



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

Date: April 20, 2006

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

Referral to: Zoning and Planning Committee

Subject: Appeal of the Board of Adjustment action approving variances for property located at 3815 Washburn Avenue South (BZZ-2816).

Recommendation: The Board of Adjustment adopted the staff recommendation and approved the following variances: a variance to reduce the required north interior side yard setback from 6 ft. to 5.3 ft. and a variance to reduce the required south interior side yard setback from 6 ft. to 5.4 ft. all to allow for the projection of a stone facade and a portion of the building wall on a newly constructed single family dwelling located at 3815 Washburn Avenue South in the R1 Single-family District and SH Shoreland Overlay District.

Previous Directives: N/A

Prepared or Submitted by: Shanna Sether, City Planner, 612-673-2307

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

Presenters in Committee: Shanna Sether, City Planner

Financial Impact (Check those that apply)

No financial impact (If checked, go directly to Background/Supporting Information).

Action requires an appropriation increase to the _____ Capital Budget or _____ Operating Budget.

Action provides increased revenue for appropriation increase.

Action requires use of contingency or reserves.

Business Plan: _____ Action is within the plan. _____ Action requires a change to plan.

Other financial impact (Explain):

Request provided to department's finance contact when provided to the Committee Coordinator.

Community Impact (use any categories that apply)

Ward: 13

Neighborhood Notification: Linden Hills Neighborhood Council was notified of this application by e-mail sent on January 22, 2006.

City Goals: See staff report.

Comprehensive Plan: See staff report.

Zoning Code: See staff report.

Living Wage/Job Linkage: Not applicable.

End of 60/120-day Decision Period: On March 9, 2006, the applicant was provided a letter extending the decision period to no later than May 23, 2006.

Other: Not applicable.

Background/Supporting Information Attached: Shane Walgamuth applied for a variance to reduce the north interior side yard setback from 6 feet to 5.3 feet and a variance to reduce the south interior side yard setback from 6 feet to 5.4 feet to allow for the projection of a stone façade and a portion of the building wall on a newly constructed single family dwelling at 3815 Washburn Avenue South in the R1 Single Family District. The Board of Adjustment approved both variances on February 16, 2006. The Board voted 4-2 to approve both variance requests. Penny Ainsworth, on behalf of the neighbors of 3815 Washburn Avenue South filed an appeal of the decision of the Board of Adjustment on February 27, 2006.

February 27, 2006

RE: 3815 Washburn Ave. So., Minneapolis, MN 55410
February 16, 2006 Meeting

Reason for Appeal: We do not feel the Staff report was accurate.

Submitted by: 3815 Washburn Ave. So. Neighbors

Board of Adjustment Hearing Testimony and Actions

Thursday, February 16, 2006
2:00 p.m., Room 317 City Hall

Board Membership: Ms. Debra Bloom, Mr. Matt Ditzler, Mr. David Fields, Mr. John Finlayson, Mr. Paul Gates, Ms. Marissa Lasky, Mr. Matt Perry, Mr. Peter Rand

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

7. 3815 Washburn Avenue South (BZZ-2816, Ward 13)

Shane Walgamuth has applied for a variance to reduce the required north interior yard setback from 6 feet to 5.3 feet and a variance to reduce the required south interior side yard setback from 6 feet to 5.4 feet to allow for the projection of a stone façade and a portion of the building wall on a newly constructed single family dwelling located at 3815 Washburn Avenue South in the R1 Single-family District and SH Shoreland Overlay District.

CPED Department Planning Division Recommendation by Ms. Sether:

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the findings above and **approve** the variance to reduce the required north interior side yard setback from 6 ft. to 5.3 ft. and **approve** the variance to reduce the required south interior side yard setback from 6 ft. to 5.4 ft. all to allow for the projection of a stone facade and a portion of the building wall on a newly constructed single family dwelling located at 3815 Washburn Avenue South in the R1 Single-family District and SH Shoreland Overlay District.

TESTIMONY

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

Finlayson: Please.

Perry: We have been over this a few times as you know, but without the stone façade is a variance required?

Sether (staff): I have not been able to verify the exact thickness of the stone façade, but in previous testimony it had been stated that it was 6 inches in depth. I believe that in order to achieve the variance from 5.3 feet and 5.4 feet it would include a portion of the building wall. We would want to verify that with the applicant.

Finlayson: No further questions – thank you. Is the applicant present? Name and address please.

Hi. My name is **Carrigan Curtiss** and I am at 23535 Yellow Stone Trail in Shorewood, and I designed 3815 Washburn, and I will be speaking first for Shane Homes and he will speak afterwards. Shane Homes as was just now stated is requesting 2 side yard setback variances for this property so the existing stone can remain on the building. I would like to first address this request and briefly outline what has brought us to this point, because it has been a bit of a journey for us. There are no forty foot wide lots in this area, the vicinity of this house. They are all mostly 50 feet or larger. I know there are two 45 foot lots, but I would say the majority are 50 feet or greater. This alone creates a hardship for this house. When I began the process of designing this home for this lot it was understood that this house was to be completed in the style and feel of the neighborhood. Having stone on the outside of this house was a vary important element in obtaining the melding of the neighborhood look. The house was designed to be 28 feet wide at the foundation and you can see that on the foundation plans. To look at the full set of drawings you also see the cross sections of the house that clearly show – I don't know if you have those cross sections, but that was submitted for the building permit. The cross sections show that the foundation wall and the building wall align – they are parallel. So, I will speak of the speak to the fact of the thickness of the stone, I know that the house is 28 feet wide and does not go past the 6 foot setback on both sides, it is only the stone protruding into the setback. This is also reinforced by the survey, the surveyors took their points of measurement to the foundation wall – once again aligns with the building wall showing a six foot setback on both sides. I confirmed that I was designing this house accurately for the setbacks by calling Molly McCartney on November 2, 2004. I asked Molly where the setback were measured to, just like I have asked many other cities over the years. She did not immediately have an answer for me and said – just a minute. When she returned to the phone she said they are measured to the building wall. To make sure her and I were on the same page with this, I continued to say, what if there was stone on the outside of the building wall attached to the foundation? Do you still take the measurement to the building or the foundation wall? She once again said – just one moment. This time I could hear her talking with someone. She came back to the phone and said once again – setbacks are measured to the building wall. I said thank you and wrote down a note, in my business I document everything to make sure something like this comes up then I have proof of what I have been told. I then proceeded to tell Shane that everything was fine with the house – to build it to 28 feet, we don't have a problem with the setbacks. Shane trusted me, I trusted Molly, mainly because her answer did not differ from other cities. When I have called other cities, like Chanhassen, they say it is measured to the building foundation wall – not to the stone veneer. That it would be what the survey calls out, the surveyor would measure to the foundation wall – not to the stone. The house was built per the plans, and the foundation and exterior wall of the house are 28 feet. The stone was added per the original plans – to the outside of the foundation wall. It was not until 8 months after the stone was installed, that Shane and I found out that we had been misinformed about where the setbacks were measured from. Shane believed that he was following the City of Minneapolis codes during the construction of this house and

has built the home that fits very nicely into this neighborhood. By granting Shane a variance for this very small projection of stone into the setback you will be maintaining the style and feel of the neighborhood as well as elevating further undue hardship for Shane.

Finlayson: Questions?

Gates: So, if I understand correctly – there is no foundation supporting the stone?

Carrigan Curtiss: There is a brick ledge. The brick ledge is different than the foundation wall. The foundation wall holds up the wall of the house, the brick ledge is support so when frost comes into the ground we don't have a heaving action on the wall of the foundation.

Gates: It is a piece of steel that hangs off?

Carrigan Curtiss: No – it is concrete. It is a concrete brick ledge.

Gates: Integral with the foundation?

Carrigan Curtiss: It is set on top of the foundation, it was not poured at the same time. It was separate.

Finlayson: Ms. Lasky.

Lasky: *Voice did not carry – Could not transcribe from tape the questions and comments that were made by Ms. Lasky.*

Carrigan Curtiss: If the stone is 6 inches and you put mud behind it – it will vary in and out between 6 and 7 inches.

Finlayson: Thank you – I see no further questions at this time. Anyone else to speak in favor? Please.

Hello, my name is **Shane Walgamuth**. This was an honest mistake and not a life safety issue that we are talking about here. These circumstances were not created by me as my architect just explained – the city process has created this hardship. The stone on this house was placed there to be consistent with the neighborhood and countless times I have been asked is this house new or is it remodeled – because it looks like it has always been there. A matter of fact I was asked that twice today at an open house. In fact , if this variance request is denied, I will be forced to remove the stone exposing the five feet of concrete foundation walls which will create a situation that is inconsistent with the neighborhood and will do nobody an good but cause me undue harm. This stone is an enhancement to the house and neighborhood. Going to what staff was saying another hardship to this house is the lot size. There are no other

lots this size for three blocks, both up and down Xerxes and Washburn. In fact if you take Upton out of the equation which is two blocks away, 99.9% of the lots or...

Finlayson: Would you mind waiting a moment until Ms. Lasky returns, apparently she has an issue with her throat.

Finlayson: Thank you for the interruption, please continue.

Shane Walgamuth: How far back should I go?

Rand: Just continue.

Shane Walgamuth: Okay. I was stating to the size of the lot and for three blocks on Xerxes and Washburn there are no other lots of this size. They are all much greater. In fact if you take Upton out of the equation which is two blocks away, there is only one other lot out of the other 104 lots that is this size. This is according to the Hennepin County Tax Records and I have the research here if you would like to see it. So, trying to build a home on a uniquely small lot that fits into an established neighborhood with larger lots is a hardship. Now we last met with Zoning and Planning and Council Member Schiff said that there was a clear hardship here with this case, and the Council would have approved it right then and there but they were afraid of setting a precedent and they recommended that I pursue the variance process and waived the citation and waived the fees for the variance process and apologized for putting me through this. So, please follow suit with his and approve this variance request. Thank you. Any questions?

Perry: You said a couple of times that there is a hardship – something unique about building a house on this property. I just want make sure I understand this, without the stone façade you did build a house that met the Zoning requirements. Isn't that correct?

Shane Walgamuth: That is correct.

Perry: I just wanted to be clear about that.

Shane Walgamuth: Without the stone it doesn't fit the neighborhood. Any other questions?

Finlayson: I see none – thank you. Anyone else to speak in favor?

Mr. Chair and Members of the Board, I am **Joe Springer** of Frederickson and Byer and I am the attorney for Shane Homes, 200 South 6th Street, Suite 4000 in Minneapolis. Mr. Chair, city staff in its report did a very good job of showing why the unique circumstances of this substandard lot justified the granting of this variance. Those reasons are very similar to the same reasons that this group found and justified the variance in number/item 4 that was before you today, with a substandard size lot. The staff report however, did not site two additional facts that also support the granting of

this variance. Those facts are the architect called the city and was told that the setbacks ran to the building walls, that the plans that were submitted showed stone façade on the outside of the building walls, those plans were approved, that the house was built according to those approved plans, that a certificate of occupancy was issued, that eight months later after that certificate of occupancy was issued – then the citation was issued. And that the stone is in keeping with the neighborhood and is a more reasonable use than stripping it off and to the block foundations. Honorable Members of this Board, in terms of the issues that you must consider, these facts establish that granting the variance for the stone is a reasonable use, that the failure to grant the variance would cause undue hardship, that the circumstances are unique and the circumstances were not created by Shane Homes. Furthermore these same facts respond to really all of the emails that are in your packet and that go to the extent that this was intentionally done and why should this have not been caught by the city earlier and why did Shane Homes not seek a variance for building. Simple fact of the matter is, we did not have the opportunity to do so. Please also keep in mind that most members of this Board are aware, that we were appealing the Enforcement Action, and that as the transcript of the hearing on that – we do apologize for being before you so many times, but there is a process to protect your legal rights you need to exhaust all of your administrative remedies. But some of the members of this Board, last time when we were before you asked if the request on the Enforcement is denied can the applicant still come forward and seek a variance and does one affect the other? The staff reported back to this Board that no the fact that you ended up denying the appeal of the Enforcement Action does not in any way prevent this Board in granting the variance. So, that is why we are here before you today with a new request that this Board has not considered, we ask that the Board do comply with what we believe is legally required given the facts of what happened here, furthermore that this Board agree with the staff report and grant the variance. Thank you.

Finlayson: Thank you. Anyone else to speak in favor? I see no one. To speak against? Name and address for the record please.

My name is **Ken Dahl** and I live at 3808 Vincent Avenue South. I live across the alley from the subject house. My understanding was that this was not a design review. I hope that the issue doesn't turn to whether the people like the house or not and we all have our opinions on the design. One point that was made was somehow that the stone foundation if it was removed would be inconsistent with the neighborhood. I don't know of another house in the neighborhood that has a stone foundation. There are stone walls, there are stone walkways but the stone foundation, we don't have a neighborhood rule that says you have to have a stone foundation. I think that that is silly. Secondly, that this motion that the house is too small to build a big house on is totally illogical to me. The house that was built has 3800 square feet. I live on a 45 foot lot and I have 1200 square feet. This is not inconsistent, this is probably the biggest house on the block relative to the size of the lot. Now as to the size of the lots. I live on Vincent and I also surveyed the size of the lots. Shane did not go to Vincent Avenue. On the other side of the alley there is at least one lot that I know of that is 40 foot and I believe that there is a second and mine is 45. Across the street, there are duplexes

that are 75 feet and those duplexes have been turned into condominiums. And so their legal description says 37 1/2 feet and this house looks directly at those properties. So, I think it is misleading to suggest that a 40 foot lot is not consistent with the neighborhood, that it is somewhat substandard or whatever the term was that they used. It is not, there are very large lots in the neighborhood and very small lots in the neighborhood. There is one on Vincent that is 25 feet wide and some day be addressing, because someone will want to build something on that cottage lot. I think that this is irrelevant to the issue. I think the issue here is that we are seeing a lot of rebuilding in our neighborhood and developers are coming in here and pushing the envelope on the Minneapolis Building Code and not following it. This is a situation which is one of those. The one thing that has not been addressed in this 15 months or at least today and going back to the last meeting, how can this be corrected? Today for the first time I heard that this façade is sort of free-standing. I am not an architect so I don't know what that exactly means but it sounds to me that this can be removed. I haven't heard of a cost, difficulty or any other reason not to enforce the code and enforce the removal of the façade. And it seems to me that a house that is listed for 1.4 million dollars can/could comply with the code. Thank you!

Finlayson: Anyone else to speak against?

I am **Charlie Ainsworth** and I live at 3811 – next door on the north side of this house. Just a couple quick things. We have been over this foundation thing before, but there is a disconnect about what is holding up the stone, whether it is the foundation or not. There is a curious thing, this is the blue print submitted that was in the first packet of things for the variance for the cantilevers. This is the main floor plan and you will notice that there are dimensions all over this thing that show how big it is. This is the foundation plan and there is one, two, three, four, five, six, seven, eight dimensions going corner to corner showing the length of this foundation – there is no dimensions showing the width of it anywhere. The only dimensions showing the width of this house show up on the first floor plan and again on the second floor plan. So, I don't know why that is but when I was looking at this house – I am in the business and I saw 28 feet, the foundation has got to be a lot wider than that. They have an extra foot in the house. The problem with the house is that it does not fit into the neighborhood. This kind of shows you that the little red house here is my house, the house under construction here with the ladder is the house in question. It is obvious what is going on with the scale here. The house looks pretty good from the front. It is a cute house. From the alley, from my yard, from being behind this big wall of a house – not having any sunlight anymore. My house is setback 12 feet from the line of line instead of six and I would have been able to build a little sun porch next to my living room, but there is no point now, because I am in the dark. The other thing is that it reduces my property value. If you look at the plans for this house. This house is organized – this is the south sun angle coming in, screened porch, setback windows for the living room and dining room with a high stairway to let the light down in. This whole house is orientated towards the sun. The house next door is a tall house, but a narrow house and lets a lot of light in. There is no house in front of the area of that house. To do this house again on my lot , you would be building the screen porch and all that stuff directly into the side of this

house. That is a problem – a problem for me because it is costing me some money. It is even a bigger problem because if this kind of building is continued/allowed in the city we are going to have a lot of negative impact on neighbors and neighborhoods. And so the codes are, Shane did not follow the rules and built the house a foot too wide, but even if he would have built it correctly, I still encourage you guys to look at the code. I build all over, I build. If you want a simple solution, have Minneapolis adopt the Edina code, a code where you can not build straight up, if you build up so high you have to go back. They have a code where you can not cover 60% of hard cover and 75% with driveways included. It would just keep things in scale with what is going on with the other neighborhoods if it was different. This is an unfortunate thing for us, a real hardship. That is all I have. Thank you.

Finlayson: Thank you. Anyone else to speak?

My name is **Sharon Bestrom** and I have been up here before and I live on the south side, 3821 Washburn and I am the one that doesn't have the big wall, but my problem is the reason that I am talking is that it doesn't look like the rest of the neighborhood. I have lived in the neighborhood for 65 years and I have owned the house on the south side and have owned the house on the north side. I have owned both of those houses. That is the first thing, but the second thing and the reason that I am here is that Shane has pushed his house so far to the south that he has a walkway around his house to the south, which are stepping stones. And I told him that one of his stepping stones is on my land. It is over, not just near the edge – it is on my land. I have talked to him about it, his project manager and he is talking about trust – how he trusted the city, I trusted him to fix it and he won't fix it. I am a retired school teacher and I don't have the six hundred dollars it would take for me to survey it and I can't lift that stone myself. I just want, according to him, you can't get around his house without walking on my land. That's all.

Finlayson: Anyone else to speak?

Thank you. My name is **Ann Burns** and I live at 3812 Vincent South. I have lived in the neighborhood for 33 years. It seems to me that as much as we have had the builders legal team, architectural team, etc. appear before us, really the issue it seems to me is a size issue. And if you really came and looked at it and went from the front to the back what you would see is, you could call it in a sense style that perhaps could fit in, but it is its size that doesn't fit in. It is simply too big. Now, this builder comes back and he is now telling us about the hardship. He is telling us about the he said, she said, the city said and poor me. And it seems to me what is needed from you and from our city is for someone to stand up and say – you have to live by the rules too. You came here, you wanted to build this house, all of a sudden the lot is the problem. Well, my gracious if you had an architectural team, you are a builder, you certainly knew the size of the lot you were building the house on. And so, what I am asking is that simply, send a message to this builder that indeed he, like other people, who are not building or remodeling 1.4 million dollar homes – that they have to abide by the law or by the rules and I think that they should too. Thank you very much!

Finlayson: Anyone else to speak?

Penny Ainsworth, 3811 Washburn Avenue South. We have all seen each other before. I was really incredibly surprised at reading the paper work submitted by staff today. There were comments made in the literature about the dwelling as being designed to compliment the existing dwellings on the block which are located on 50 foot wide lots or greater. As already was established, our lot 45 feet wide and we don't have a problem with building a house on our lot. Not that we built it, but there is nothing that is not to scale, not in proportion or anything on the lot next door. The house that was on this existing lot was in scale with the neighborhood. The one that is there now is certainly not in scale with the neighborhood. Charlie put the picture up earlier that showed how in proportionate this existing house is. This is another one, I am sorry but maybe this photo is not large enough for you to see standing back there, but obviously, here are the houses. This is from the corner of the block working in, one, two the third one is us – we are kind of buried behind the first two looking toward, but you see Shane's house sticking way up here – way up above the rest of them. It does not fit in, it does not conform. The house is simply too big – it does not conform. It has always been big, was planned to be big, but now we are all suffering because it has been made too big. Now we are suffering because it has been made too big. From the stand point of, there are rules, rules have been established for reasons, building isn't the only thing that pertains to rules, if you are in sports, you step out of bounds, you get penalized. If you are in building you step out of bounds, which has been done today it needs to be penalized or at least corrected and the rules need to be complied by, by everybody. Not just this person or that person or the other person. They want to talk about that they got an okay by calling Molly and her conversations of he said, she said as far as yes you can put he stone into the setbacks. Obviously they did not read the city codes. The codes are very specific on saying what can be in the setbacks and what can't be. Stone is not permissible. Open your book and read. I guess if I was Shane I would consider myself lucky – lucky that no one could his error earlier in construction or he'd be pulling in his entire house and foundation walls on both sides – not just taking the stone off the exterior. We all know and are aware of the property on 52nd and Beard, who went over the side yard setback and was made to move his house wall. That was huge – this is nothing by comparison. I don't think that there is any hardship here other than the fact that there has been a hardship of disrespect of rules, lack of knowledge, spatial greed and irresponsibility and I think that this as well as any other person who builds a house needs to know the rules and needs to comply.

Finlayson: Thank you. Anyone else to speak? I knew we would run out of people eventually. Thank you. We will close the public portion of this item. First of all, I would like to address the 40 foot, substandard lot. Actually, that is a more common lot size in the city than not. If it was substandard, I think it is unfortunate that he chose to build on it in the first place, thus dissatisfying himself immediately. Secondly, I would go to 5229 Beard where we held to a strict interpretation and I feel that we should do so here. If one is sticking design elements on the side of a house and are claiming that it is not part of a wall, what's to say someone couldn't decide that having bails of hay sprayed with stucco on the side of a house is in vogue and commit to do that. So, I think it begs the

question to say that this is only a little bit over, only decorative – the matter of fact is that it is over. This is not a remodel. If it were a remodel and had an existing setback that was caused by somebody outside of the current owner, it is an entirely different question. It is also a different question when we are dealing with a homeowner who has no special knowledge. When we deal with people who are in the trades, who do this for a living, they understand setbacks, I can appreciate that they want to get a much house as possible on the lot, but the rules are there and are clear. They should make sure things are correctly staked and correctly noted. If they found boulders twice the size of the ones that are there – it begs the question, what is the difference? It is still over. Over is over. I feel that we should deny the request for the variance. Board comment please, Mr. Rand?

Rand: The first thing I will do, as I always do is move to deny the variance. I will comment.

Finlayson: Is there a second.

Perry: I am sorry.

Rand: Move to deny the variance.

Perry: I will second that.

Rand: My other question is, there has been references made by the applicant about the architect. Who is the architect? Are you a licensed architect? So you are not an architect? Thank you. I am and therefore it just grates with me on people who some how create the image of being an architect when they aren't. But there is no reason not to deny this variance as far as I am concerned.

Perry: Mr. Chair. I think that we need to state why we are not going with staff. Is that correct statement?

Sether (staff): That is correct.

Finlayson: Moving to deny on the basis that it exceeds setback.

Rand: Exactly.

Perry: I just want to say that I seconded the motion because I think that the circumstances actually were in fact created by the applicant. Since I have heard from at least two people speaking in favor that the house was built with the foundation wall within the setback requirements. I think that that is a reasonable finding there.

Lasky: I am going to take a kinder, gentler approach. We found on Beard because it was clear that the setback was violated all the way up to the very top of the house. This is not the case here. When I look at they got a building permit, they broke ground, they

built the house and the City of Minneapolis Inspections, or whoever did not catch this. Drawings were submitted. There is some responsibility on our part as a city to catch these. If you remove this brick façade from the two sides that are affected, I don't know if you are really gaining a lot. And that is the concern that I have. This is not a similar situation to Beard. I can see reasons for granting this – it is not an issue that the house is too big. The house is the house size, whether you remove that brick or not on two sides will not make that house any smaller. It is simply a punishment for the house being too big.

Perry: I think the issue though is that no one here is talking about the bigness of the house. The question is what is the hardship. That is the issue.

Lasky: I am finding or leaning toward the hardship being the fact there was a permit pulled, those drawings went to Planning and someone did not catch it at that point. I am not even talking about the hearsay from Molly, but strictly that they broke ground with that.

Gates: First of all there is to be clear that there is no requirement this Board finds hardship if we are agreeing with staff. That is completely of the record. Not a requirement at all. The staff makes a recommendation and if we agree with that we don't have to find any hardship at all. I think there is a lot to disagree with from testimony on both sides. I found in the previous time that we heard this the argument that the building is measured to be quite contrary to my experiences as an architect. Yes it is measured to the building wall but this is the building wall, the furthest most projection of the building wall and it is certainly what it should be measured to. So, it just doesn't ring very true to me as an architect that we would measure to something other than the furthest most projection of that wall. On the other hand I don't think that you have actually gained a foot by doing this as the testimony we have heard from one of the opponents. The obvious solution is to strip off the stone from the wall. I can see no value in denying the applicant this variance except to cause financial hardship to the applicant and perhaps redeem the opponents. I don't support the motion as stated.

Lasky: I agree with that.

Fields: I am real torn on this too and it is really not our place in second guessing what people really thought that they were doing. I can suspect that the developer and the builder knew all along that they were getting away with something, but I can't prove that anymore than we can prove that it was negligence on the part of the city staff in letting this go by. Ironically my concern is the concern that someone expressed here – the size of the house, it is too big. I think it is monstrous, but there is nothing in the codes that apparently – we don't have, have anything in our codes here that actually outside the regulations of how the pieces fit together that determine how big this house is going to be or how it is going to look. And that shows one of the weaknesses we are seeing in the new build throughout the city and we are hearing this from many neighborhoods where inappropriately sized houses are going into neighborhoods. But if they meet all the requirements what can you say, what can you do about it. In this case we have an

argument that maybe it didn't because they are asking for a variance. But the argument over who made the mistake over the variance is very muddy to me. I do agree that stripping the stone off of this – if you could strip the stone off and get rid of the highest point of the roof and make this a house about 2/3 the size – then I would say strip it. But stripping the stone is just going to make it look worse. So, I guess what I have talked myself into – supporting.

Lasky: For me the deciding factor is that the stone is not one foot additional living space. That is what tips the scale for me. And I don't believe that they did this with any malice or intent to make the house larger – because they did not get a foot more of livable space.

Finlayson: I appreciate your comments but on the other hand the setback requirements are set in stone and are now punctured by the stone. A setback is a setback. We have monstrous infill in this city and if you wish to create an opening to make them even larger then that is what that will do.

Lasky: I really will stand firm on this, my position, because this is a situation where the city signed off on a building permit, there is some responsibility here and again there is not a gain of a foot of livable space. The worst that happens is that you strip this off and make this house look less attractive. It is just to penalize these people – I think this is just an honest mistake and part of the city made a mistake also and not any intent or malicious intent on their part. To penalize people who build their house too large within the city guidelines is not our position. And take it to a vote.

Finlayson: I see no further comment, please call the roll.

Fields:	No
Finlayson:	Yes
Gates:	No
Lasky:	No
Perry:	Yes
Rand:	Yes

Motion to deny did not carry – tie vote: 3/Yes and 3/No

Finlayson: An alternative motion?

Gates: I move to grant staff recommendation.

Fields: I second.

Finlayson: Please call the roll.

Fields:	Yes
Finlayson:	No

Gates: Yes
Lasky: Yes
Perry: No
Rand: Yes

Motion carried: 4/Yes and 2/No

Mr. Gates moved to adopt staff recommendation and **approve** the variances. Mr. Fields seconded the motion. The motion passed.

The motion **approved** the variance to reduce the required north interior side yard setback from 6 ft. to 5.3 ft. and **approved** the variance to reduce the required south interior side yard setback from 6 ft. to 5.4 ft. all to allow for the projection of a stone facade and a portion of the building wall on a newly constructed single family dwelling located at 3815 Washburn Avenue South in the R1 Single-family District and SH Shoreland Overlay District.

Department of Community Planning and Economic Development – Planning Division Report

Variance Request
BZZ-2816

Date: February 16, 2006

Applicant: Shane Walgamuth

Address of Property: 3815 Washburn Avenue South

Date Application Deemed Complete: January 23, 2006

End of 60 Day Decision Period: March 24, 2006

Appeal Period Expiration: February 28, 2006

Contact Person and Phone: Shane Walgamuth, 612-578-0900

Planning Staff and Phone: Shanna Sether, 612-673-2307

Ward: 13 **Neighborhood Organization:** Linden Hills

Existing Zoning: R1, Single-family District

Proposed Use: Single family dwelling with attached garage.

Proposed Variance: A variance to reduce the required north interior side yard setback from 6 ft. to 5.3 ft. and a variance to reduce the required south interior side yard setback from 6 ft. to 5.4 ft. to allow for the projection of a stone facade and a portion of the building wall on a newly constructed single family dwelling.

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

Background: The subject site is currently 40 ft. x 115 ft. (4,600 sq. ft.). The applicant has obtained a building permit to construct a new single family with an attached garage that will be accessed from the existing alley. The new dwelling is approximately 28 ft. in width which complies with the required 6 ft. side yard setbacks. However, the elevations show a stone façade that projects from the walls of which encroaches into the required 6 ft. side yard setbacks. The applicant has previously applied to reduce the side yard setbacks to allow for cantilevers and appealed the decision of the Zoning Administrator regarding the determination that setbacks are measured from the building wall and not the foundation. Both of these applications were denied by the Board of Adjustment and the Zoning and Planning Committee of the City Council.

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 setback: The applicant has requested a variance to reduce the required north interior side yard setback from 6 ft. to 5.3 ft. to allow for the projection of stone façade on a newly constructed single family dwelling with an attached garage. The lot is 40 feet wide which is 10 ft. less in width than the majority of lots on the block and in the area. Many lots on the block and in the area are greater than 50 ft. in width as well. The proposed dwelling is approximately 28 ft. in width. The portion of the dwelling that triggers the variance is the stone façade and a portion of the building wall on the north side of the dwelling. The applicant states that the dwelling has been designed to maintain architectural characteristics found within the neighborhood. All other lots on the block are 50 ft. or greater in width. Strict adherence to the regulations would not allow for the proposed new single family dwelling. Based on the submitted information this request seems reasonable.

South interior side yard setback: The applicant has requested a variance to reduce the required south interior side yard setback from 6 ft. to 5.4 ft. to allow for the projection of stone façade on a newly constructed single family dwelling with an attached garage. The lot is 40 feet wide which is 10 ft. less in width than the majority of lots on the block and in the area. Many lots on the block and in the area are greater than 50 ft. in width as well. The proposed dwelling is approximately 28 ft. in width. The portion of the dwelling that triggers the variance is the stone façade and a portion of the building wall on the south side of the dwelling. The applicant states that the dwelling has been designed to maintain architectural characteristics found within the neighborhood. All other lots on the block are 50 ft. or greater in width. Strict adherence to the regulations would not allow for the proposed new single family dwelling. Based on the submitted information this request seems reasonable.

- 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 setback: The conditions upon which the setback variance is requested are unique to the parcel. As previously mentioned, the variance is to allow for the projection of a stone façade and a portion of the building wall. The lot is 40 feet wide which is 10 ft. less in width than the majority of lots on the block and in the area. All other lots on the block are 50 ft. or greater in width. The proposed dwelling is approximately 28 ft. in width. While the dwelling could have been designed to comply with the side yard setbacks, the applicant stated that they are proposing a dwelling that is architecturally similar to dwellings on the block which are all located on larger lots. The uniquely narrow width of the subject lot in an area with larger established neighborhood lots and dwellings are not circumstances created by the applicant.

South interior side yard setback: The conditions upon which the setback variance is requested are unique to the parcel. As previously mentioned, the variance is to allow for the projection of a stone façade and a portion of the building wall. The lot is 40 feet wide which is 10 ft. less in width than the majority of lots on the block and in the area. All other lots on the block are 50 ft. or greater in width. The proposed dwelling is approximately 28 ft. in width. While the dwelling could have been designed to comply with the side yard setbacks, the applicant stated that they are proposing a dwelling that is architecturally similar to dwellings on the block which are all located on larger lots. The uniquely narrow width of the subject lot in an area with larger established neighborhood lots and dwellings are not circumstances 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.**

North and south interior side yard setbacks: Granting the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the surrounding area or be injurious to the use or enjoyment of property in the vicinity. The dwelling has been designed to compliment existing dwellings on the block which are located on 50 ft. wide lots or greater. Staff believes the size of the dwelling is appropriate for the neighborhood and that the 40 ft. wide lot prohibits the construction of a dwelling consistent with that of the neighborhood. Staff believes the setback variances are appropriate to allow for the proposed dwelling design.

In addition, staff does not believe that the stone façade will negatively impact the adjacent properties. The dwelling to the north will be located approximately 20 ft. from the most exterior point of the building wall on the subject property. Furthermore, the cantilever on the south side of the dwelling will be located approximately 25 ft. from the adjacent dwelling to the south due to an existing driveway on the southern property.

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

North and south interior side yard setbacks: Granting the variances would likely have no impact on the congestion of area streets or fire safety, nor would the variances be detrimental to the public welfare or endanger the public safety.

Recommendation of the Department of Community Planning and Economic Development:

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the findings above and **approve** the variance to reduce the required north interior side yard setback from 6 ft. to 5.3 ft. and **approve** the variance to reduce the required south interior side yard setback from 6 ft. to 5.4 ft. all to allow for the projection of a stone facade and a portion of the building wall on a newly constructed single family dwelling.

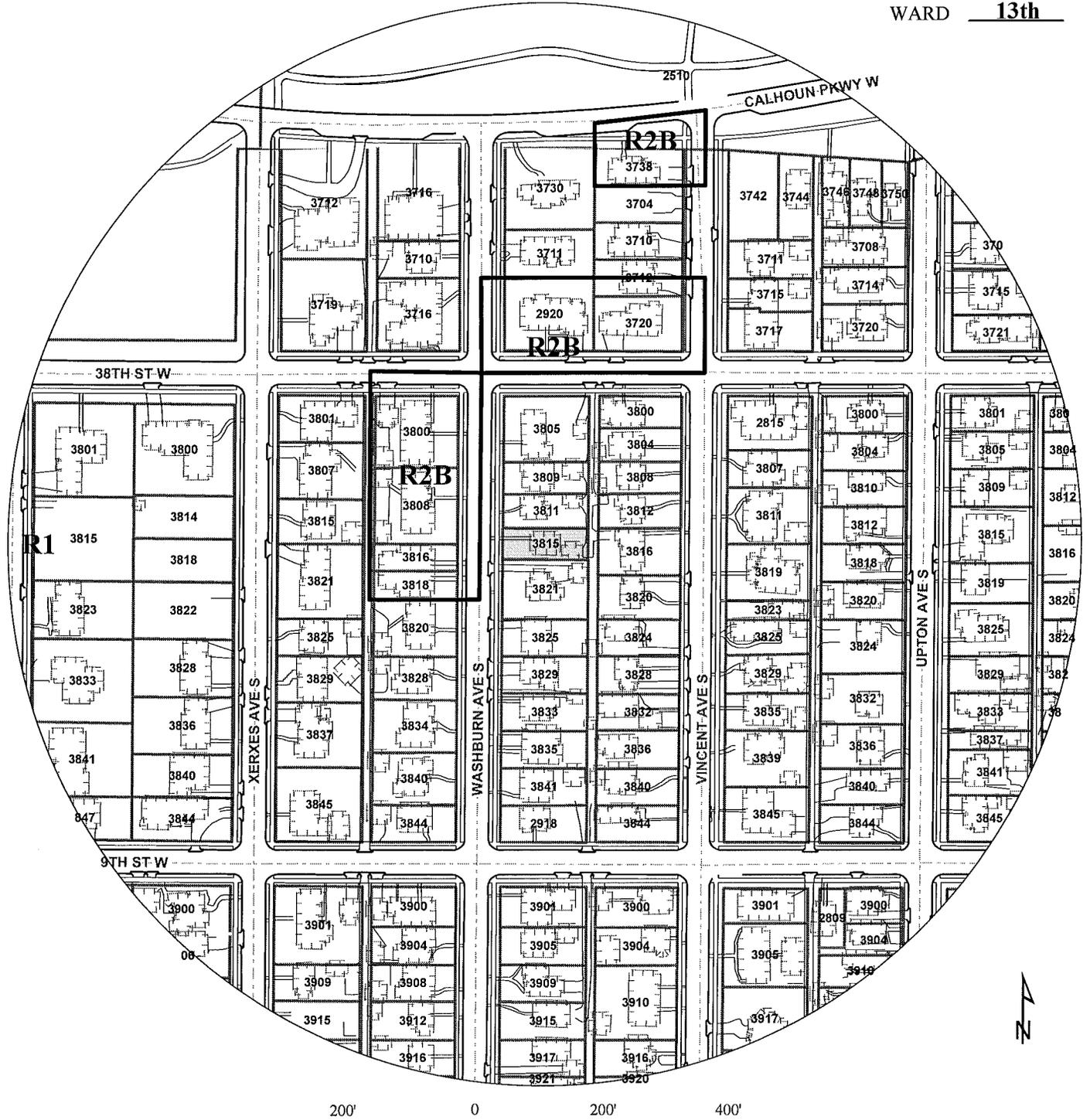
Shane Walgamuth

Name of Applicant

APPLICATION _____ 2005
 BD. OF ADJUST _____ 2005
 ZONING MAP CHANGE _____ 2005

CITY PLANNING _____ 2005
 CITY COUNCIL _____ 2005

INITIAL _____
 WARD **13th**



PETITION FOR AMENDMENT		APPEAL FOR VARIATION	BOARD ACTION
PRESENT ZONING	PROPOSED ZONING		

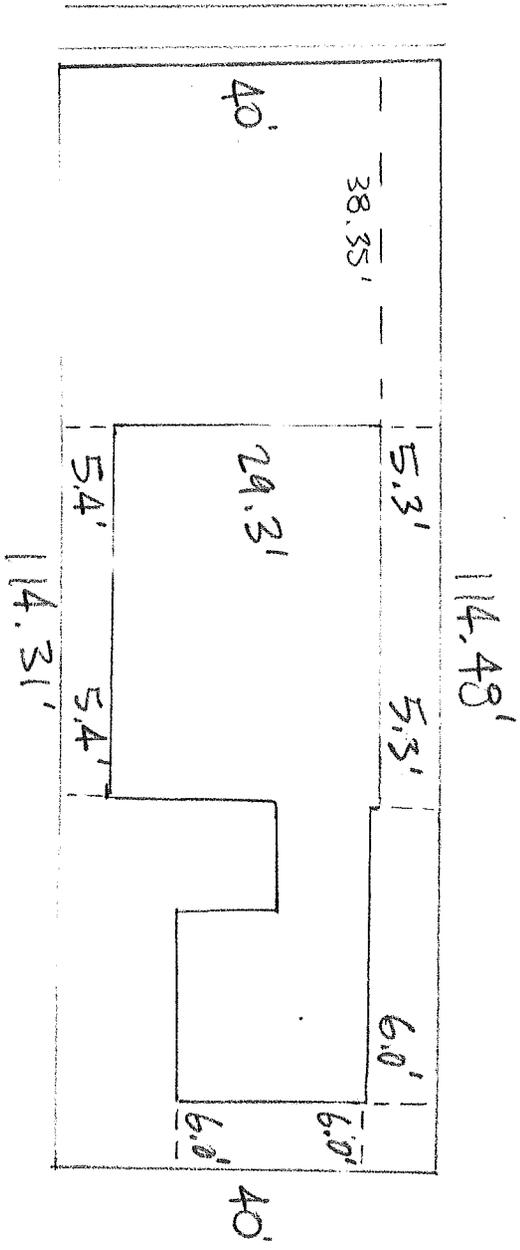
PROPERTY ADDRESS
3815 Washburn Avenue South

FILE NUMBER
BZZ- 2816

↑ NORTH

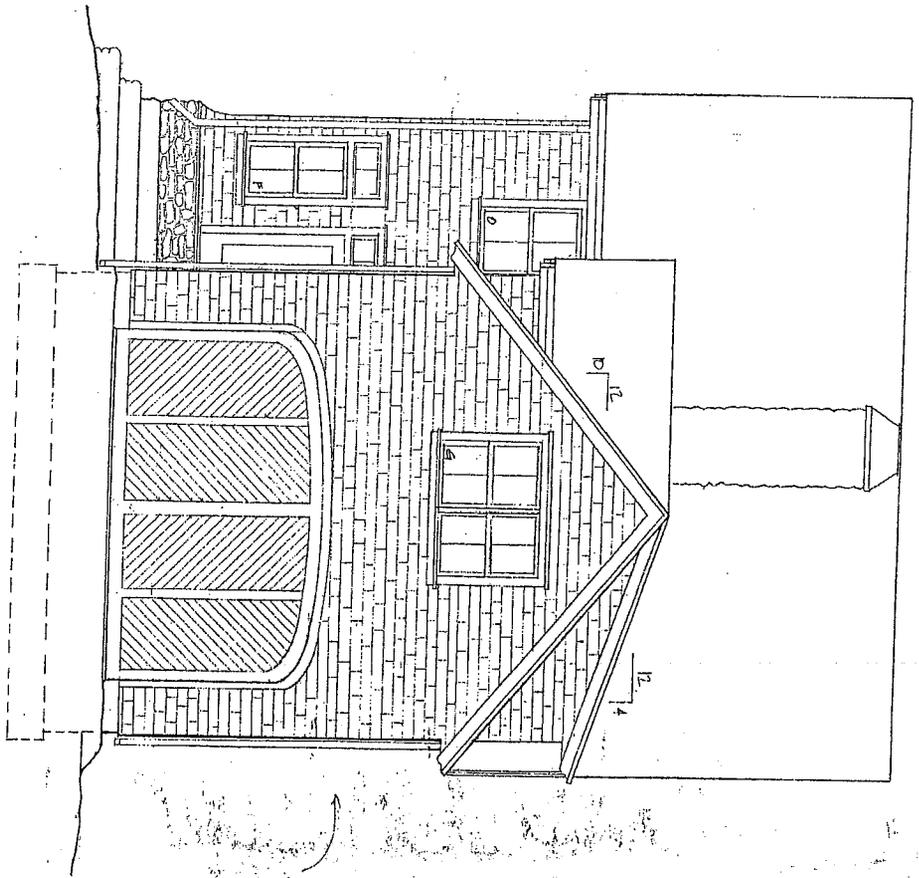
3815 WASHBURN AVE S,

WASHBURN



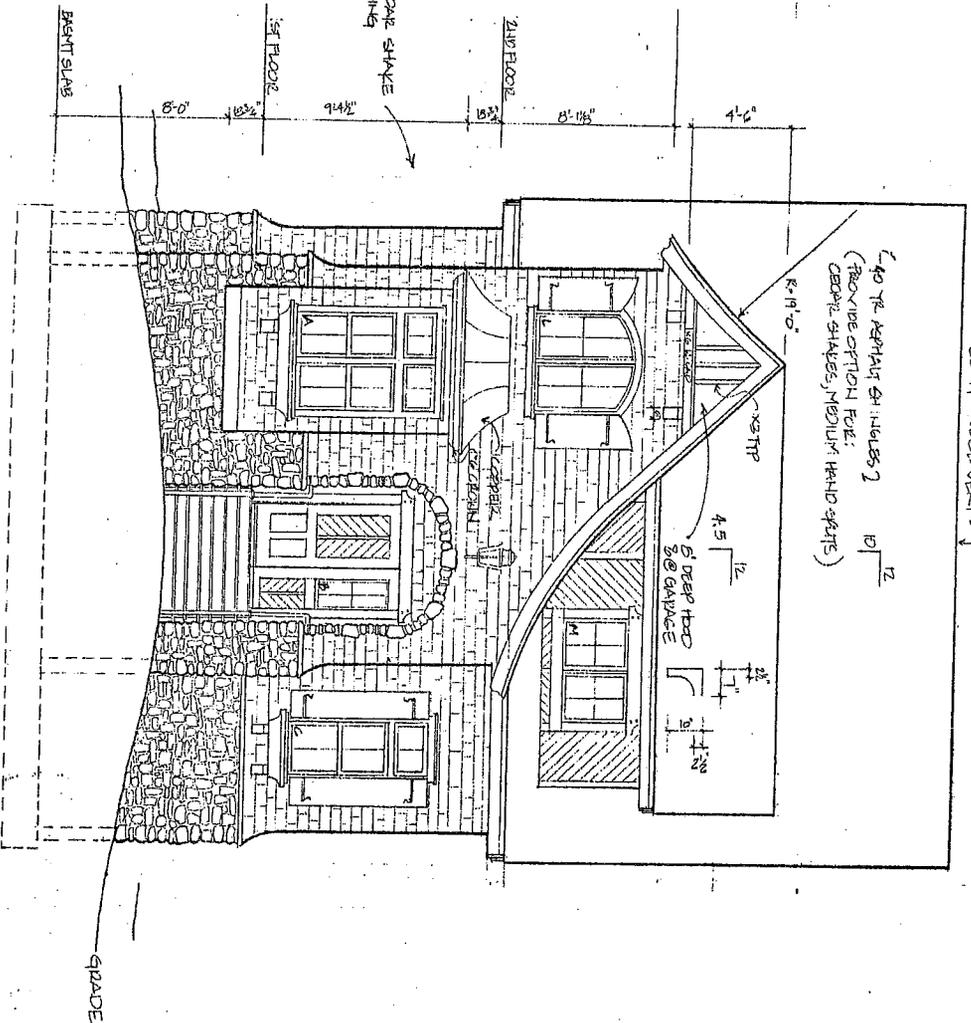
* MAIN FLOOR DIMENSIONS
AT APPROX. 4'-0" ABOVE
FINAL GRADE

SCALE 1" = 20'



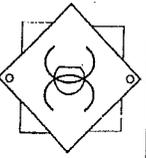
B-1 REAR ELEVATION EAST

1/4"=1'-0"



A-1 FRONT ELEVATION WEST

1/4"=1'-0"



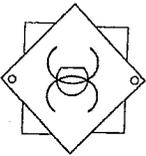
Carrigan Curtis
DESIGNS
INC.
3855 VILLANOVA TRAIL
SHOQUENWOOD, MN 55381
952-401-9105

SHEET TITLE	PROJECT
EXTERIOR ELEVATIONS	WASHBURN COTTAGE
DATE: 11-03-04	SHANE HOMES, INC.
SCALE: AS SHOWN	3815 WASHBURN S.
	MINNEAPOLIS, MN

REVISIONS

1-14-05
1-24-05
1-27-05
2-16-05

SHEET NUMBER
1



Carrigan Curtis
DESIGNS
INC.
2838 YELLOWSTONE TRAIL
SHOREWOOD, MN 55331
952-401-9105

SHEET TITLE
EXTERIOR ELEVATIONS

DATE
11-02-04

SCALE
AS SHOWN

PROJECT:

WASHBURN COTTAGE
SHANE HOMES, INC.
3815 WASHBURN S.
MINNEAPOLIS, MN

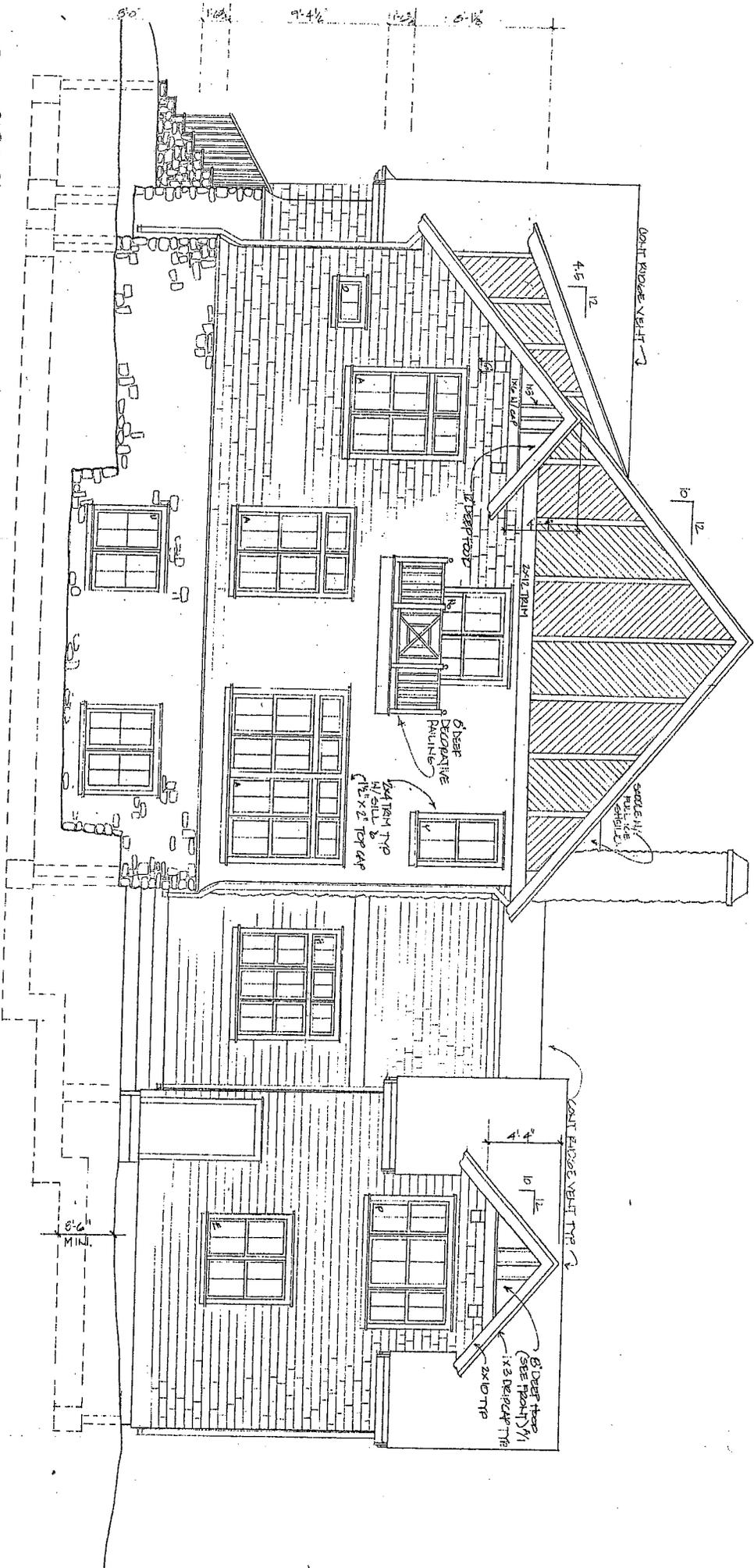
REVISIONS

1-14-05
1-24-05
1-27-05
2-28-05

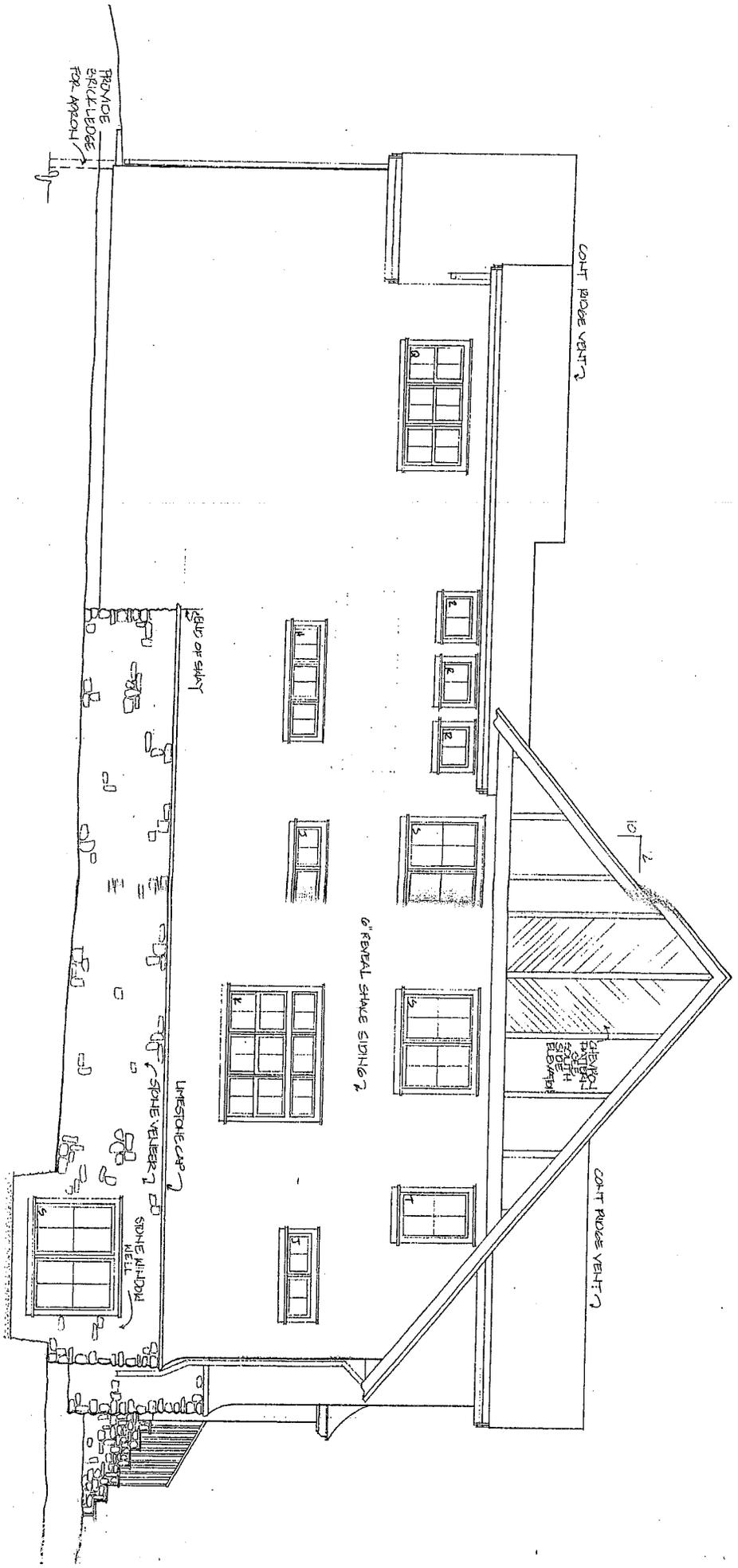
SHEET NUMBER

2

Ⓐ SIDE ELEVATION - SOUTH

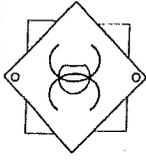


1/4"=1'-0"



3

SIDE ELEVATION - NORTH



Carrigan Curtis
DESIGNS
INC.
2335 VILANOWSTONE TRAIL
SHOENWOOD, MN 55381
952-401-9105

SHEET TITLE:	EXTERIOR ELEVATIONS
DATE:	11-07-04
SCALE:	AS SHOWN

PROJECT:

WASHBURN COTTAGE
SHANE HOMES, INC.
3815 WASHBURN
MINNEAPOLIS, MN

REVISIONS:	DATE:
1-14-05	1-24-05
	1-27-05
	2-28-05

SHEET NUMBER

3





SHANE HOMES
design • build
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www.wshanehomes.com

BUTCH ZEJINSKY
612 • 850 • 2484

FINANCING PROVIDED BY
FF
952 • 903 • 0777
MEMBER NMLS



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952-546-1904

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LISTING CONTRACT

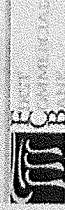
EXCLUSIVELY REPRESENTED BY

BUTCH ZELINSKY

REALTOR

612-850-2484

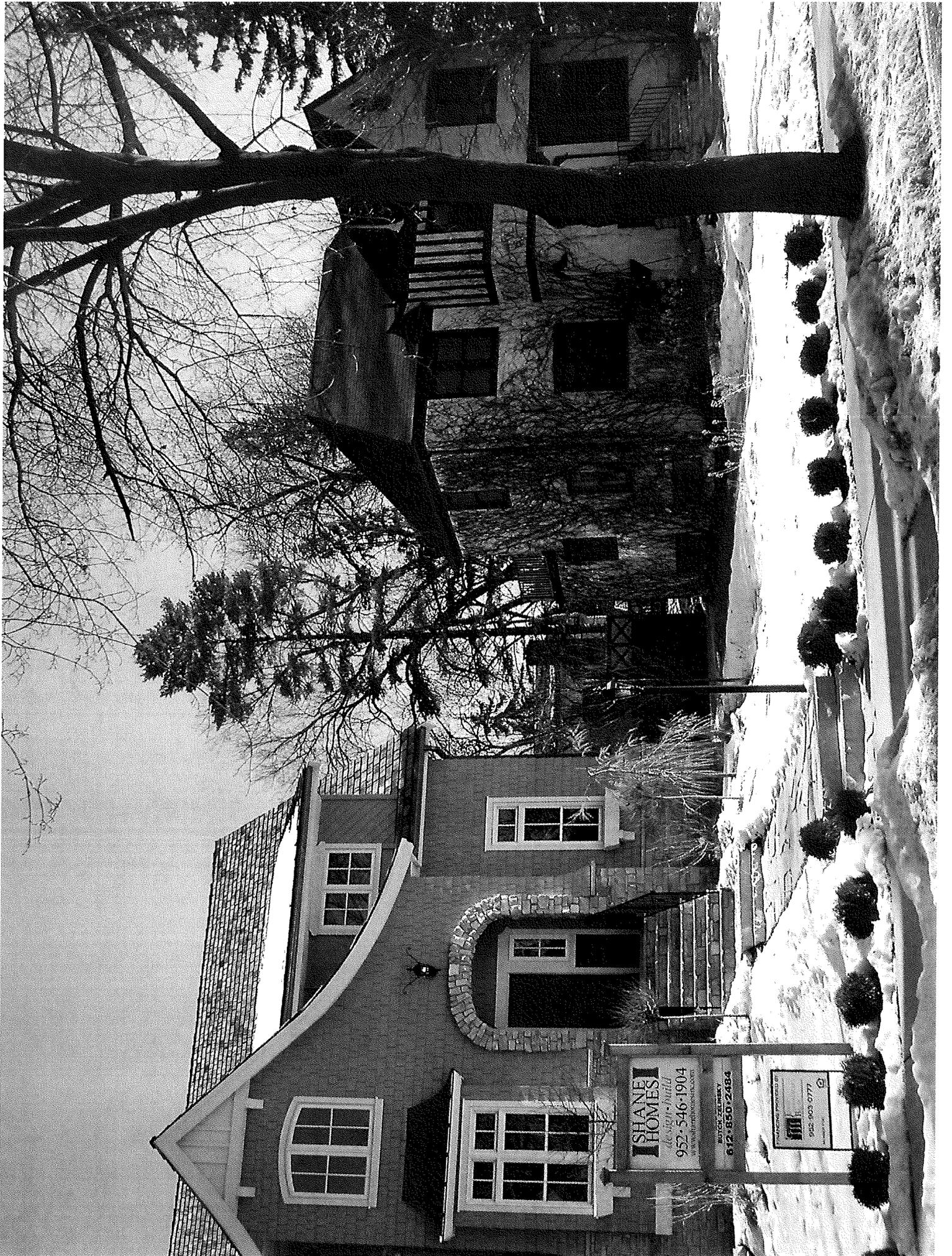
FINANCING PROVIDED BY



952-903-0777

MEMBER FDIC





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www.shanehomes.com

BOYCE C. SHANE
612-859-2484

952-903-0777





Howard, Michelle M

From: caarsvold@aol.com
Sent: Wednesday, February 01, 2006 8:00 PM
To: Sether, Shanna M
Subject: Shane Walgamuth Variance

Shanna - I apologize if you are tired of hearing from me, but I got the latest correspondence in the mail today about Shane Walgamuth applying for his variance and I can't contain myself. Frankly, I'm extremely irritated so please be patient with my emotional response. I would love to be able to attend the meeting on the 16th in person, but my work just doesn't allow it.

I think the part that got me was the explanation of the Variance, which begins by saying that "the City's principal means of controlling land use is the zoning ordinance....". OK, case closed. The City has spoken through the codes to control the use of land.

However, a Variance may be issued when the "applicant can demonstrate that strict adherence to the zoning code would cause an undue hardship..." The only undue hardship in this case is the direct result of Shane Walgamuth not following the code in the first place. Trust me, I drove by there often enough to see all the men with tape measures on their belt. He knew how wide the house was that he was building. Do not confuse the expense he will have to undergo to correct this with 'undue hardship' caused "because of conditions or circumstances unique to the individual property."

And if you do decide to grant the Variance, which of course you may decide to do, then I want my \$90 back that I was fined last winter when I failed to follow the code that says I have to shovel my sidewalks. I will argue undue hardship in that I would have had to pay the neighbor kid to do it while I was on a business trip. A few extra days (inches) doesn't matter that much, right?

Maybe not the same situation, but definitely the same kind of thought process. I wanted to get away with something, I got caught, I paid the price.

Please, take this seriously. If it really was an undue hardship as the law describes it, I could get used to it. But this is not undue hardship, it's getting away with breaking the law. A Variance for Shane Walgamuth would leave me bad feelings that I would remember every time I drive by the house.

Respectfully,
Cheryl Aarsvold, CPA
3844 Vincent Ave S

Howard, Michelle M

From: Graham Brown [graham@photograham.com]
Sent: Friday, February 03, 2006 11:50 AM
To: Sether, Shanna M
Subject: 3815 Washburn Variance

Hello Shanna,

My name is Graham Brown and I live at 3840 Vincent Ave. S. Since I will not be able to attend the hearing on the 16th, I would like to comment

on the Applied Variance By Shane Walgamuth, (3815 Washburn Ave S.) via this email.

Having built my current residence in the year 2000 I was required to follow all the set back regulations set forth by the city.

These laws are in place to protect the integrity of, as well as create a cohesive plan for our neighborhood.

I know that these regulations can be adjusted within reason due to unavoidable circumstances.

I also know that the proper course of action in a case like this is to apply for the variance first, before beginning construction, to be assured

that such encroachment is agreeable to all concerned.

I am sure Mr. Walgamuth was well aware of the existing set back laws during the design phase of his project. Why he didn't apply for the variance

at that point is beyond me. With total disregard of the current laws he went ahead with his construction. It is now that he is coming to the

city asking for said variance. Isn't it true that all construction documents have to be approved by the city before construction can commence?

I am surprised that a red flag didn't pop up then.

I know that we're just talking about inches here but I would hate to see the city set a standard which would allow other builders to

come in and put up buildings first and ask for variances later.

Had Mr. Walgamuth gone through the proper channels to get this variance I'm sure it wouldn't be such a big deal. Instead he

has infuriated the neighbors directly bordering his property by proceeding with his construction without proper approval.

2/8/2006

Being just the builder and not the home owner that would ultimately be living there may have some explanation of why he

wasn't concerned with the welfare of the surrounding area.

Thank you Shanna for allowing me to voice my opinion.

Sincerely,

Graham

Graham Brown

graham@photograham.com

www.photograham.com

Graham Brown Photography, Inc.

420 North 5th Street

Suite 100

Minneapolis, MN 55401

Studio ph: 612/332-3905

Studio Fax: 612/332-2247

Howard, Michelle M

From: Philip Peterson [philpete@earthlink.net]
Sent: Thursday, February 02, 2006 12:54 PM
To: Sether, Shanna M
Subject: Walgamuth variance application BZZ-2816, Ward 13

This builder has been before the city on several occasions regarding the property in question. His original request for a variance, prior to construction, was denied. At that point he should very well have understood the neighbors concerns and should have done everything in his power to become a good neighbor. He failed. In my opinion, he deliberately increased the width of the house by more than a foot and split the difference with the two side yards. This is an intentional violation.

Admittedly, tearing down the house is an excessive penalty. Nevertheless, this intentional act needs to be dealt with in a most serious manner. The city could consider refusing to honor any further building applications from this builder or builders building on property owned by him or his associates. Perhaps the city could impose a significant financial penalty (\$25,-\$50,000), one that could be shared with the most affected neighbors. Or perhaps the city could require the builder to escrow a similar amount that all legally affected property owners could use to put on "special" block parties or participate in a lawn and snow removal service for the next several years.

Philip Peterson, 3720 Vincent Ave. S.
philpete@earthlink.net

Howard, Michelle M

From: Richard C. Shannon IV [rcshannoniv@yahoo.com]
Sent: Monday, February 06, 2006 4:35 PM
To: Sether, Shanna M
Subject: RE: Shane Walgamuth zoning appeal

My opinion on this subject has not changed, I continue to believe that the appellant should be required to conform to the law as it is written. It would be a bad precedent to allow this variance.

I do not plan on attending the meeting, but you may contact be at any time regarding my comments. Regards,

Richard C. Shannon IV
rcshannoniv@yahoo.com
 C: 612-716-4730

-----Original Message-----

From: Richard C. Shannon IV [mailto:rcshannoniv@yahoo.com]
Sent: Thursday, January 12, 2006 10:17 AM
To: 'Shanna.Sether@ci.minneapolis.mn.us'
Subject: RE: Shane Walgamuth zoning appeal

I would like to re-submit my opinion on this matter again. I continue to believe that the appeal should be rejected and that all builders should have to follow the building code as it exists. Whether such a result was by accident (i.e. poor skill) or by purpose (i.e. intentionally increasing size of house), I believe it would set a bad precedent for future buildings. The City needs to show builders that they must know, respect and comply with the rules.

I do not plan on attending the meeting, but you may contact be at any time regarding my comments. Regards,

Richard

Richard C. Shannon IV
rcshannoniv@yahoo.com
 C: 612-716-4730

-----Original Message-----

From: Richard C. Shannon IV [mailto:rcshannoniv@yahoo.com]
Sent: Saturday, November 26, 2005 6:49 PM
To: 'Shanna.Sether@ci.minneapolis.mn.us'
Subject: Shane Walgamuth zoning appeal

Hi,

My name is Richard Shannon and I am the sole owner of the house at 3820 Vincent Ave S, and I am responding to the zoning appeal mailing I received regarding Shane Walgamuth.

I believe that Mr. Walgamuth's argument that the setbacks should be measured from the wall and not the foundation is not correct. If it were, then any builder could extend a wall as far from the foundation as they wished, possibly into someone else's yard. Clearly, the foundation is the proper place from which to measure. I believe that Mr. Walgamuth should be made to correct his construction to fit the code.

I certainly don't mind Mr. Walgamuth's efforts to raise property values in the neighborhood by making more expensive housing. Personally, I think it is a nice-looking house. However, it should be made in a character that is consistent with the rest of the neighborhood. This house clearly does not fit this bill, both in terms of style and size. Mr. Walgamuth would have been enamored himself with the neighborhood by asking for input from the neighbors before starting construction instead of blindly going ahead with construction of a blatantly large and conspicuous house which clearly changes the character of the neighborhood.

I do not plan on attending the meeting, but you may contact me at any time regarding my comments in this email. Regards,

Richard

Richard C. Shannon IV
3820 Vincent Ave S
Minneapolis, MN 55410
rcshannoniv@yahoo.com
H: 612-929-0257
C: 612-716-4730

BOA 2-16-06
#7

Sether, Shanna M

From: Penny Ainsworth [painsworth@charlescudd.com]
Sent: Tuesday, February 14, 2006 3:37 PM
To: Sether, Shanna M
Subject: BZZ-2816, Ward 13

Dear Shanna,

I am **AGAIN** writing with regards to SHANE WALGAMUTH at 3815 WASHBURN. I would think everyone at the City Office Housing Department would know about this individual and his violation filled home by now?!

There are really no if's, and's or but's about it. He has built his house too big. **It needs to comply with the same building codes that everyone else has to follow.** We have heard all along from Shane that it's *only* 6". No--it's 6" on one side and 6" on the other--which in elementary math equals 12"! OR according to the City's notice letter: The house is a total of almost **16" too big!!!?!!!**

Shane seems to want to blame anyone he possibly can blame for this mistake?! When ultimately, the responsibility falls on HIS shoulders. If HE would know what the Building Codes for the City of Minneapolis state--we would not be at this meeting today!

There is no HARDSHIP here. The only hardship is that he does not know the codes!

He needs to comply!

Sincerely,
Penny Ainsworth
3815 Washburn Ave. So.
Mpls.

BOA 2-16-06
7

Sether, Shanna M

From: AaronMona@aol.com
Sent: Monday, February 13, 2006 10:46 PM
To: Sether, Shanna M
Subject: 3815 Washburn Ave. S. variance request, BZZ-2816

Ms. Sether:

As we have at every step in this process, we are urging the Board of Adjustment to **deny** Shane Walgamuth's request for a variance to reduce the interior yard setback at 3815 Washburn Ave. S. We live directly behind it. We believe, despite his protests to the contrary, that he tried to slip an oversized house past the city and got caught. It's unfortunate the zoning code permitted such an out-of-scale house on such a small lot. The very least you can do is not reward him for breaking the rules. Perhaps that will deter him and other builders from repeating such attempts in the future.

Aaron and Mona Isaacs
3816 Vincent Ave. S.
Minneapolis, MN 55410
612-929-7066

BOA 2-16-06
#7

Sether, Shanna M

From: Jeff Graves [bjeffgraves@worldnet.att.net]
Sent: Monday, February 13, 2006 6:36 PM
To: Sether, Shanna M
Subject: 3815 Washburn Ave S

I am writing about the application for a variance for 3815 Washburn Ave S. Shane company has not followed the zoning ordnances. He should not be allowed a variance. He has shown no regard to the residences on Washburn or on previous projects in the neighborhood. If he is allowed to continue to make "honest" mistakes, he will continue to disregard zoning laws on other properties that he is developing.

Randi Graves
3833 Washburn Ave S

BOA 2-16-06
#7

Sether, Shanna M

From: Cmsmpls@aol.com
Sent: Monday, February 13, 2006 2:58 PM
To: Sether, Shanna M
Subject: 3815 request for variance

Please deny the request for variance for the property on 3815 Washburn ave so. We are tired of this foolish persistence by Mr Walgumuth and his associate who also appear to be constructing another monstrosity one block away. It is clear that they have not gotten the message that the neighborhood is not interested in supporting their defiant attitude and lack of respect for the rules builder/developers are expected to follow. Please deny any further requests by this builder to alter the rules for housing size.

Thank you for your time,
Carol Stephens
3829 Washburn ave so.

BOA 2-16-06
#7

Sether, Shanna M

From: ANNEOVERHO@aol.com
Sent: Monday, February 13, 2006 12:50 PM
To: Sether, Shanna M
Subject: Application for variance for 3815 Washburn Av. So.

Dear Ms Sether,

I am writing to voice my support against granting a variance for the builder. At some point we have to draw a line when it comes to builders coming in to established neighborhoods and ignoring the building codes that have been in place and build bigger houses than should fit on the lots. These situations will only continue and it disrupts and breaks down the neighborhood that exists. I would hope that someone like this builder will be severely penalized so this will signal a new and firm stand for the existing codes.

Sincerely,
Anne Overholt
3738 West Calhoun Parkway
Mpls. MN 55410

BOA 2-16-06
#7

Sether, Shanna M

From: Katherine Christianson [katherine@rrltd.com]
Sent: Tuesday, February 14, 2006 9:36 AM
To: Sether, Shanna M
Cc: Penny Ainsworth
Subject: BZZ-2816

Dear Shanna,

I almost feel that I know you because we have corresponded so many times on the Walgamuth issue.

I wish to go on record AGAIN as opposing Shane Walgamuth's request to build bigger than the zoning code allows at 3815 Washburn Avenue South. The neighborhood texture of diversity in housing styles and sizes is one of the rich assets of Linden Hills and something that continues to add to the desirability of the area. But the purpose of a zoning code is to prevent excessive variation. Granting this variance would set a very unfortunate precedent.

Mr. Walgamuth has been turned down on this issue at each level but he just keeps trying; it is as if his strategy is to get his way by wearing the neighbors out. His request to impinge on the space between homes was denied before, during and after construction. Let's put an end to this once and for all.

Katherine Christianson

Rauscher Robichaud & Associates
275 Market Street Suite 561
Minneapolis MN 55405
katherine@rrltd.com
612.338.1800 x107
612.338.9005 fax

BOA 2-16-06
#7

Sether, Shanna M

From: Ann Burns [ABURNS1@mn.rr.com]
Sent: Tuesday, February 14, 2006 11:17 AM
To: Sether, Shanna M
Subject: 3815 Washburn Avenue South - Variance

Again, yet another time, for the builder of 3815 Washburn Avenue South is upon us. What does this builder not understand about the answer of no? If the appeals don't work for this builder, then this builder goes to something else to cover his professional mistakes. The builder should accept responsibility for his professional errors, and fix these errors according to code.

Ann Burns
3812 Vincent Avenue South
Minneapolis, MN 55410

BOA 2-16-06
#7

Sether, Shanna M

From: Jenny Holien [JHoliem@ophpa.com]

Sent: Friday, February 10, 2006 2:55 PM

To: Sether, Shanna M

Hi Shanna,

I live at 3825 Vincent Ave S Mpls and I have written in before on the matter of Shane Walgamuth.

I guess I would like to know what's going to happen to Shane if the variance is not allowed. I find it difficult that he's a builder and did not know the setback guidelines. I have stated before in my letters and will once again that I am very much against people building beyond the rules and guidelines that have been set for a reason. The house now has a sold sign on it that's why I'm curious what will be the results if the variance is not allowed. Thanks for listening,

Jenny Holien

From the desk of

Jenny Holien

Administrative Assistant of Ophthalmology, P.A.

Phone 952-848-8320

Fax 952-848-8314

Email jholien@ophpa.com

BOA 2-16-06
#7

February 6, 2006

Shanna Sether, City Planner
Community Planning & Economic Development
Planning Division
350 South 5th Street - Room 210
Minneapolis, MN 55415-1385

Dear Ms. Sether:

Re: February 16, 2006 Meeting Before
Minneapolis Board of Adjustment
Concerning Variance Appeal Filed by
Shane Walgamuth re Property at
3815 Washburn Avenue South
R1 Single Family District
SH Shoreland Overlay District

Once again I am writing concerning the above matter.

Shane Walgamuth is a Developer--currently he is building
another mega-house on the 3800 block of Xerxes Avenue South.

Either he did not research the parameters he should respect
in building the home on Washburn or he deliberately ignored them.
In either case, he is responsible.

The word "hardship" has been used relative to this variance
appeal. As I see it, that "hardship" is being inflicted on
the adjoining neighbors into whose space Mr. Walgamuth
has intruded.

This is Shane Walgamuth's 4th appeal. I urge the Board
to deny it.

Sincerely,



Lois Parker
3845 Xerxes Avenue South
Minneapolis, MN 55410
612/922-4660

c/c Betsy Hodges
City Council Member - 13th Ward

Sether, Shanna M

From: Ken Dahl [Ken.Dahl@baesystems.com]
Sent: Wednesday, February 15, 2006 5:12 PM
To: Sether, Shanna M
Subject: 3815 Washburn Avenue South (Variance)

I will try to attend the Minneapolis Planning Commission hearing on Thursday, however, I wanted you to know that I oppose Shane Walgamuth's current request for a variance at 3815 Washburn Avenue South. When I read that he wants a setback variance based on "hardship", I didn't know whether to laugh or scream! This house is listed for sale at \$1,400,000--yes, \$1,400,000! **I don't think builders of million-dollar houses deserve "hardship variances" for situations they create.**

As noted in the first round of hearings, there was nothing unusual about this property. It was flat. It had alley and street access. There were no natural impediments. It was a build able lot. This house was designed on a blank sheet of paper, limited only by the City Building Code. The builder and his designer, however, didn't follow the Building Code, for whatever reason. They completed construction knowing that there were compliance issues. It's not unfair to require that they correct their mistakes at this time.

Sincerely,

Kenneth Dahl
3808 Vincent Avenue South
Minneapolis Minnesota 55410

Sether, Shanna M

From: Jane Slaird [jwslaird@mn.rr.com]
Sent: Wednesday, February 15, 2006 5:44 PM
To: Sether, Shanna M
Subject: Shane Walgamuth's Variance Request - 3815 Washburn Avenue South

As a neighbor, I would like to reaffirm my stance on Shane Walgamuth's appeal. He should be held accountable for his actions that put the house he built in violation of city planning and zoning codes.

A precedent should not be set that allows him to disregard city planning and zoning code dictates. If Mr. Walgamuth is not held culpable, he has opened the door for other builders to also ignore city planning and zoning requirements.

If he is exonerated, will he learn from his mistake? Perhaps, there's a good chance he won't. Will he then continue to build houses according to his own agenda? When these houses are found to be in violation, will he simply apply for a variance, since this has been successful for him in the past? Please don't give him this opportunity.

Please deny his application for variance. He should be held accountable.

Thank you,

Jane W. Slaird
3800 Washburn Ave South
Minneapolis, MN 55410

Sether, Shanna M

From: almaleson [almaleson@mn.rr.com]
Sent: Wednesday, February 15, 2006 8:19 PM
To: Sether, Shanna M
Subject: Walgamuth Variance Application

To The Minneapolis Board of Adjustment:

In the interest of fairness, I request that you deny Shane Walgamuth's application for a variance for the property at 3815 Washburn Ave. S.

We recently sold a house in Minneapolis, and the city code required us to spend nearly \$1,000 to retrofit plumbing devices that apparently were made mandatory after we had purchased the house.

I would hope that the city code will be enforced with equal rigor against Mr. Walgamuth. Simply because he has time and/or money and/or lawyers and/or knowledge of the system should not allow him to wear down his neighbors and the city and gain waiver of the code.

I am not a direct party to this dispute and don't claim to understand all the details of it. Nor do I know any of the parties involved or have good or ill feelings toward any of them. However, as one who was forced by the city code to undertake a significant expenditure although we had done nothing wrong, I would consider it a injustice if Mr. Walgamuth is now allowed to escape the requirements of the code section which city officials and boards have consistently ruled that he has violated.

As to "conditions or circumstances unique to the individual property" that create a hardship and justify a waiver, Mr. Walgamuth is entitled to state his claim and deserves a fair hearing. But, from all I can see, 3815 Washburn Ave. S. is an unexceptional piece of flat land surrounded by other flat land. I am hard-pressed to imagine anything unique about the property that would create a special hardship that would justify the waiver of a city-code section that presumably has been applied to all neighboring homes sitting on virtually identical lots.

Sincerely,
Al Maleson
3804 Washburn Ave. S.
Minneapolis, MN 55410