



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

Date: July 14, 2011

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

Referral to: Zoning & Planning Committee

**Subject:** Thomas L. Ownens, on behalf of Terry Pearson et. al., has appealed the decision of the Board of Adjustment to approve the following applications to allow for a new single-family dwelling located on a reverse corner lot at 2102 Cedar Lake Parkway in the R1 Single-Family District and SH Shoreland Overlay District:

- Variance to reduce the required front yard along 21<sup>st</sup> Street West from 25 ft. to 10 ft. to allow for the construction of a new single-family dwelling;
- Variance to reduce the required front yard along 21<sup>st</sup> Street West from 25 ft. to approximately 11 ft. 4in. to allow for a partially covered deck with a fireplace and ½ bathroom.

**Recommendation:** The following action was taken by the Board of Adjustment on June 9, 2011 (BZZ 5167):

### 2. 2102 Cedar Lake Parkway (BZZ-5167, Ward 7)

**A. Variance:** Ben Dunlap, on behalf of Gary and Vanessa Hendrickson, has applied for a variance to reduce the required front yard along 21st Street West from 25 ft. to 10 ft. to allow for the construction of a new single-family dwelling on a reverse corner lot at 2102 Cedar Lake Parkway in the R1 Single-Family District and SH Shoreland Overlay District.

**Actions:** The Board of Adjustment **adopted** the findings and **approved** the variance to reduce the required front yard setback along 21st Street West from the required 25 feet to 10 feet to allow for the proposed structure at 2102 Cedar Lake Parkway in the R1 Single Family District and the SH Shoreland Overlay District with the following conditions:

1. The Applicant shall apply and receive approval for administrative site plan review prior to beginning work on the site.
2. CPED-Planning shall review and approve the final site plan, building plans, and elevations.

3. Any proposed fence shall meet the Minneapolis Zoning Code requirements for fences.
4. The Applicant shall obtain all necessary permits and approvals prior to construction.

**B. Variance:** Ben Dunlap, on behalf of Gary and Vanessa Hendrickson, has applied for a variance to reduce the required front yard setback along 21st Street West from 25 ft. to approximately 11 ft. 4in. to allow for a partially covered deck and fireplace for a new single-family home. The house and deck is located on a reverse corner lot at 2102 Cedar Lake Parkway in the R1 Single-Family District and SH Shoreland Overlay District.

**Actions:** The Board of Adjustment **adopted** the findings and **approved** the variance to reduce the required front yard setback along 21st Street West from the required 25 feet to 11'4" feet to allow for the proposed deck with a built in fireplace and ½ bathroom at 2102 Cedar Lake Parkway in the R1 Single Family District and the SH Shoreland Overlay District with the following conditions:

1. The Applicant shall apply and receive approval for administrative site plan review prior to beginning work on the site.
2. CPED-Planning shall review and approve the final site plan, building plans, and elevations.
3. Any proposed fence shall meet the Minneapolis Zoning Code requirements for fences.
4. The Applicant shall obtain all necessary permits and approvals prior to construction.

**Ward:** 7

Prepared by: Aaron Hanauer, Senior City Planner (612-673-2494)  
Approved by: Jack Byers, Planning Manager  
Presenters in Committee: Aaron Hanauer, Senior City Planner

**Financial Impact**

- No financial impact

**Community Impact**

- Neighborhood Notification: The Bryn Mawr Neighborhood Association, the Minneapolis Park and Recreation Board, the Department of Natural Resources, and the Minnehaha Watershed District were notified of the appeal application.
- City Goals: See staff report
- Comprehensive Plan: See staff report
- Zoning Code: See staff report
- End of 60/120-day decision period: On June 30, 2011, staff sent a letter to the applicant of new construction (Ben Dunlap) extending the decision period to no later than September 16, 2011.

**Supporting Information**

Thomas L. Ownens, on behalf of Terry Pearson et. al., has appealed the decision of the Board of Adjustment to approve the following applications to allow for a new single-family dwelling located on a reverse corner lot at 2102 Cedar Lake Parkway in the R1 Single-Family District and SH Shoreland Overlay District:

- Variance to reduce the required front yard along 21<sup>st</sup> Street West from 25 ft. to 10 ft. to allow for the construction of a new single-family dwelling;
- Variance to reduce the required front yard along 21<sup>st</sup> Street West from 25 ft. to approximately 11 ft. 4in. to allow for a partially covered deck with a fireplace and ½ bathroom.

The Board of Adjustment voted 7-1 to uphold staff recommendation to approve the two variances for the new single family dwelling. The appellant has submitted additional information that is included in the packet including the appellant's statement of the reasons for the appeal. The Board of Adjustment minutes and Planning Division staff report are also attached.

**Appellants:** Nancy Arneson, David Holets, Frank Braun, Frank Rivas, Win Bowron, Mimi Bowron, John Goetz, Don Biemborn, Doreen Scriven, Roger Miller, Irwin Marquit, Greg Froehle, Mayrhem Daniels, Mark Margolis, David Fine, Jane Grangard, Mary Paulson, Patricia Miller, Mickey Froehle, Pam Margolis, Daisy Ritter.

**Board of Adjustment Minutes**  
**June 9, 2011**

**2. 2102 Cedar Lake Parkway (BZZ-5167, Ward 7)**

**A. Actions:** The Board of Adjustment **adopted** the findings and **approved** the variance to reduce to reduce the required front yard setback along 21st Street West from the required 25 feet to 10 feet to allow for the proposed structure at 2102 Cedar Lake Parkway in the R1 Single Family District and the SH Shoreland Overlay District with the following conditions:

1. The Applicant shall apply and receive approval for administrative site plan review prior to beginning work on the site.
2. CPED-Planning shall review and approve the final site plan, building plans, and elevations.
3. Any proposed fence shall meet the Minneapolis Zoning Code requirements for fences.
4. The Applicant shall obtain all necessary permits and approvals prior to construction.

**B. Actions:** The Board of Adjustment **adopted** the findings and **approved** the variance to reduce to reduce the required front yard setback along 21st Street West from the required 25 feet to 11'4" feet to allow for the proposed deck with a built in fireplace and ½ bathroom at 2102 Cedar Lake Parkway in the R1 Single Family District and the SH Shoreland Overlay District with the following conditions.

1. The Applicant shall apply and receive approval for administrative site plan review prior to beginning work on the site.
2. CPED-Planning shall review and approve the final site plan, building plans, and elevations.
3. Any proposed fence shall meet the Minneapolis Zoning Code requirements for fences.
4. The Applicant shall obtain all necessary permits and approvals prior to construction.

**Matt Perry:** Alright, let's move on to item number two. Mr. Hanauer? I'm sorry for just a little delay here folks. Alright, sorry for the delay, thanks. I'm sorry for the interruption. So let's proceed with item number two.

**Aaron Hanauer:** Alright. Good afternoon Chair Perry and Board members. 2102 Cedar Lake Parkway is the subject property. It's located just – it's on the western portion of Cedar Lake, highlighted by the orange highlighted area there. An aerial view provides a little more context of the subject property and the neighboring properties. 2102 Cedar Lake Parkway is here. It's an eclectic group of homes within this block and in the area

west of Cedar Lake from the more modest size style cottage homes, just to the, I believe it would be to the south and west, as well as the larger homes that are on the block faced with attached garages and front decks. I did provide, just to give a better feel of the area, I do have some images and these are the little board maps. This image is taken from Cedar Lake looking at the subject property. The house that is located to more to the west, and this is 2110 Cedar Lake Parkway. I'm going to go the other side of – this is 2044 Cedar Lake Parkway that's on the opposite side of the subject property. 3517 West 21<sup>st</sup> Street is the home located behind the subject property. And these are the other two homes that are west of the neighboring property. This is 2120 Cedar Lake and then 3500 22<sup>nd</sup> Street. And I just showed these to give a context of the area. The subject property shown in the dark highlighted area is a lot that's 13,629 square feet. The property is a reverse corner lot, given that it's – it has two front yards, one along Cedar Lake Parkway, but since this home at 3517 21<sup>st</sup> Street West has addressed off of 21<sup>st</sup> Street the subject property also has a front yard setback along 21<sup>st</sup> Street. So you have a 25 foot setback there and given the deep setback of 2110 Cedar Lake Parkway you have a 73 foot setback at that location. With a reverse corner lot you don't have a rear yard, a back yard, you just have two corner side yards and two front yards. One of the two front yard setbacks of the subject property, the corner – or the interior side yard setback here is six feet and the interior setback, side yard setback at this location is six feet. What this site plan shows the – what's in red, is the buildable area of the lot. It's 3,925 square feet of the 13,629 square foot lot. So approximately 28% of the lot by the Zoning Code is able to be built upon it.

**Matt Perry:** And if I may interrupt you Mr. Hanauer, buildable without variances because of the setback requirements.

**Aaron Hanauer:** That is correct Chair Perry.

**Matt Perry:** Okay.

**Aaron Hanauer:** Correct. And a few pieces of history to highlight for this lot. This is the previous home that was torn down in 2005. The footprint of the home, somewhat in the – actually I should, to be consistent, that is really confusing so – Here we go. Okay I think maybe you might be able see a little bit better of the neighboring home footprint and the subject property would go along there. So that home was torn down in 2005. In 2006 a variance, Cedar Lake Parkway at 21<sup>st</sup> Street, for a new home was approved to allow the home to be 10 feet from the 21<sup>st</sup> Street West setback, and that's what the Applicant's proposing today. The home, a two-story home with an attached garage that's accessed off of 21<sup>st</sup> Street West, here's that northeast elevation. This is the southeast elevation that faces Cedar Lake Parkway. And then a deck that you can see better with the site plan. So the setback for the home is a setback to reduce the front yard setback from 25 feet to 10 feet and then the deck setback for 21<sup>st</sup> Street is to reduce the front yard setback from 25 feet to 11 feet 4 inches. The proposed home is – each new home in Minneapolis has to meet design requirements. This home with our review meets the design 15-point requirement of having a basement, of having 20% windows on each elevation that faces the street, and points for glazing on the other sides of the home. It

also received material due to the materials that they're proposing to use: stucco and stone, and then having deciduous tree in the front. So 16 points total. So the variances once again: the variance to reduce the required front yard setback from 25 feet to 10 feet to allow for the construction of a single-family home and a variance to reduce the required front yard setback along 21<sup>st</sup> Street from 25 feet to 11 feet 4 inches to allow for the partially covered deck with a built-in fireplace and that half bathroom that is located right here. Staff is recommending approval of both variances. For finding 1, the property owner proposes to use the property in a reasonable manner with a proposed house and deck. The Applicant is proposing to build a single-family dwelling on a reverse corner lot respecting that Cedar Lake Parkway front yard setback and maintaining a 10 foot setback along 21<sup>st</sup> Street, which, if this is a corner lot rather than a reverse corner lot, that would be the setback for this R1 zoned lot. For the patio, or the deck, excuse me, the Applicant is proposing to maintain – or respect the corner side yard setback for an R1 lot. And staff recognizes with this lot that there isn't a rear yard to put an active area, outdoor area, such as a deck as they're proposing. For the second finding, practical difficulties exist due to circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone. In summarizing this for both the home and the deck, we do see that practical difficulties do exist that weren't created by the Applicant. You have the two deep front yard setbacks on Cedar Lake and 21<sup>st</sup> Street, the reverse corner lot, a smaller percentage of buildable area, and then I guess once again for that deck variance, you don't have a rear yard to put an aspect like this. For the third finding, the variance would be keeping the spirit and intent of the ordinance and the Comprehensive Plan and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. I realize that a large deck such as this is not something that is typical in the front yard, but they've maintained having this entire portion outside of the front yard setback and it's just this portion right here that is outside of what is allowed. And that the subject property – we must realize that it's in that approximate location of the previous homes, the one that was there and the one that was approved by a variance but never built. We don't feel that the proposal will be injurious to the neighboring properties. It meets the side yard setback. The deck would be approximately 22 feet from the closest property. That summarizes what I had for the third finding. And finally, staff did not feel that this subject property would 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. For the items from public comments, there were four letters in opposition to the proposed home. I highlighted in this map in orange the letters received: one from 2044 Cedar Lake Parkway, another from the neighboring properties closest to the subject property, and then another one on Drew Avenue. And also in your letters where it was a letter from the prospective – or the owner of the property that their intention is to move in. So with that, staff is recommending approval of both variances with the following conditions of approval: The Applicant shall apply and receive approval for administrative site plan review prior to beginning work on the site; CPED-Planning shall review and approve the final site plan, building plans, and elevations; number 3, any proposed fence shall meet the Zoning Code requirements for fences. I bring this up because when looking at the fence I wanted – it wasn't called out the dimensions of the fence along this portion of property, so I

wanted to make sure what they're proposing will meet the Zoning Code and that will be looked at with the Zoning Administrator. And then finally, four, the Applicant shall obtain all necessary permits and approvals prior to construction. I'd be happy to answer questions you may have.

**Matt Perry:** Alright, thank you Mr. Hanauer for your presentation. Mr. Sandberg, and Mr. Cahill at least to start have questions. Mr. Sandberg?

**Dick Sandberg:** Yeah, thanks Mr. Chair. Thank you Mr. Hanauer for your presentation. Could you review again the diagram that shows the setback from each property line and show us which parts of the project are intruding into the 21<sup>st</sup> Street front yard. Is the stairway and retaining walls part of the variance or is it just the structure of the housing?

**Aaron Hanauer:** Chair Perry and Board Member Sandberg, the stairs? Six feet in width and so that will meet the permitted obstruction requirement and so it is just the home here and then the deck portion here, up to this area that is outside of the front yard setback.

**Dick Sandberg:** So on the corner nearest the alley on 21<sup>st</sup> Street, part of the variance is for that retaining wall and stairway?

**Aaron Hanauer:** For – we will confirm that the retaining wall here is actually retaining grade and meets that definition. I believe you may have seen on the rendering of the first page a wall here and that will be, that will be required to meet the front yard setback of allowing it to be three feet in height for a masonry wall, a masonry fence.

**Dick Sandberg:** Okay, thank you.

**Matt Perry:** Mr. Cahill?

**Sean Cahill:** Thank you Mr. Chair. Thank you Mr. Hanauer. Just a quick question. Approximately how – what is the percentage of buildable area without a variance in relation to the total property? So in other words, how much of – within that red, what percentage of that is of the total property?

**Aaron Hanauer:** 28 %.

**Sean Cahill:** 28 %. So 28 % of the entire lot is the buildable area.

**Aaron Hanauer:** That is correct.

**Sean Cahill:** Thank you.

**Matt Perry:** Yes, Mr. Koch?

**Chris Koch:** Looking along the elevation along Cedar Lake Parkway, where the pool is, it looks like that's going to be creating an above ground pool with the - yeah - the elevation there? That looks like what would be like a big stone wall. If that was a fence that would not be an allowed obstruction in a front yard, correct?

**Aaron Hanauer:** Correct. If that was a fence, then it would be - there would be the height requirements in the front yard of 3 feet if it's not open deck ...

**Chris Koch:** Right.

**Aaron Hanauer:** I was just going to add, for many of you saw the variance request for 3403 St. Paul Avenue that had a structured patio and so this, being part of the foundation of the deck.

**Chris Koch:** Right. That's what I'm asking. Is even though they meet the setback requirements for a house or they've essentially created an elevated deck, and as long as that's behind the setback, the front yard setback requirement, it's okay.

**Aaron Hanauer:** Correct.

**Chris Koch:** Okay. Thank you.

**Matt Perry:** Any other questions of staff? I have one. Could you put your first diagram back up for me that has the red box around it?

**Aaron Hanauer:** Certainly.

**Matt Perry:** Alright. I just want to confirm that over on the Cedar Lake Parkway side the red line there is - that setback is due to the established front yard setback from the other homes, is that correct or no?

**Aaron Hanauer:** Chair Perry, that is correct. When you have - this would it right here. When you have a lot that doesn't have a typical straight line, a traditional Minneapolis block that a rectilinear grid-like block, we will measure the closest point of the neighboring property and from this point to Cedar Lake Parkway it's 72 feet, I believe. 72 feet - this portion when a parallel line with that analysis is 73 feet and so they need to be behind 73 feet to be in compliance with the front yard setback along Cedar Lake Parkway.

**Matt Perry:** So even if they decided to build that way rather than on the 21<sup>st</sup> Street West, they still would be running into a variance problem because of the established front yard setback.

**Aaron Hanauer:** Oh, if they built ...

**Matt Perry:** Yeah.

**Aaron Hanauer:** Correct. Correct.

**Matt Perry:** Okay.

**Aaron Hanauer:** They would be required a Cedar Lake variance for the front yard setback along ....

**Matt Perry:** Right.

**Aaron Hanauer:** ... the Cedar Lake Parkway.

**Matt Perry:** Alright, thanks for that information. Okay, I think I was the last one who had questions of staff. Thank you very much. I have a sneaking suspicion we may be calling you back though. Is the Applicant present? Would you like to speak, testify? We're going to have multiple people speaking in favor?

**Charles Stinson:** I'm the architect, may I speak first?

**Matt Perry:** Whatever order you choose. Just give your name and address for the record, that would be great.

**Charles Stinson:** Okay, Charles Stinson, 4733 Eastwood Road, Minnetonka.

**Matt Perry:** Stinson?

**Charles Stinson:** Yeah, Charles Stinson, architect.

**Matt Perry:** Thank you sir.

**Charles Stinson:** And I will – I have to kind of go through a little bit of – kind of the history of how we got involved here and what happened.

**Matt Perry:** If the history relates to the variances in question ...

**Charles Stinson:** Yeah, to the variance.

**Matt Perry:** ... that would be great, otherwise ...

**Charles Stinson:** I'll make it really fast. We got involved about a year ago. The clients, before they purchased the property, had met with a realtor and then they came to the City to go over the setbacks of the City. The information they got from the City was based on 10 foot – well basically they got the information back of a corner lot, not a reverse corner lot which was the 10 foot property setback from 21<sup>st</sup> Street. And the same thing happened with the surveyor, which we have a letter, is they got the information of a corner lot. This only means alot other than we started design based on that information

and then once we had a concept design, which is basically the one that we have here. It helps kind of seeing the color and the materials. Then I personally a year ago met with two different officials at the City, the Planning Department and went through methodically exactly what all the setback information was. And at that point we wanted to make sure, because variances were impossible to get a year ago, and that we didn't need one. So what we did do is we moved the buildable area of the site back a little bit from the street. That's the neighbor. Generally, all the homes on the street were closer to 55 foot setback from the Parkway, but the neighboring one was the farthest one back, at 72. So we were hoping to build closer to the Parkway, but unfortunately we couldn't and so ...

**Matt Perry:** Could staff help Mr. Stinson with ....

**Charles Stinson:** ...so we moved...

**Matt Perry:** ... the projector please?

**Charles Stinson:** Yeah, okay. Okay, thank you.

**Matt Perry:** Thank you.

**Charles Stinson:** So we moved – we did make some adjustments from that meeting. A very productive, positive meeting. We moved the property back so we were as far back the existing house here. And we were back – we are back further than any of the neighbors going down this street. We went to 10 foot 2 away, I think it is. The next neighbor is 8 foot 1 away. The neighbor after that is 4 feet from the front property line. The next one is 6 foot 8. So we're back farther than everybody on the side street and we're back farther than everybody on the Parkway. So in doing our solution, we thought we were good to go a year ago. So we went into working drawings - construction drawing, and we came up with what we felt was a very sensitive, great piece of architecture that would be sensitive to the neighborhood as well. And part of the criteria at the beginning was giving a small dip pool, it's not a big pool, it's a salt water pool, not chlorine. It never has to be drained, not annually. So our idea was to come up – you know, working with that, in that elevation along the alleyway. We step that area back, so we're 20 feet away, which is 42 feet from the street starting here so we don't – and all these walls are low enough that we don't block any sight lines. So we kind of stepped that back to be sensitive for the view corridor. We did a tuck-under garage the same as the existing house. The existing house was maybe only – I think it was only 4 feet or so away from the property line, we went to 10. And actually the house is back farther, it's just the balcony that gets closer and then the house steps back. And the idea is to be sensitive to the neighbors and the feeling that we wanted to do. We didn't build all the way to the maximum here, we left that - the kind of open pool area, to kind of leave light coming across to the neighbor. As fellow – there's also kind of a lightness on this part of the property. So kind of looking at – this is the elevation, I know the ones you have are black and white and it's hard to see, but we're using very natural materials - using stone. And the living areas are open on the other side because there's a lot of parking and traffic

here that we wanted to have to give the client some privacy. But the portion coming out here is open air. There's no windows, it's an open porch with a green roof to collect water and we thought it would have a lightness to it and we're using natural materials there. And then there will be landscaping across the bottom. The landscape architect involved are Coleman Partners, which are very sensitive landscape architects and won quite a few awards working in the Minneapolis area. And they've worked with green roofs on the library, et cetera. And then on the side toward the Parkway, we again, it being a very private area – the private areas and pool patio are raised up. And I'm kind of showing you right at the pool level, but we're raising it up. And part of that requirement is of the wall height is for access to - safety access to the pool so we don't have to have a fence on top of that. And just as I showed in the rendering, there'll be landscaping and hedges in front of that wall to soften it because we want to keep that very soft. So we worked within all the height requirements of it. And the other materials we're bringing in is we're putting copper on these forms so it's very natural materials. It's going to be a very beautiful house and we – our goal was to be very sensitive. We have great clients that were very thoughtful on the lot. We wanted to be a good neighbor and not over build the lot and it's approximately a little over 2,000 square feet on the main level. It's not excessive, they're not formal areas, it's very informal. And then outdoor living, and they have a daughter so it's – they're kind of enclosing there patio pool area is for their family. And then the idea is leaving the rest of the property where the mature trees are – saving all that we could save, which are the majority of them. We keep a park-like atmosphere, because that's part of what drew them to the property and they liked it. So our goal was to have, you know, the empty lot in the neighborhood that's always a sensitive thing, you know. But to have a win-win scenario, to be a good neighbor and do a really, really nice project. And to find clients like this that are willing to step up and really do a good job and do green roof collection and do all the good things it was a win-win scenario. Well, the only problem is when we went in for a permit a few weeks ago, we realized we got turned down because of apparently it was a reverse lot and so now we're here. So based on the criteria of the, again the original house that was there, I got it upside down, but was much closer to the street with at tuck-under garage and that was 3 foot 1. It was actually closer to the neighbor, which was you know, 5 foot 9, barely this home is the same. It was very close to the same from the Cedar Lake Parkway as well. So we're here just to ask for a variance and I think we have a very sensitive, really well done project with clients that are – they live in Minneapolis in the community. Their business is in Minneapolis and they employ alot of people and they're good neighbors and it's a really great project. So if you have any questions I'll come back, but we meet all the criteria...

**Matt Perry:** Well actually you don't meet two criteria, which is why you are here ...

(unintelligible two people speaking at once)

**Charles Stinson:** ... happy to answer any questions.

**Matt Perry:** Are there any questions? I see none. Thanks. Is there anyone else who would care to speak in favor of the application? And again, if you could speak to the

variances in question here. I see no one. I know there are some folks who want to speak against. So you can just come up one at a time please and state your name and address for the record. And if you could speak to the variances themselves. This is the variance to reduce the required front yard setback along 21<sup>st</sup> from 25 feet to 10, and the variance to reduce the required front yard along 21<sup>st</sup> from 25 feet to 11 feet 4 inches.

**Mark Margoles:** I'll do that, thank you. So I want to speak to these ....

**Matt Perry:** Excuse me sir, your name and address.

**Mark Margoles:** Oh sorry, Mark Margoles. I'm the current resident of 3021 East Calhoun Parkway and in two weeks about to be the new resident 3517 West 21<sup>st</sup>.

**Matt Perry:** Thank you sir.

**Bruce Manning:** Mr. Chair, just for the record, I know Mr. Margoles but I have no interest one way or the other in this particular property.

**Matt Perry:** So noted. Thank you.

**Mark Margoles:** I want to speak about the two particular areas of the variances that I feel are injurious to the neighborhood. The reverse corner setbacks, you know, are obviously in the law for a reason and that these corner lots represent potential areas of intersections of traffic and sight issues. One of the things we've learned in our diligence of buying this house is that the entrance, because the parking lot across the street from Cedar Lake is a paved Parkway. 21<sup>st</sup> Street is the preferred parking – free parking for everybody who unloads their kayaks and enters that entire lake area. Whether it be access to Hidden, or particularly access to Cedar Lake. So there is, as you can tell from the photographs that Mr. Hanover (sic) showed almost a consistent amount of traffic and parking along 21<sup>st</sup> Street. And that to me represents a lot of issues by moving that – by allowing that variance in that there's constantly unloading of boats, families walking, if there ever is a situation where there should be a setback from the street, it should be in that particular – on that particular street. I don't know, I'm sure some of the other neighbors will talk to that so I did want to make (unintelligible) of that point. The second issue is, one of the reasons we're familiar is about four years ago my wife and I stood before this Board and on a variance hearing for the Edgewater. The Edgewater Project is the project connected to where we live right now and the variance that was granted – there was a variance that allowed the alleyway to be narrowed. Our concern – neighborhood concern was about snowplow removal and we were told at the time that it was not an issue, frontend loaders could come in and remove the snow. The reality is, four years later, it's a humongous issue for the entire neighborhood. The owner of the Edgewater gets up to 15 calls a time because the availability of frontend loaders is very limited, as you know, and our particular alley where we're at now gets plowed only every third time by the City and only with a minimum of 4 inches of snow. And we've been told it's an equipment issue. I bring up this issue because one of the variances that was requested is construction of a masonry wall, which he touched on briefly, along the 21<sup>st</sup> area there and

the construction of a fence and a wall along the entire alley area – a masonry fence, which would make the removal of snow or putting snow anywhere a particular problem. Now the neighbors have told me that that alley already is very difficult to access in the winter and that the only area right now where the neighbors can make a turn and make a run into their alley is a one empty area directly to the south, sorry, directly to the west of the other neighbor, Terry, who will speak to this. So and that – that with construction as masonry wall becomes the only area in which any snow could be dumped. And in effect makes it impossible, I think, for many of us to be able to get in our alley. So what we're asking is to consider that variance and that construction of the masonry wall as a serious issue injurious to the neighborhood in terms of being able to plow efficiently that alley and then secondly, at the very least, maybe to help us mitigate with the new owners some solution to proper snow plow removal in that area, altering the construction of that wall or something in that area. So I guess that we've lived this before and the Edgewater thing turned out to be a nightmare and we don't want to see that same thing happen for the neighborhoods. So thank you for your patience.

**Matt Perry:** Alright. Thank you. Staff, I need some clarification in here because what we have in front of us are variances that do not speak to a particular building structure, they deal with a setback. So could you expand on this masonry wall a little bit? What are we talking about and why aren't you concerned?

**Aaron Hanauer:** You are referring to the wall right here correct?

**Mark Margoles:** Yeah, the wall that runs along the alley and then down the corner – around the corner.

**Aaron Hanauer:** Okay, and then around and then right here.

**Mark Margoles:** Right, exactly.

**Aaron Hanauer:** Okay, alright. Board Member Perry, this is – this wall right here or the fence is what was called out in the conditions of approval needed to meet that 3 foot – or just to confirm to you, a 3 foot or 4 foot likely, excuse me and it's going to need Zoning Code requirements for a fence ...

**Matt Perry:** Okay.

**Aaron Hanauer:** ...and that's why it is a condition of approval because details of that fence were not called out in the application ...

**Matt Perry:** Alright.

**Aaron Hanauer:** ... so...

**Matt Perry:** Alright. So you - staff feels it has it covered because it's in the conditions of approval to be meeting the Zoning Code.

**Aaron Hanauer:** And maybe it's being more explicit that what's needed for the home itself needs to meet the site plan review requirements and ...

**End of tape – side B**

**Matt Perry:** ...and your name and address for the record please?

**Greg Froehle:** My name is Greg Froehle, I live at 3525 West 21<sup>st</sup> Street. It's two houses to the west on West 21<sup>st</sup> Street from this lot. When I first received the notice of this project I thought that actually the design with the variances was somewhat sensitive to the character of the neighborhood, given a house of this size, which is not in character with the neighborhood. It's probably twice as big as the next biggest house in the neighborhood. But I thought it was a sensitive design that kept the house back from the Parkway and just extended an open – more or less an open patio with a pool. Because this drawing that was included with the notice isn't very clear about the fact that there's a covered patio there. The fact that a variance addresses a hardship and I'm not sure that building a structure like that in that part – I guess I'm talking about Variance B here – building a structure over the patio and pool area isn't really keeping it very open. I don't think they're addressing a hardship with this kind of structure. The variance isn't addressing a hardship to create a structure like this. I think it would be more intrusive than it needs to be to have that much structure above ground.

**Matt Perry:** Okay, so I'm sorry for interrupting, and generally we just let people talk, but I'm getting a little bit confused about this so I'm going to speak on behalf of the Board here if I may. We're concerned about not the height, that doesn't require a variance, or even the density, that doesn't require a variance, they're within the Zoning Code. It's the setbacks into the front yard, the required front yard ...

**Greg Froehle:** Okay, so I'm saying that the setback, the proposed setback is due to a hardship of buildable area on the lot.

**Matt Perry:** Okay.

**Greg Froehle:** Is that the hardship we've identified here? I guess I'm saying that addressing that hardship that this design is kind of pushing the limits of the definition of hardship. That there's plenty of room to build a house of this size with Variance A. Variance B, allowing a tall structure to be much closer to 21<sup>st</sup> Street than the required setback, I think it's pushing the definition of the hardship and I question statements that have been made that this is in keeping with the character of the neighborhood and that it would in fact enhance the variability and the variety in the neighborhood.

**Matt Perry:** Okay.

**Greg Froehle:** Plus I'm really disappointed that the health of the trees, especially the neighbor's trees here were not taken into account in the design. It sounds like – it looks

like the surveyor didn't even note them on the survey and they were completely ignored in the planning process. I know that's not a zoning issue, but it really disappoints me and it kind of turned me against this project to see that a simple acknowledgement of those two trees, that are not on this property but have been there and are very, very valuable to the neighbor, was completely ignored. And they're going to die due to this construction.

**Matt Perry:** Okay.

**Greg Froehle:** Thanks.

**Matt Perry:** Thanks for your testimony. Yes, Mr. Manning?

**Bruce Manning:** I actually had a question for Mr. Froehle.

**Matt Perry:** Mr. Froehle, there is question from Mr. Manning.

**Bruce Manning:** Thank you for your testimony sir and thank you for coming out. Mr. Stinson spoke and stated that the front yard setbacks along 21<sup>st</sup> Street, of which I understand you have the middle house in this block, varied between about 4 feet and about 8 feet. Is that right?

**Greg Froehle:** Yes. That's true. The next house up 21<sup>st</sup> Street has one corner of a one-story portion of the house that approaches that – that has 8 foot setback. The next house has garage, the roof is about 9 feet high. It approaches the setback. The rest of the house is quite far back. The same with 3517, it's – the two-story part of the house quite far back. My house, the next house back, has a one-story portion of the house that approaches West 21<sup>st</sup> Street. The two-story part is much farther back. They're putting a two-story house within that setback – that encroachment area. It's a much different – it's a little disingenuous to say well these other setbacks are that close, this one is similar. It's much taller, it's a bigger bulk, it's frankly, it's a large house and I would – I'd be willing to accept Variance A, even given the bulk, but Variance B for me is just pushing that.

**Matt Perry:** Okay, thanks.

**Bruce Manning:** Thank you very much sir, that was very helpful.

**Matt Perry:** Alright. Who else is here to speak against? Yes sir.

**David Hullis:** I had this printed out, could we hand out one to each of you or should I just – could we do this overhead projection?

**Matt Perry:** You could do both. If someone could hand it to the Clerk she will distribute it and if you want to do this ....

**David Hullis:** My name is David Hullis (sp? Didn't sign sign-in sheet) I live at 2116 Cedar Lake Parkway. Nancy and I live right there. I thought I'd show you first ...

**Matt Perry:** And again sir, just as I've been asking other people, if you could speak to the actual variances in question I would appreciate it.

**David Hullis:** I understand that part. Okay, so we're going inward here. Zoom. Anyway, we were just talking about the area over where (unintelligible) So this one to the left here is – I have the addresses there, 3517 21<sup>st</sup> Street West and as described is really a pretty small building. In fact, the house that was in the now vacant lot was a cabin also. And it was a single floor cabin. And built back in the early 1900's. So that's what we're replacing. And so all of these places basically were cabins at one time to some degree. So another thing I have here is a thing which shows when the houses were built and this rounds floor size of them. And so this one here basically most of these houses if you look at the total square footage it's 2,000 feet and we're looking at a house here that has 2,000 square feet per floor, at least on the first floor. 2,400 and some on the basement level so we're talking about something that's basically dwarfing everything else in the neighborhood. And so the report from the committee that came – or that the staff came back and said that it's an eclectic neighborhood and that it's sort in keeping with the eclectic nature of it, and I agree, we've all enjoyed the eclectic nature of the community. Here's another picture going from the front. And this is the house right across the street from it on the left there. You can sort of see back behind there is two more houses. That's sort of what we're living with today. And then this is the house next doo, which is Terry's, and our house next to that which is sort of what we're looking at and this where the setbacks are coming from from the street which I understand just exactly how it has to be done. So I think that all those setbacks are fine. The other thing I wanted to discuss slightly is that I, in keeping with the nature of the community, I think what we're ignoring as a fact that we consider this as really a cottage community and it really is. This is from a magazine 1966 Cottage Living and they name their top 10 cities in the country – top 10 communities in the country that were for Cottage Living and Bryn Mawr neighborhood was one of the top 10 cottage communities. And so this one right here is there take on Bryn Mawr. And in here they talk about the size of the housing and it says the cottages are basically 1,500 to 1,800 square feet. Some are as large as 2,500 square feet. So that's how a national magazine came in and characterized our community and we pretty much agree with that. And so I guess my thing is that I think, having a house on that lot, adding the additional 15 feet and allowing it to be bulkier than it would be otherwise, that is my problem.

**Matt Perry:** Okay.

**David Hullis:** And that's just one of the problems...

**Matt Perry:** Sure. Thanks for your testimony.

**David Hullis:** Any questions, or ...

**Matt Perry:** I don't think so. I do want to have staff address something though here just to make sure that everybody in the public and the Board knows, 'cause I think we're drifting off into a question of density and mass and there is a text amendment that deals with building mass that came out of a period of time when there were what I guess colloquially were termed *monster houses*. There was a text amendment that was passed to address this and I would like you to speak to that if you could and also affirm that this house does in fact fall within the Zoning Code so it doesn't need – does not need a variance for that FAR.

**Aaron Hanauer:** Chair Gates...

**Matt Perry:** And it's Perry now.

**Aaron Hanauer:** Chair Perry. I was right all along, but it's been a while but I mean no disrespect. Board Member Manning and ...

**Bruce Manning:** I don't know if it's fair to get back at me for Matthew.

**Aaron Hanauer:** Okay, just kidding.

**Bruce Manning:** Anybody mistook me for Paul Gates I'd be thrilled.

**Matt Perry:** Ditto. So, to my questions please.

**Aaron Hanauer:** Floor area ratio calculation to summarize is .49 is what the overall home was. When looking at the ...

**Matt Perry:** As proposed.

**Aaron Hanauer:** As proposed and what is allowed is a floor area ratio that is the square footage of the home divided by the square footage of the lot will give you that floor area ratio calculation. What's allowed by the Minneapolis Zoning Code with that amendment is .5. On thing to also keep in mind with this home, a basement sometimes counts towards that square footage and sometimes does not. And for this home, the square footage for the basement did count because of its exposure above grade being more than 50 % for - more than, it was more than 4 feet exposed for more than 50% of the perimeter. So the square footage of that basement does count towards the overall floor area calculation.

**Matt Perry:** Thank you very much. I do this for the public because while the home may feel, given the nature of the homes in the area and certainly the history, the home as proposed may seem very large and the mass may seem extreme, it is within the Zoning Codes. It is compliant with the Zoning Code and in fact the Zoning Code was changed – what year was that?

**Aaron Hanauer:** 2006.

**Matt Perry:** In 2006 to address just these types of concerns about housing mass. So not to dissuade anybody from continuing to give their testimony, but just to provide some education clarification about building masses in Minneapolis. Thank you.

**Aaron Hanauer:** My apologies Chair.

**Matt Perry:** Who else wanted to speak against this? Sure, just come on up and state your name and address. And again, I'll repeat myself but if you could speak to the variances themselves.

**Arthur Bowron:** Yes, hello. Thank you for allowing me to testify. My name is Arthur Bowron, I live at 2036 Cedar Lake Parkway. Approximately two houses to the north of the proposed project and just a comment I wanted to make. First, is that it seemed like the architect was given a great deal of time to talk about things outside of the variance in terms of his take on the essential character of the neighborhood so I think we need to allow the same respect to the neighbors. Thank you. Secondly, my reason for being here does actually have to do with the variance because as explained earlier the variance includes the pool proposal, which we've heard very little about. I think because it does really not have a basis in our neighborhood. We have – I take that back, we do have one pool on that block, but in general pools are not a part of our neighborhood. This variance proposal is to extend the deck for the pool. The crown jewel of our neighborhood is Cedar Lake and a pool across from that lake, to me, makes absolutely no sense whatsoever. But even more importantly, on an environmental perspective, my concern is what safeguards are there to keep this pool from draining into the lake? Because that has happened with the other pool. That occurred. Now I know the architect said that there would be no drainage necessary because there's salt water. Well, that was news to me, but I do know that salt water is very toxic to fresh water animals and again, this lake is what gives value to all our property and I would suggest to the property that's being proposed today, they would not be building this at a site that was out in the middle of a corn field somewhere. They're there because they like the lake too. So I would just like to tell everyone here that the lake is the most paramount issue if a variance is allowed for a pool project that could drain into this lake and cause ecological problem and they're cutting off their own nose to spite their face and we'll all suffer. So I want to make that point.

**Matt Perry:** Thank you sir. Thank you for your comments.

**Arthur Bowron:** Yes, alright.

**Matt Perry:** Alright. Is there anyone else to speak in opposition?

**Matt Ditzler:** Mr. Chair.

**Matt Perry:** Yes sir.

**Matt Ditzler:** I just have a brief question of staff regarding one of his points if I may.

**Matt Perry:** Sure.

**Matt Ditzler:** Just real quickly, regarding the point is it was built for the pool. Does the pool fall strictly within the buildable area as it exists?

**Aaron Hanauer:** Yes. It's the deck that's in the setback.

**Matt Ditzler:** So if they just got rid of the deck they could keep the pool?

**Aaron Hanauer:** Correct.

**Matt Ditzler:** Thank you.

**Matt Perry:** Alright.

**Mahryam Daniels:** My name is Mahryam Daniels. I live at 2106 Drew. I am around the corner. I directly face the perpendicular exit of that alley that they've been talking about.

**Matt Perry:** Yup, thank you.

**Mahryam Daniels:** Number one, Dr. David Thigh (sp?) could not be here today, he is at 3500 West 22<sup>nd</sup> Street, it is the Jewish holiday of Shavout. He asked please, and authorized me to convey to you he is concerned about the safety of that intersection of West 21<sup>st</sup> and the Parkway. He's concerned about the visibility. That it will be greatly obscured because of the two reverse lots. The alley is already very narrow. You talked about it from the perspective of cars. You have to live in our neighborhood to understand that it's pedestrian, bicyclists. You can not have a pedestrian and a car go in and out at the same time. I live around the corner and I see the garbage trucks and the recycling knock over all of the brick and concrete walls coming down on the other side. You have to walk it to appreciate what they're talking about. The third element is safety for walking at night. We use our neighborhood morning, noon and night all four seasons. And by the way, I'm glad to hear that our new neighbors would like to be fellow residents. There has been no snow removal. That is a critical intersection all year. That's where the curb cut is. And that's what is identified as the pedestrian crossing. We are in between the Park Board and Minneapolis city government to get things done. And it is very difficult gentlemen. This will complicate matters tremendously. I also have one more letter. We have had very short notice and I think that is providing some of the backlash. It didn't need to happen like this. We welcome people moving in to the neighborhood. We're open. We have beautiful open boulevards. The feel of this house and the way it's been presented to us and the short amount of time to consider what they're asking, makes it feel like it's a high walled fortress, which it is not. I can see the beautiful design. But what we're saying is we'd like to be heard. We'd like the integrity of our neighborhood to be known in the City of Minneapolis. Thank you very much.

**Matt Perry:** Okay.

**Mahryam Daniels:** Who would like to – the letter?

**Matt Perry:** Alright. If you could hand that to the Clerk so we have that for the public record. I do have a question that was brought up if I could ask you when you get back to the podium please? All of your comments are important, but one particularly caught my ear was short notice. Short notice by whom?

**Mahryam Daniels:** Well, it came – I don't know. There is a disparity, when I went back through the records of when we received the notices for this meeting and it's not as it appears. And the information in the various committees trickling down to us – it's been very difficult to find out what's been going on. They have been working on this for a year, but this is all relatively new to us.

**Matt Perry:** Okay, so can staff speak to the noticing of this please? I'm, I ...

**Mahryam Daniels:** I mean we were told it's within (unintelligible)...

**Matt Perry:** So could staff speak to the noticing please? That is an important – as I said all of your comments are important to us but this one has caught my ear and I want to get some clarification on that. Can you speak to the noticing of this project?

**Aaron Hanauer:** Sure, absolutely Chair Perry. For this and for other items for today, it's a requirement for the Applicant to notify the neighborhood association and the council. On May 17<sup>th</sup> the Applicant submitted a letter to the neighborhood association. On May 18<sup>th</sup> the Applicant submitted a letter to the council for notification. On May 19<sup>th</sup> staff – this is 21 days before, sent notification to the neighborhood association as well.

**Matt Perry:** I'm sorry, that date again?

**Aaron Hanauer:** On May 19<sup>th</sup>, that was to the neighborhood association. I believe there is a typo in the staff report when – it's under public comments. This fault is mine. The Community Planning, CPED notified property owners with 350 feet of the variance request on May 19<sup>th</sup>. Those notices are required to go out 15 days before the public hearing. They went out on May 25<sup>th</sup>, and I believe property owners received them on May 28<sup>th</sup>. So that – they went out on May 25<sup>th</sup> which complies with the Zoning Code requirements. And then, so that's – and then also the placards are required to be on the property before the public hearing and those were placed on the property.

**Matt Perry:** Okay. Thank you for that information. So it sounds like if I'm doing my quick calendar arithmetic, which I'm not going to say I am perfect at, but it sounds like we – the City, properly noticed this within the time frames that we are supposed to and through the distribution channels that are required.

**Aaron Hanauer:** Correct, and correct Chair Perry and we've been able to - with given the electronic submittal of plans been able to e-mail out the plans to those that have requested it.

**Matt Perry:** Okay, great. Thanks. Who else would like to speak against this? The reason why we're asking a lot of questions here with each of you is not to necessarily disregard your testimony, but we're very - we feel it very important to understand the truth of the matter and try and get to that so that's why we're kind of incrementing along. And I thank my Board members and the public for patience as we go through this process. Yes, please ma'am.

**Terry Pearson:** So I want to thank everyone here too, thank you neighbors for being here and thank you for new neighbors.

**Matt Perry:** And your name is?

**Terry Pearson:** My name is Terry Pearson and I live at 2110. I'm the small cabin on the other side and we - this letter was mailed May 25<sup>th</sup>. It's dated that. We got it on the 28<sup>th</sup>. It does have a mistake that it was sent on the 18<sup>th</sup> which it was not. It was Memorial Day weekend. It says that the post - on the post that it posted on May 28<sup>th</sup>. It was posted on June 1<sup>st</sup> which was 9 days. So on June 1<sup>st</sup> we have neighbors that saw it posted I was another neighbor that wasn't here, Dave and Nancy and other neighbors. So it's posted and it says that Bryn Mawr Neighborhood Association met on June 1<sup>st</sup> and there were no concerns because we didn't know. We knew nothing. We had no plans. We had nothing. And what I'm going to speak to first - first is I don't know if this is actually theirs - so this is the garage and this is the wall. The wall. That is on 21<sup>st</sup> Street. So how, how high is that wall? We know that it's 19.25 feet there. Is that from the ground or is that from the elevation? I even asked the architect today the elevations and was not given the answer. I would maybe like to see a model. This closes that whole area. Not for me, but for Doreen who wrote the letter, the bluebird lady who saved the bluebirds in Minnesota and wrote the book. You have her letter. Doreen Scrivens. You have Don Birbom's. They are looking into that wall. And I am looking into it also. So that's - I just got this today. You gave this to somebody. So I don't even know. I'm trying to listen and not go through that. So if you look at my house right here, you will see that before the line where the other cabin was, the line went vertically along here and now the line is drawn out there. So the other house was set back and the variance that was given for Annie's house in 2006 was for a 3,500 square foot, not a 5,000. And I don't know the R value. I know that it can go up to R50 and this is at .549. It's in the paper. But it was a different house. It was a smaller house. You know, and so I mean when you said that they were all equivalent that - it's not true. I mean, and you can look too. And you can look at the line. So I am going to lose some of my sight line and I'll be looking at a pool. There are only, I believe, one other pool in the City of Minneapolis on all the lakes. We're counting Lake Harriet, Lake Calhoun and Lake of the Isles and Cedar Lake. There is one other pool, and I was told today it built by you, it's the Pohlad house on Lake Calhoun. Which has a huge setback and which is walled. Now that's - now I don't know if that's a fact. I was just told that. You know I'm not sure. But my

property is marked at the bottom as the bottom 4 feet as – it's posted Minneapolis Park Board and Recreation property. And Park Board property is open spacious. It's green. We know that we won awards Minneapolis for green, green space and green trees. Also on this – okay on this picture you will see that I have two 125-year-old oak trees that are not listed sitting on that line. They're on my property and they're going to fence it and those trees are gonna die. And I just – I had an arborist out there today and I am really upset because this is a – this area is a oak savannah. A urban oak savannah. And not only that, all the other oak trees on that land is dead. Not due to are dying – or are going to die. Several of them are dead and if they're taken down, but we don't know this for sure, if they're taken down now all the oaks will be affected in the area. And this isn't even my land. I'm a steward of this land. This is the earth. This is our legacy. This is preservation of this land. So the trees - when they told me and he was there, when they told me that the trees would die, those two huge oak trees would die, because of that fence, which I don't know how tall it is, and the wall and the right there – and they are within limits on that side.

**Matt Perry:** Yes they are.

**Terry Pearson:** They are. They are. So I'm sick about my trees.

**Matt Perry:** I can see that ...

**Terry Pearson:** And I don't know what to do.

**Matt Perry:** ...and this Board is not the Board that can help you with that. But it's quite evident that you feel very passionately ...

**Terry Pearson:** Right.

**Matt Perry:** ...and I think everybody in the City of Minneapolis feels very passionate about mature trees. So I understand that.

**Terry Pearson:** And the bathroom outside. You know they have a bathroom which they're asking for ordinance also. The bathroom is – is here with the wall. Now did you say this was all going to be open or is it closed as this picture shows? Because I'm not sure.

**Matt Perry:** Well ma'm, I'm sorry having a discussion ...

**Terry Pearson:** But that's part of the variance is that bathroom.

**Matt Perry:** Sure. The conversation with the architect will have to take place at another time. Not here. Unfortunately that – this isn't the place to do it.

**Terry Pearson:** Yeah, but the drawings aren't adequate for the trees.

**Matt Perry:** So I will just ...

**Terry Pearson:** And it's a pool ...

**Matt Perry:** It doesn't address the trees but the staff is recommending that any proposed fence shall meet the Minneapolis Zoning Code requirements for fences. It is unclear what that – the fence is going to look like, but it – for approval for these variances it'll have to meet zoning – the Minneapolis Zoning Code requirements and I believe with the second variance there is a condition that addresses matters concerning the Shoreland Overlay District which I think would take into account how the pool is handled if I remember correctly. Maybe staff can help me out on that. I know that wasn't your concern, but I know that's been brought up so ...

**Terry Pearson:** And I'll leave. And it is a lot and a half. Because we share the second lot. So it's not a one city lot. It's a big lot. It's a lot and a half.

**Matt Perry:** Sure.

**Aaron Hanauer:** Chair Perry and Board members there is a three-prong test to see if a variance is needed for a Shoreland Overlay, if a variance is needed for meeting Shoreland Overlay requirements. Is there a steep slope on the lot within 50 feet of the – let's see here, that the grade is, I'm sorry, steep slopes – is the property going to be on a steep slope for greater than 50 feet? And it did not meet that requirement and there are – there was no portion of this lot that was greater than 18%. There were portions that they're not building on that were approximately 16%. Is the building within 40 feet of the top of a steep slope or a bluff? And no, that wasn't the case for this one. And finally, is the property within 50 feet of the ordinary high water mark? And again, this building was not within 50 feet of Cedar Lake.

**Matt Perry:** Thanks for the clarification. Who's next?

**Michelle Connor:** My name is Michelle Connor and I live at 3525 West 21<sup>st</sup> Street. I agree with Greg Froehle that this is not a hardship case to have an outside bathroom that you can only use for maybe 4 months out of the year, I do not believe is hardship. And we were speaking about Terry's trees before. And how the architect was talking about how sensitive they are to all of these problems. When we were trying to get him – or when we were talking to him never once did he mention that maybe, though they have a perfect right to do what they're doing, that they would put up a barrier so that there is a possibility so that those trees could be saved. I do not believe that they are going to be sensitive or actually do what needs to be done after you – if you do grant them this variance. I'm also concerned about the driveway. It seems like with this other property you granted a variance and, you know, the other property that you granted a variance and said, oh everything is going to be taken care of and it wasn't. And so I am concerned about that alley. We need that alley to get up it. We can't come up the other way because the slope is too steep and what happens is that the sun melts the snow and it becomes glazed by us. I don't believe that the new homeowners are going to, you know,

call tow trucks to bring up our cars and our trucks into our, you know, parking spaces. And so once again I'm just going to reiterate – it is not a hardship. The house is going to be beautiful without having the variances.

**Matt Perry:** Thanks for your testimony. Yes Mr. Manning?

**Bruce Manning:** Miss Connor, if I may ask, I'm sorry. I'd asked Mr. Froehle this question and I'd asked him it about your house and I appreciated his answer. Your setback along 21<sup>st</sup> is shorter than 10 but the mass that is short is what?

**Michelle Connor:** Our house?

**Bruce Manning:** What corner of your house is closest to 21<sup>st</sup> and how ...?

**Michelle Connor:** Our living room.

**Bruce Manning:** Okay, and ...

**Michelle Connor:** And it was also built as a cabin. When we moved there it was a one bedroom cabin. Or I don't even know. No, no, they slept in the living room. Two sisters had owned it and so they had built that a long, long time ago. And I don't think it's fair to keep using houses that were built in the 1900's in saying that well today because your house is closer in it's okay for new houses to be that way. If we were going to build today you would not grant us a variance. Or, I mean ...

**Bruce Manning:** I don't know ....

**Michelle Connor:** Well that's true ...

**Bruce Manning:** But, but, but I just think your point is your point ...

**Matt Perry:** What is your point Mr. Manning?

**Bruce Manning:** I think I want to make sure I said you have a living room original to the house?

**Michelle Connor:** Yes.

**Bruce Manning:** That's single floor?

**Michelle Connor:** Yes.

**Bruce Manning:** That's inside of that 10 feet?

**Michelle Connor:** Yes.

**Bruce Manning:** That's what I wanted to know. Thank you so much.

**Matt Perry:** Next? Sure, name and address. Now really folks, to respect other peoples' time, a number of points have been repeated. I think staff and this Board have heard them loud and clear. So if the points already been raised if you could say I agree with the previous speaker on this particular point that would be terrific.

**Al Tyson:** No repeats from me.

**Matt Perry:** Name and address sir?

**Al Tyson:** Al Tyson, 2211 West 52<sup>nd</sup> Street.

**Matt Perry:** Thank you.

**Al Tyson:** I just, I'm not speaking for or against the project. I mean it's a beautiful house, but I think there's one thing that the Board should consider that hasn't been brought up specifically. I'm a builder of homes in South and Southwest Minneapolis and it has to do with the reverse corner lot setbacks. A home could be designed on this site within those setbacks to the maximum allowable square footage for this lot and this home was not. And I think I'm hearing alot of those conversations coming up from the neighbors and what not about those encroachments. If it was a hardship case where, you know, given the setbacks, you would not be able to build to that allowable square footage. I think there would be a real strong argument for that. As a builder I would design a home that would fit within those parameters for that lot. That's the only comment that I wanted to make.

**Matt Perry:** Alright. Well thank you.

**Al Tyson:** Yup.

**Matt Perry:** Yes sir? And your name and address please?

**John Goetz:** Chair and the Board, I'm John Goetz and I own the home at 2028, 2-0-2-8 Cedar Lake Parkway, which is essentially two doors to the north. Across 21<sup>st</sup> Street there's a house that shows in some of the pictures, of a reddish wood and then you haven't seen a picture of it, it's in the trees just beyond that to the north. So I suppose I'm 150 feet from 21<sup>st</sup> Street.

**Matt Perry:** Alright.

**John Goetz:** I moved there in 1951. I was 4-years-old and my parents built the house that year. I inherited it from my parents a few years ago when my mother passed away. I do not currently reside in the house, I reside else where in the City of Minneapolis, 5335 Washburn, but one of my closest friends lives in the house as a tenant and the house will remain in my family through my death and passed to my children. I think I probably

know the neighborhood, having grown up there in the '50's and '60's as well as anybody here. It seems to me, if I understood correctly, that the real hardship here is that the real estate agents, and maybe some people at City Hall, misled the buyers as to what the setbacks were. I feel sorry for them. That's an unfortunate situation. They went ahead and made all these plans and then they discovered just a few weeks ago, that my god, we're supposed to be 25 feet back. And needless to say, they instead of redesigning, came down here and asked for belated approval of what they had done. And I'm not sure that I wouldn't have done the same thing in their shoes. They've spent a lot of money on the architect and a set of plans. But the fact is, that hardship should not be a justification for granting a variance. That they may recourse against the real estate agent, but it shouldn't – it doesn't constitute a legal justification for a variance.

**Matt Perry:** Okay.

**John Goetz:** Secondly, the – you've emphasized that we can't complain about the size of the house, per se, or the fact that there's a pool, per se, and I recognize that that's the law. But I think that it's perfectly fair to address those if those are the reasons for the setback – or for the variance on the setback rule. In other words, I don't think the Board should be looking simply – I mean you've got to look at the whole picture, not just should we grant a variance, but why should we grant a variance? Well, should we grant it on the basis of hardship? No, not if the hardship is that the real estate agent made a mistake or someone in the City Planning office made a mistake. Should we grant it on the basis that you can't build a house within these parameters? If that were the case, maybe so, but as you just heard from a builder, and I think common sense tells you, I think a house could be built within the parameters. But the fact is they've simply, inadvertently perhaps, ignored the parameters and not tried to build within them. And I think it's perfectly appropriate for neighbors to say that they don't want to see the parameters violated for the fact that the real estate agent made a mistake, or that these people want a build a great big house. They have every right to build a great big house, but it ought to be done within the parameters.

**Matt Perry:** Alright. Thanks for that testimony. Is there anybody else here to speak against? Yes. Your name and address please?

**Roger Miller:** My name is Roger Miller, I live at 3520 West 21<sup>st</sup> Street. I am essentially directly across the street from the proposed building and one door west. Three houses in from the Parkway.

**Matt Perry:** Yup, alright.

**Roger Miller:** I'm going to speak only about the variance regarding the setback on West 21<sup>st</sup> because frankly, that's the only part that directly affects me from my point of view and where I live. The previous houses were all – the previous house as well as the proposed house afterwards were all set back just as this one is, right near the back of the lot. That's fine. What I'm having difficulty with is how the setback is allowed to go all the way forward towards, on the 21<sup>st</sup> side, as we go up towards the Parkway. Quite

simply, it's going to knock my property value down. Part of my property value is the fact that, even with the house set way back there, I have a view of the lake. With this raised area for the pool, and such, what I have traditionally had as a view, as part of my property value goes away. Plain and simple. And so I have difficulty with that as far as it's extending forward.

**Matt Perry:** Alright. Yes, Mr. Manning?

**Bruce Manning:** Thank you Mr. Miller. Did you have – were you in that home in 2005 before the previous house on this subject ....

**Roger Miller:** ...I've been there since 1984.

**Bruce Manning:** ... property? And did you have a view of the lake on – or similar to what you have presently with an empty lot as you did at the time ...?

**Roger Miller:** Well actually it's much better as the empty lot, but I understand that that's a gift temporarily. But the view that we had when Will Jones had the house, the house that was torn down, that is the view that is going away. That's the only one I'm thinking about.

**Bruce Manning:** Thank you sir.

**Roger Miller:** Yes.

**Matt Perry:** Alright. Is there anybody else here to speak against? I see no one and so...

**John Goetz:** May I ask one more question?

**Matt Perry:** Sure, and if you're going to ask it please come to the podium so we can have it on the public record.

**John Goetz:** When you were considering the Franklin Avenue project, which I think was the old Dayton home, I heard the comment that – whatever homeowner built the house – the Franklin Avenue project, one of the comments I heard from the Board in support was that the neighbors were in favor and I'm asking is it part of your consideration as to whether the neighbors oppose the project?

**Matt Perry:** There are a number of factors that are involved in how each of us individually look at this, but ultimately and legally we are constrained by the four findings of fact. So ...

**John Goetz:** So the facts we present are to be considered but not the fact that (unintelligible two people speaking)....

**Matt Perry:** The four findings of fact are outlined in the – I’m not going to go through them but...

**John Goetz:** No, that’s alright ....

**Matt Perry:** There the four findings of fact so you folks have given testimony and within the context of those four findings of fact that testimony will be considered.

**John Goetz:** Thank you.

**Matt Perry:** Alright, I’m going to close the public hearing. Board comment? Okay, Mr. Nutt?

**James Nutt:** Thank you Chairman Perry. I’d like to thank everyone for your comments. We listen to those and taking into consideration as best we can but as Chairman Perry said it’s these pieces. I do want to commend the architect, really this is a very beautiful house and I also want to commend you for maximizing – I mean this is a big house. But you’ve maximized every piece of this from the floor area ratio – but it feels like to me, it feels like a very contextual house to the neighborhood, even though it’s not exactly like the neighbors. I think the big problem everybody has is the setback and whether that’s reasonable. In my own opinion here, and I’d like to hear from the rest of the Board, but I feel like this is a reasonable setback, given the context of the neighborhood. We approve these all the time on reverse corner lots, because of their unique position. I understand a lot of the concerns about the function of that setback. I’m not sure that that’s what we’re here to judge on. But I do feel that this is a reasonable setback. Those are my comments, I’d like to hear from the rest of the Board.

**Matt Perry:** Sure. Mr. Ditzler.

**Matt Ditzler:** Thank you Chair Perry. To echo Board Member Nutt’s comments I would also like to commend Mr. Stinson’s plan. I am familiar, somewhat, with your work and this is very indicative of it. I think one thing that I want to talk about with the Board is that the hardship on this lot is that it is a reverse corner lot. It is not – the Zoning Code is built on a hypothetical lot that does not exist in the City and this lot is compromised because of where it is. And therefore, you’re asking for special exception, which on reverse corner lots, we give all the time. I think the – what’s interesting about this plan, for me, is the floor – the square footage ratio. It comes out to .49 and it’s a big – when you think about that, it’s a big lot that has a big house. But it’s only because they have to count the basement because it is so far exposed, which does - it’s in the Code to mitigate mass. That’s why that language is in there. When you look at the actual footprint in relationship to the lot I come out with about 33%. So from my calculations they could have built, due to the architect’s design, a house that was much more massive than what you’re going to see. I think there are some other concerns with this lot that the neighbors have raised that maybe I don’t totally understand, I walked it once, but I know there is this alley issue. There seems to be some – which according to the plans, I don’t think they’re going to access or use. Those would be some parking, maybe some safety

issues, those are regulated by the departments of the City, in my opinion, are not the responsibility of the Applicant, other than to be good neighbors and work with your neighbors to make sure that it's a safe place to live. But if the alley's too small or it's not being plowed right or whatever, I can't hold that against the Applicant. That's not their responsibility. I don't think that figures into our decision. Views are not guaranteed. I think staff has done a great job analyzing this. So right now I'm strongly leaning towards favoring staff.

**Matt Perry:** Okay. Just as – I would like to correct you on something. Just because it's a reverse corner lot does not automatically trigger our approval of variances.

**Matt Ditzler:** I didn't think that it did, but I apologize Mr. Perry. What I meant to say is that often times on reverse corner lots we – on a high level we grant them.

**Matt Perry:** It certainly introduces an element of uniqueness.

**Matt Ditzler:** Yes.

**Matt Perry:** True. Other Board comment? Mr. Koch?

**Chris Koch:** Just to follow up on that. It is what, you know, people talk about hardship, when you don't have to worry about hardship any more, it's practical difficulties. And the reverse corner nature of this lot introduces the idea of practical difficulty. Yeah, a practical difficult situation to deal with and our job is to say is the presented proposal a reasonable way to deal with those practical difficulties and I'm finding that it is.

**Matt Perry:** Mr. Manning?

**Bruce Manning:** Well whenever we go through these and we hear from a lot of neighbors, I shade in on the area map who I've heard from and what position they take. I have a blue pen tonight, and the house is completely surrounded by blue. And that always causes me some concern about whether the Board or me has properly understood the third prong about the not altering the essential characteristics of the neighborhood. After all when I fill in most of the map like this it suggests that the neighbors (unintelligible) that it doesn't. Sometimes it's also indicative of a breakdown between a new neighbor or builder and the existing neighborhood. As you can all recall some of those tragic stories have been played out in front of us. Some of which we still drive by because haven't finished being built because of gaps between new neighbors and builders and existing neighbors don't get healed. So part of me is just sad about this (unintelligible). If - it's a pornographically appealing house. Not quite as appealing as an empty lot. And that's tough for everybody. I think Mr. Miller was very right to say that the increased view that he's enjoyed has been a gift and I commend him for recognizing that and I think the other neighbors have as well. I am generally inclined to think that a reverse corner lot which is held to front yard setbacks, including a massive one on Cedar Lake, does have significance (unintelligible). I'm also inclined to believe that as talented an architect as we have here and as dedicated homeowners as we have

here, that if they had known that they needed to push back a bit further on 21<sup>st</sup> or that the neighbors would be concerned about it, they could have solved this problem. There is a solution that's clearly there. I'm inclined to believe that if we had a do over that we would have had a house more delicately presented to the neighborhood and one that could solve the problem. Because 10 feet or 12 feet or 14 feet amassing along 21<sup>st</sup> are all things that this team could have addressed. I'm presented with a plan that causes me all the discomfort and all that unhappiness and it's a fraction of what everybody in the room, on both sides of the aisle are feeling. I am also appreciated, now Mr. Froehle and I believe it was Ms. Connor, who live along 21<sup>st</sup>, acknowledging that yet their house is much more closer to 21<sup>st</sup> than the proposed structure would – string test of front yard setbacks require us to deal with what was already there. Whether or not it should be so. In other words, a 73 foot setback on the front comes from that cottage owner, I think it's Miss Pearson, the position of her house is driving how far off Cedar Lake the setback should be. And I think similarly, if the closer positions of the homes along 21<sup>st</sup>, all of whose residents we heard from today that set the front yard setback along 21<sup>st</sup>. Or at least set the expectation for the front yard setback along 21<sup>st</sup>, and we can't address – I don't have the tools to address or process math of the house along 21<sup>st</sup>. Mr. Perry and Mr. Hanuer repeated that it's appropriate to Code. I don't have the tools to address whether that masonry wall, it's a little disingenuous to call it a fence, right? That masonry wall is causing problems for the alley or not. It's apparently within Code and doesn't need a variance. And I don't have the tools to address whether or not that given what has happened in the last 10 days in this neighborhood property, the right thing to do in the sense of wisdom is to grant the variance. But I am inclined to agree with our Board members that when we've got 21<sup>st</sup> Street setback that is less intrusive than the existing setback on 21<sup>st</sup> on a reverse corner lot, independent of issues of scale and flexibility and talent, that we tend to grant those because we believe that the property (unintelligible). I am curious to hear if other Board members were, I was, intrigued by the distinction between the home and deck. I can't recall, in my time here, an out building like this bathroom on the deck, and I was – I can't remember who raised it now, one of our early speakers raised this issue about the difference between those two. So I'm wondering if there are others who are seeing those differently. That's the end of my rambling comments today and I hope you have a really nice neighborhood night out in coming years together.

**Matt Perry:** Thank you Mr. Manning. Mr. Cahill?

**Sean Cahill:** I actually agree with Mr. Manning. I do see a distinction between part A and part B. I'd address that I think part A is pretty solid in terms of staff findings. I agree with staff findings. I think they did the right job with (unintelligible) the house and the setback is merited. The deck is what I heard the most concern about, and particularly on finding number 3 regarding whether or not it would be injurious to the use and enjoyment of other property in the vicinity. And for what I've heard from the neighbors I've heard sight lines, which I believe Mr. Ditzler is correct in saying you're not guaranteed, but I do take into consideration. The half bathroom on the corner does throw me off a little bit and the fact that you could fit the pool without the deck also weighs on my mind. I'd like comment from other Board members on how perhaps to balance that

route. My inclination right now is looking at it as well, sight lines aren't guaranteed. I don't believe safety's going to be affected given the fact that there's still a 73 foot setback from the Cedar Lake Parkway. I do believe 10 feet would merit it. It is safe enough given that we have, if it was not the reverse corner lot, but simply a corner lot it would still be acceptable. So I'd invite other Board comment, but I do believe A is sound and we should support staff finding, but I'd be willing to hear comment on part B. Thank you.

**Matt Perry:** Alright. Yes, Mr. Ditzler?

**Matt Ditzler:** I have a question, I'll ask and you can decide who it should be asked to. If the plan that we were given didn't have a pool, just a deck, and they get their variance and they want to put a pool in, do they need another variance? I'm assuming the answer is no, but maybe I'm wrong. The reason why I'm asking is because I don't know if bathrooms and pools – these seem to me to be design elements. We seem to be outside of our scope and I'm just getting some clarification. But maybe they're not.

**Matt Perry:** I'll let staff speak to that. I think the answer is no, but let's hear from staff.

**Aaron Hanauer:** Chair Perry, Board member Ditzler, the bathroom would not – the pool would not need a variance for – because it's outside of the setbacks, both on Cedar Lake and 21<sup>st</sup> Street. And then the – there was discussion on that bathroom and it being – it is set back further than what the home is itself. So that was called out as part the deck but it's set back further than what the home is. So it's the proposal, it's the design that came forward to us and that's part of the variance request.

**Matt Perry:** Did that answer the question?

**Matt Ditzler:** I think so.

**Matt Perry:** Okay. We have spent a considerable amount of time. I hope we are all wiser for the time that we have spent. I would look for the Board to start to move toward a motion. Mr. Sandberg?

**Dick Sandberg:** Thanks Mr. Chair. I just wanted to thank Mr. Manning for expressing the frustration that we probably feel in this whole situation. Starting with the fact that the Applicants tried to conform to what they thought were the requirements avoiding a variance in the first place and continuing on into, you know, the effect this will have on the neighborhood. I think in the long run the effect it will have on the neighborhood in this City is going to be positive and I agree with staff recommendation however. So I will make a motion to move staff recommendation.

**Matt Perry:** Alright, there's a motion to move staff recommendation is there a second?

**James Nutt:** Second.

**Matt Perry:** There is a second. I almost hesitate to say this, but is there further discussion on the motion? And I only say that because we have had quite a bit of discussion so I hope everybody feels, as I said, informed and wiser about their decision. Okay, and for the members of the public, since you're not down here every two weeks, the Chair does not vote except in the case of a tie so that I can be as objective in the proceedings as possible. And with that I will ask the clerk to please take the roll.

**Clerk:** Mr. Cahill?

**Sean Cahill:** Yes.

**Clerk:** Mr. Ditzler?

**Matt Ditzler:** Yes.

**Clerk:** Mr. Finalyson?

**John Finlayson:** Aye.

**Clerk:** Mr. Keobounpheng?

**Souliyahn Keobounpheng:** Yes.

**Clerk:** Mr. Koch.

**Chris Koch:** Yes.

**Clerk:** Mr. Manning?.

**Bruce Manning:** No.

**Clerk:** Mr. Nutt?

**James Nutt:** Yes.

**Clerk:** Mr. Sandberg?

**Dick Sandberg:** Yes.

**Clerk:** The motion passes.

**Matt Perry:** Alright. Those variances as requested, with the conditions, as found in the staff report are approved. And for those who are – have a difference of opinion about the decision please see staff for what your options are going forward.