.

Clerk: Mr. Koch?

Chris Koch: Yes.

Clerk: Mr. Keobounpheng?
Souliyahn Keobounpheng: Yes.

Bruce Manning: No.

Clerk: Mr. Sandberg?

Dick Sandberg: Yes.

Clerk: The motion passes.

Matt Perry: Alright. So what that means folks is that the variance to, let's just get this front of me. The variance to reduce the minimum required width of the new dwelling from 22 feet to 16 feet is (sic) been granted. The variance to the requirement for an enclosed off street parking space for a new single family dwelling established after November 1st, 2009 to allow for a parking pad in lieu of a garage has been denied. Good luck with your project. I would add, given the testimony that we just had that it is critical for the neighborhood organizations, the neighborhood organizations, CDC, and the builder and the neighbors to talk. It's clear that that didn't happen as well as it could and what we have found here, in front of this body, is that trying to have those conversations now is very, very difficult. This is a formal body and it's very hard to have those kinds of conversations. I think there's alot of opportunity for you guys to work something out and I would encourage that kind of communication going forward. Thanks very much.