



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

Date: November 10, 2010

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

Referral to: Zoning & Planning Committee

Subject:

Name of Appellant: Jason McLean

Name of Original Applicant: Jason McLean

Property Address: 1116 Vincent Avenue South

Ward #: 7

Appeal of decision of the Zoning Board of Adjustment Jason McLean has appealed the decision of the Board of Adjustment to deny variance applications to reduce the required front yard along Vincent Avenue South from the setback established by connecting a line between the two adjacent structures of approximately 75 feet to approximately 50 feet to allow for an enclosed walkway and to approximately 10 feet to allow for a parking area at the property located at 1116 Vincent Avenue South in the R1 Single-Family Residence District.

Recommendation:

The Zoning Board of Adjustment and staff recommend concurrence with the action taken on September 16, 2010, for the property at 1116 Vincent Avenue South, Ward #7, as follows:

2. 1116 Vincent Avenue South (BZZ-4915, Ward 7)

A. Variance: Variance: Jason McLean has applied for a variance to reduce the required front yard along Vincent Avenue South from the setback established by connecting a line between the two adjacent structures of approximately 75 feet to approximately 50 feet to allow for an enclosed walkway located at 1116 Vincent Avenue South in the R1 Single-Family Residence District

ACTIONS: The Board of Adjustment **adopted** the findings and **denied** the variance to reduce the required front yard along Vincent Avenue South from the setback established by connecting a line between the two adjacent structures of approximately 75 feet to approximately 50 feet to allow for an enclosed walkway located at 1116 Vincent Avenue South in the R1 Single-Family District.

B. Variance: Jason McLean has applied for a variance to reduce the required front yard along Vincent Avenue South from the setback established by connecting a line between the two adjacent structures of approximately 75 feet to approximately 10 feet to allow for a parking area at the property located at 1116 Vincent Avenue South in the R1 Single-Family Residence District.

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Previous Directives: None

Prepared by: Shanna Sether, Senior City Planner, 612-673-2307 Approved by: Jason Wittenberg, Planning Manager, 612-673-2297 Presenters in Committee: Shanna Sether, Senior City Planner, 612-673-2307

Community Impact

- Neighborhood Notification: Bryn Mawr Neighborhood Association was 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 September 29, 2010, staff sent a letter to the applicant extending the 60 day decision period to no later than December 14, 2010.

Background/Supporting Information

Jason McLean has filed an appeal of the decision of the Board of Adjustment to deny variances to reduce the front yard setback along Vincent Avenue South from the setback established by connecting a line between the two adjacent structures of approximately 75 feet to approximately 50 feet to allow for an enclosed walkway and to approximately 10 feet to allow for a parking area at the property located at 1116 Vincent Avenue South in the R1 Single-Family Residence District. At its meeting on September 16, 2010, the Board of Adjustment voted 5-3 to adopt staff findings and deny the required variances. The appeal (attached) was filed on September 27, 2010. The appellant's complete statement of the action being appealed and reasons for the appeal are attached. In addition, the appellant has provided a revised drawing that would reduce the floor area of the enclosed walkway located in the required front yard to approximately 10 square feet. The Board of Adjustment minutes and Planning Division staff report are also attached.

Department of Community Planning and Economic Development - Planning Division Report
Variance
BZZ-4915

Date: September 16, 2010

Applicant: Jason McLean

Address of Property: 1116 Vincent Avenue South

Project Name: 1116 Vincent Avenue South

Contact Person: Jason McLean, (612) 374-1868

Planning Staff: Shanna Sether, (612) 673-2307

Date Application Deemed Complete: August 16, 2010

End of 60 Day Decision Period: October 15, 2010

Ward: 7 **Neighborhood Organization:** Bryn Mawr Neighborhood Association

Existing Zoning: R1 Single-Family District

Zoning Plate Number: 17

Legal Description: Not applicable

Proposed Use: A four-season enclosure connecting a single family home to the detached garage and a new parking area along Vincent Avenue South

Concurrent Review:

- **Variance** to reduce the required front yard along Vincent Avenue South from the setback established by connecting a line between the two adjacent structures of approximately 75 feet to approximately 50 feet to allow for an enclosed walkway
- **Variance** to reduce the required front yard along Vincent Avenue South from the setback established by connecting a line between the two adjacent structures of approximately 75 feet to approximately 10 feet to allow for a parking area

Zoning code section authorizing the requested variance: Chapter 525, Article IX Variances, Specifically Section 525.520(1)(1)“to vary the yard requirements, including permitted obstructions into required yards not allowed by the applicable regulations.”

Background: The subject site is approximately 50 ft. x 150 ft. (8,862 sq. ft.) and consists of single family dwelling with a detached garage located in the front yard along Vincent Avenue South. The existing detached garage is a two-story garage with a studio on the 2nd floor. The applicant is planning to

eliminate the parking area and change the functionality of the detached garage to instead provide additional habitable space.

The subject property is zoned R1, Single-family District which does not allow for a second dwelling unit on the property in a separate detached structure. A second dwelling unit is prohibited by the zoning ordinance in R1 District. There are no variances that allow for the second dwelling unit on the property. Therefore, the applicant is proposing to remove the kitchen in the existing dwelling and construct a four-season, enclosed walkway connecting the single-family dwelling to the existing detached garage in order to comply with the zoning code provision 535.190.

535.190. Limit of one (1) principal residential structure per zoning lot. Except in the case of cluster developments and planned unit developments, not more than one (1) principal residential structure shall be located on a zoning lot, nor shall a principal residential structure be located on the same zoning lot with any other principal structure.

The proposed walkway is located in the required front yard along Vincent Avenue South. The existing dwelling is located approximately 100 ft. to the front property line. The adjacent structure to the south is located 8 feet to the front property line. The adjacent structure to the south, however, is located approximately 90 ft. to the front property line. The minimum front yard setback in the R1 District is 25 ft. However, the required front yard shall be increased where the established front yard of the closest principal building originally designed for residential purposes located on the same block face on either side of the property exceeds the front yard required by the zoning district. In this case, the front yard setback is increased to approximately 75 ft., at the furthest point, based on the location of the adjacent structures.

As previously mentioned, the applicant is planning to remove the existing vehicle space on the first floor and convert that space into additional studio space. The applicant intends on providing a permanent parking area in front of the detached garage, which is also located in the required front yard along Vincent Avenue South. A parking area is not a permitted obstruction in the required front yard; therefore, the applicant has applied for a variance to reduce the required front yard along Vincent Avenue South from the setback established by connecting a line between the two adjacent structures of approximately 75 feet to approximately 10 feet to allow for a parking area.

Staff has received a letter of support from the Bryn Mawr Neighborhood Association. Staff will forward additional comments, if any are received, at the Board of Adjustment meeting.

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.**

Both variances: The applicant is seeking variances to reduce the required front yard along Vincent Avenue South to allow for the conversion of the existing detached garage to additional habitable space. In order to accomplish this, the applicant is proposing to construct an enclosed walkway connecting the single-family dwelling to the detached garage and relocating the existing

parking inside the garage to the parking area in front of the garage. The applicant states the adjacent neighbor to the south recently demolished their garage, which now imposes a 70 ft. setback instead of a 20 ft. setback, based on the previous location of the garage. Strict adherence to the regulations would not allow for the enclosed walkway or the parking area in the required front yard. Based on the submitted information, staff believes that there are reasonable alternatives to the variance where the applicant could add habitable space to the property outside of the required yards and thus would not cause undue hardship.

- 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.**

Both variances: There are unique characteristics of the parcel, including the substantial required yard along Vincent Avenue South, the location of the existing structures on the parcel and the steep grade change. However, the circumstances for which the variances are sought are not unique to the parcel of land. The zoning ordinance prohibits two dwelling units in the R1 District; therefore the applicant has proposed to create a connection between the two structures, in order to revert the use to a single-family dwelling. The conversion of the remainder of the garage to habitable space displaces the off-street parking from within the structure to the required front yard, between the garage and Vincent Avenue South. These are circumstances created by the applicant.

- 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.**

Both variances: Granting of the variances will likely alter the essential character of the surrounding neighborhood and or will be injurious to the use or enjoyment of other property in the area. The proposed walkway enclosure will not likely be visible, except during the leaf-off months; however, the proposed construction will be out of character with other houses in the vicinity. In addition, the other structures in the vicinity utilize their accessory structures for the parking of vehicles and do not solely rely on parking areas in the required front yard. The spirit and intent of the ordinance is to allow for a single-family dwelling in the R1 District. The applicant is attempting to retain the use as a single-family dwelling by attaching the existing structures and retaining the three components of a dwelling: one kitchen, bathroom(s) and sleeping room(s). In addition, the applicant is proposing to convert garage space to studio space in order to have a two story studio in move the parking area to the front yard.

- 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.**

Both variances: Granting the setback variances would likely have no impact on the congestion of area streets or fire safety, nor would the proposed addition to the existing single-family dwelling be detrimental to the public welfare or endanger the public safety. The applicant must work with the Plan Review division of the Regulatory Services Department to ensure that the project complies with the building code.

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

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the findings above and **deny** the variance to reduce the required front yard along Vincent Avenue South from the setback established by connecting a line between the two adjacent structures of approximately 75 feet to approximately 50 feet to allow for an enclosed walkway located at 1116 Vincent Avenue South in the R1 Single-Family District.

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Attachments:

- 1) Written descriptions and findings submitted by the applicant
- 2) Copy of e-mail sent to Bryn Mawr Neighborhood Association and CM Goodman
- 3) Correspondence from the neighborhood association and neighbor
- 4) Zoning map
- 5) Site plan
- 6) Photographs

Board of Adjustment Minutes September 16, 2010

1116 Vincent Avenue South (BZZ-4915, Ward 7)

A. Variance: Jason McClean has applied for a variance to reduce the required front yard along Vincent Avenue South from the setback established by connecting a line between the two adjacent structures of approximately 75 feet to approximately 50 feet to allow for an enclosed walkway located at 1116 Vincent Avenue South in the R1 Single-Family Residence District

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Matt Perry: Let's move on to item number 2, that item is 1116 Vincent Avenue South. Ms. Sether.

Shanna Sether: Thank you Mr. Chair, members of the Board. The next application before you is a series of two variance requests for the property located at 1116 Vincent Avenue South. The Applicant and property owner is Jason McLean and he is here today. The proposed use of the property that requires a variance is a four-season enclosure that will connect the existing single family dwelling to the existing detached garage listed as existing studio on the site plan. The required yard for this structure is based on the string test connecting the principle structure on the adjacent property to the attached garage on the property next door, so on the two sides. From the furthest point here, it's approximately 75 feet for a setback. So the Applicant is requesting a variance from 75 feet down to approximately 50 feet, and that's measured at this point, to allow for this portion of a four-season enclosure between the house and the detached garage. The second variance is to allow for a parking area to be established in the required from yard. So again, we measure at the furthest point, which is 75 feet, down to essentially somewhere between zero and 10 feet. We measure basically where you'd be able to park a car, so that would be here away from the front property line. It doesn't preclude the ability to park necessarily within that 10 feet except on – it can only be done temporarily.

And temporarily is not defined by the Zoning Code. So essentially it's to allow for the parking area here and this portion of the four-season enclosure. The purpose for this particular project is to allow for the Applicant to utilize the additional habitable space within the existing detached garage. When the structure was built, it was built with plumbing, kitchen area, bathroom area, and the property owner would like to utilize the remainder of that existing detached garage. One of the pictures provided by the Applicant showing that essentially the function of this particular structure as a garage is no longer really used in that manner. In order to use this as habitable space, or living space, there can only be one principle residential building on the zoning lot. So essentially you couldn't have one dwelling unit here and one dwelling unit here. And as we mentioned in the past application there are three components of dwelling unit: sleeping room, kitchen and bathroom. So right now, all three of those components exist. In the existing detached garage, also known as the studio, and the existing family home that's up the hill. The Applicant in order to comply with the Zoning Code would have to connect those structures. He's chosen to do that with the enclosed walkway and then it would require the removal of one of the kitchens. So we would have essentially with this plan, a single family dwelling. We would have habitable area within the existing detached garage, a four-season habitable walkway connecting to the existing family home, the sleeping rooms, bathrooms aplenty, but only one kitchen. And that's what differentiates between a two-family dwelling and two principle residential structures. And as previously mentioned, by converting the remainder of the existing detached garage to habitable area displaces the parking. So the parking would have to occur predominantly or only within that parking pad to provide the off-street parking space. Staff is recommending denial of the proposed variances to reduce the front yard setback along Vincent Avenue South for both the enclosure, the four-season enclosure, and the also the parking pad based on the following findings: Staff believes that there is reasonable use of the property without the need of the variance, and that the Applicant is trying to utilize provisions in the Code to essentially get around a situation to allow for habitable area within an existing detached garage. Strict adherence to the regulations would not allow for either the enclosed walkway or the permanent parking area in the front yard. And staff does not believe that alternative to the variance would create undue hardship which would be to utilize the existing garage for its original intent which was the parking of vehicles, and to continue to occupy some of the habitable space on the second floor of the garage with the removal of the kitchen. Staff does not believe that the circumstances of this particular request are unique to the parcel of land, with the exception of the fact that the enclosure connecting the existing single family dwelling to the detached garage would alleviate some of the issues as far as climbing the hill to gain access between the two structures. You can tell from this picture here, this is the top- or the rooftop deck of the existing garage and there's a substantial grade change from the existing detached garage to the single family dwelling. If the enclosure was needed perhaps solely for to gain better access and the rather large increased front yard requirement were there, staff may have considered that differently. But staff believes that this particular proposal is only to really allow for habitable space and the kitchen to remain in the existing detached garage. Similarly, the conversion of the remainder of the garage to habitable space displaces the off-street parking from within the structure where it would be allowed to outside of the structure where it is currently provided. And we can

see that with the picture provided by the Applicant. Granting of the variances will likely alter the essential character of the surrounding area and could be injurious to the use and enjoyment of other property in the vicinity. While the proposed walkway is not likely to be visible, except during leaf off months, the proposed construction will be out of character with other houses within the area. It's pretty rare that we see this type of enclosure connecting garages to houses in the City of Minneapolis. The spirit and intent of the Ordinance, further, is to allow for a single family dwelling and an off-street parking space. This particular design is not consistent with the spirit and intent of the Ordinance which is to retain the components of a dwelling unit within the building that's intended to be the dwelling unit, the single family home at the top of the hill. Separate from that of the detached accessory structure which is for the parking vehicles and additional storage space. Staff, however, does believe that granting of the setback variances would likely have no impact to the congestion of the public streets, be detrimental to fire, nor will the proposed addition to the existing single family dwelling endanger the public welfare or public safety. In order to make this particular plan work, the Applicant will have to work within the existing building codes and the Building Code Plan Review Division to ensure that it is a four-season habitable walkway that connects the two structures in order to meet the Zoning Code provision that would allow us to recognize this as one single dwelling, essentially with the walkway between the two components. With that, staff is recommending denial of the variance to reduce the front yard setback along Vincent Avenue South from approximately 75 feet to 50 feet to allow for the enclosed walkway, and denial of the variance to reduce the required front yard along Vincent Avenue South from approximately 75 feet to 10 feet to allow for the parking area at 1116 Vincent Avenue South in the R1 District. And with that I can take any questions.

Matt Perry: Thank you Ms. Sether for the presentation. Mr. Nutt?

James Nutt: Thank you Chairman Perry. From our last discussion – so it would be illegal for them after they move this kitchen to this corridor, to the south most structure, it would then be illegal for them to place another kitchen in the current residence?

Shanna Sether: That is the existing situation. So right now we have two kitchens, one in each of the dwellings. So in order to comply with the Zoning Code, even with this proposed project, they would have to remove one of the kitchens.

James Nutt: The second question would be part of the variance would be the creation of this permanent parking, is that correct?

Shanna Sether: Yes. So it would be a separate variance.

James Nutt: And with the string test - I mean it does send the setback incredibly far back, but even if the string test wasn't there, this would still not be in compliance?

Shanna Sether: It would be in compliance with the R1 District which has a minimum setback of 25 feet. So 25 feet only takes us about half way between the front property line and the proposed enclosure.

James Nutt: But to create a permanent parking within that 25 feet?

Shanna Sether: Oh, yes. For the parking area it would not comply with the District minimum which is 25 feet.

James Nutt: And just one more thing, in the information from the Applicant it says a couple times - tell me if this matters or not – it says: the owner wishes to build approximately 45 square feet of structured walkway upon the area behind the garage (end of tape – Side 2) ... thanks for that clarification.

Matt Perry: Are there other question of staff? Mr. Sandberg.

Dick Sandberg: Thank you Mr. Chair. When the garage studio was constructed was the studio with utilities a permitted use?

Shanna Sether: The Zoning Code allows for a detached accessory structure on a subject parcel. The interpretation about whether or not utilities are allowed has varied over time. Essentially, at the time the building permit was issued to allow for the studio above, we did allow for a slop sink, or plumbing to be had within the building for folks that – a utility sink for things that are outdoors messy. It allows for plumbing so that you can of those things in the garage. It also allows for electric, of course, and the electric is a common component with a detached accessory structure attached, especially for the allowing of an automatic door opener and lighting and other things. So utilities as far as plumbing and electric at the time the permit was issued – yes, you could do that. However, to the extent that it was provided exceeds what is allowed the Zoning Code because it's greater than a utility sink. There's a full kitchen, full bathroom, and that is greater than what would be allowed at the time per Zoning.

Dick Sandberg: Okay, and to follow up on the question, was the conversion of the parking space in that structure to additional studio space permitted when that work was done?

Shanna Sether: No, that would be the only legal parking space on the property. So the conversion of the first floor to habitable area which displaces the only parking area that would have been legal does not comply with the Zoning Code. So even though the location of the detached garage is within the required yard, it was an existing structure and they received approvals to locate it in that particular location.

Matt Perry: Mr. Keobounpheng?

Souliyahn Keobounpheng: Thank you chair. Just a minor clarification. The upper story of this structure is finished and the lower main level, meaning ground floor, is also finished?

Shanna Sether: Yes.

Souliyahn Keobounpheng: It seems like you can't get a car in there, but ...

Shanna Sether: No.

Souliyahn Keobounpheng: So it's converted into a habitable space?

Shanna Sether: The Applicant has done extensive landscaping to the front of the property and to park a vehicle in there is no longer possible. There are a series of retaining walls and landscaping that prohibit a car from accessing the front of the garage.

Souliyahn Keobounpheng: Okay, thank you.

Matt Perry: Mr. Koch.

Chris Koch: A couple questions. So it looks like the Jeep is parked there, is that illegal now because he's parking in the front yard?

Shanna Sether: The Zoning Code is a little bit vague when it comes to parking on a driveway. It says a vehicle is allowed to be parked on a driveway temporarily. The Zoning Code does not define what temporary is. So when looking at this particular application when we know full well the parking space within the garage has been displaced outside we have to recognize an additional variance is required to locate the parking area in that front yard, because that essentially becomes the permanent parking area. Whether or not Zoning Enforcement or Housing Enforcement would have just identified a Jeep parked there more than what they consider to be temporary, then a violation would be issued. But it's pretty rare because a Zoning Inspector or a Housing Inspector would have to be by the site several times and see that the Jeep basically doesn't move.

Chris Koch: Does Zoning require an off-street parking on a single family residence?

Shanna Sether: Zoning does require one off-street parking space per dwelling unit. So in this case one off-street parking space is required for this use as a single family dwelling.

Chris Koch: So my logic would tell me that it needs to be an enclosed space then?

Shanna Sether: Not necessarily. The space can either be outside or inside an enclosed structure, but it has to be located at a permitted location. The proposed location has not

received approvals for the permitted parking area. Therefore they've asked for that additional variance today.

Chris Koch: Okay, and then could you address a little bit - the Applicant refers to these conditions were created because a neighbors garage was torn down?

Shanna Sether: The neighbor directly adjacent to had a garage here and that garage is no longer there. So what they are saying is the true setback should be measured – would have been measured previously something along this. Where then only the 25 foot District setback would be in place. However, Zoning measures from the closest principle structure to the front lot line, so with or without this garage being in place the string test would have still been applicable.

Chris Koch: Thank you.

Matt Perry: Mr. Manning?

Bruce Manning: Thank you Mr. Chair. In the discussion you just had with Mr. Koch, the off kilter front existing building on the right is in fact a garage, right?

Shanna Sether: It is. This is the principle portion of the dwelling, but this is an attached garage thereby making it part of the principle structure.

Bruce Manning: Thank you.

Matt Perry: Alright, any other questions of staff? We're really quizzing you today.

Shanna Sether: Thanks very much.

Matt Perry: Is the Applicant present and would you like to make a statement sir? If you could state your name and address for the record.

Jason McLean: Good afternoon honorable Board. My name is Jason McLean, I reside at 1116 Vincent Avenue South, of which I am the property owner. Okay, forgive my sort of crude hi-liter lines, but Vincent Avenue South there is indicated thusly. The pink line is a reasonable indication of the setback that would be applied if all of the structures on the street were considered and it would include the area where the garage studio is and was constructed apparently by legal permit despite the accessory use structure of my neighbor's now demolished garage. So I'm not quite sure – I don't follow the logic of that, how it would receive a permit to build and Zoning review would allow it then but not now if accessory use structures are not included in the determination of the front yard setback . This is the same map, but the pink hi-liter line now indicates in a little broader survey than the pictures we've looked at so far, what happens when the front yard setback line is redrawn to satisfy what has been referred to as the string test, between my adjacent neighbors' properties. I think it speaks clearly that there is a significant deviation in the consistency of the front yard setbacks between every single other neighbor property on

Vincent Avenue South. And in fact, if you looked at the entire Bryn Mawr neighborhood you'd see this would be radically different than the norm. Now I'm going to go on script here so I don't repeat myself or get too windy, which I've been known to do.

Matt Perry: That would be very much appreciated.

Jason McLean: You bet. I'm on it. Dated today September 16, 2010, honorable Board of Adjustment, my name is Jason McLean. I'm the owner of the residential property at 1116 Vincent South. I also own several properties and successful businesses in the City including The Loring Pasta Bar and the Varsity Theater. I mention those to extend an understanding that I have some diverse experiences as a property owner in our city. I am addressing you concerning my variance request on which I have been working for over a year and in consultation with the Zoning Inspector (sic), **Shanna Sether** and Steve Poor. My attorney advised me to just stick to the facts and documents and that is what I will try to do. You will forgive me if I stray into my own comments as I am a long-time resident of Minneapolis. First, I have to apologize that I did not see the staff's Findings until yesterday. I've been so accustomed to communicating by e-mail that I often don't check my mail for days on end, which happened here. In fact, as I'm sure both Ms. Sether and Mr. Poor would acknowledge, I have communicated with them only by e-mail or in person. My point is that staff failed to e-mail me the Findings only that due to that being my communication habit. I did not see and was unable to post the required notices on my property until last night. It also prevented me from being able to prepare a thorough response as I believe I need. If the Board sees fit to offer a continuance to the next meeting I would be grateful. Otherwise, I'll do my best to present my position enabling you to make the most informed decision that you can. The Memorandum from CPED-Planning Division instructs in the first paragraph that if I disagree with portions of the Staff Report I should be prepared to address the commission

Matt Perry: Mr. McLean

Bruce Manning: (speaking over Mr. Perry) Mr. McLean, I'm sorry, if may interrupt. Mr. Chair, if I may ask a question of the chair. I think we may have a notice problem and if I'm correct that we in fact do, I think the only remedy is to continue and properly notice this to the surrounding property owners.

Matt Perry: Well, let's determine first if we have a noticing issue. Secondly, as you may recall, we in the last couple months had a similar issue potentially where there was a noticing issue and it is up to the Board to decide here whether in fact proper notification has been made. And so if you would, Ms. Sether.

Shanna Sether: The first notification went out to the Bryn Mawr Neighborhood Association 21 days prior to this public hearing today. We do have feedback from them and they had voted to not object to this particular variance. So we know full well that they received that. The property owner mailing list for notifications was sent out 15 days prior to today's public hearing, and we also have a number of – I believe we might have residents here today as well as we've received a number of letters from surrounding

property owners in support of this particular project. So we know full well that those particular notifications were sent out 15 days also prior to today's public hearing Finance & Commerce published the notification for today's public hearing. I was informed earlier today that Mr. McLean had overlooked the four orange placards that were in his mailbox and I consulted with the supervisors and they indicated to me that a *bona fide* effort had been made and we as staff did not need to request continuance on behalf of the Applicant but instead leave it to the Zoning Board of Adjustment to make a determination as to whether or not sufficient notification has been made.

Matt Perry: Thank you. So we do have the right and responsibility in a situation like this to make a determination whether we feel there has been proper notification and if someone would like to make a motion and get a second and make an argument for it, I'd like to hear that. Mr. Ditzler?

Matt Ditzler: I move that we continue this item one cycle. I think exactly the same as the other item that we had this issue with in Southwest Minneapolis, and forgive me, I can't remember the address where the Applicant freely admitted, and we were glad that they did, that they did not placard the property. It is one of the required notifications and while the other ones were upheld this one was not. And I move that we continue it once cycle if we're still within the 60 day clock window.

Matt Perry: Is there a second?

Bruce Manning: Second.

Matt Perry: There's a motion and a second. I will point out for the Board to remember when you are considering this that an argument was made for that last item where we did continue it because there was a lack of proper notice. One of the arguments was due to the fact that the property was across from the school and those people would not necessarily have received any of the information through the other distribution channels that folks would have received through notification. They would have only been aware of it through the orange placards in that case. I'm not suggesting, as you guys know unless there's a tie I don't vote. I'm just calling to attention there was that particular argument that was made. Mr. Koch?

Chris Koch: I was going to make the same point. I believe I won't be supporting the motion because I think that there was proper notification and it is a different situation. I recall the other one was that there was a school and people would have not received the mailings and the school was directly impacted based upon our findings. Here, the neighbors I think that are impacted had been notices.

Matt Perry: Mr. Finlayson?

John Finlayson: I concur with Mr. Koch.

Matt Perry: Any other comment? Okay there's a motion on the floor to continue one cycle and there's second. Will the **Clerk** please call the roll?

Clerk: Mr. Cahill?

Sean Cahill: Yes.

Clerk: Mr. Ditzler?

Matt Ditzler: Yes.

Clerk: Mr. Finalyson?

John Finlayson: No.

Clerk: Mr. Keobounpheng?

Souliyahn Keobounpheng: No.

Clerk: Mr. Koch?

Chris Koch: No.

Clerk: Mr. Manning:

Bruce Manning: Yes.

Clerk: Mr. Nutt?

James Nutt: No.

Clerk: Mr. Sandberg?

Dick Sandberg: Yes.

Clerk: It's a tie.

Matt Perry: And so, I am going to vote No. I believe for the reasons I stated earlier that proper notification has occurred. This situation is very different past. The interest here is to make sure that those people who are affected are aware that this is going on. I think we have ample evidence based on Ms. Sether's comments of the people who are here today and the responses that we got and so forth there was proper notification so I will be voting No. So the motion fails. If you would please continue Mr. McLean.

Jason McLean. Okay, thanks. Well number one of the concerns, as I mentioned, though it was unintended, I'm at a disadvantage at this time to present my case in sufficient

detail for you to make a fully informed decision. But that being what it is again the background on this is that our customary mode of communication was e-mail. There is e-mail correspondences of nearly 50 e-mails that went back and forth between myself and Ms. Sether and Steve Poor. Then the line went quiet and I don't check my e-mail more than once a week if that. That's where it's at. Number two, my request for the variance has been embraced by the nearest affected neighbors to the subject address. They also may wish to be involved in the debate. One of them John Asea (sic) is here with us today. Two others that took the time to write letters of support that are the two other most affected neighbors are not here today. I know one of them let me know that he was working so he couldn't be here. Of course, the Neighborhood Association has given its support. Dick Hedlund gave his support, Linda Shaheen and Todd Marshall gave their support August 9th and August 4th respectively. Additionally, Dick Hedlund resent his message of support on September 7th. He further copied me on this fact in a letter for me just this morning and I've got a copy of that letter. It's dated August 4th. John Lasilla just gave me another letter this morning expressive of his feelings. Number three, I'm confused as to the listing of the two variance requests. I was consistently informed by the City staff person with whom I worked most closely on this application and there was, after her study of the situation, just one variance needed since it was the subject of discussion at our May 13th in person interview, she was aware that another City Inspector, Stuart, was intent on the parking issue. Shanna stated to the effect quote: "I'll fight to the death that concrete or asphalt are not required." unquote. As Stuart asserts it's an interesting sidebar note that just across the street Antoinette Avenue is a porous pavement test site. Following the City staff's advice, I applied for the variance only for the front yard setback requirement and the Findings and Recommendation memorandum there's a note that appears that two variances are considered on pages 1 and 2. As a result I'm at a disadvantage for preparing for and arguing the second variance request noted. Number four, incidentally, through the City Findings, though the City Findings indicate one adjacent neighbor to the south as having an established front yard setback of 10 feet and the other neighbor to the south, same south, as having a setback of 90 feet. Obviously a typo, but... Number four (sic), I've got disagreements with certain definitions that are being relied upon to arrive at findings of City staff. One is quote "established setback". Now it's my experience here that this has become a moving target. The setback for my property was established decades ago, before I purchased the property when both adjacent neighbors had structures that established a setback line that was reasonably within the standards of other houses on the same block as I illustrated with my drawings there. Had one neighbor's garage not caved in with age and thus been ordered by the City to be demolished two years ago, the established setback would easily obviate this entire procedure. I respectfully submit that established means established. It's not a moving target, and especially in this instance the reestablishment of a once established setback results in depriving me of the reasonable use of almost of the front 50 percent of my property. This is not my doing, but the result of circumstances over which I had no say or control. What's more, this revising of the once established setback results in making my 22-year-old picturesque studio now itself in violation of the setback. Even though it is well back of all of the other properties on this same Vincent Avenue and almost every other property address in the entire neighborhood. I am researching the statutes on this and I need additional time to provide the full extent of evidence that I

wish to have to back up this argument. Number six, on page 3, and I do have copies of this for you guys, at the very top City staff notices - notes that Applicant is planning to eliminate the parking area. I have not done that. It's not my intention to do so. I'll editorialize that about that in the second section of my comments. Again I point out that I was plainly informed by the City staff that I need not address the parking as she sees it is not an issue. The only variance I needed to address was the front yard setback with respect to my proposed construction. Although I engaged department manager, Steve Poor on this. Questioned him respectfully on what I saw as a puzzling need to get a variance to build behind my 22-year-old studio and my understanding of his recommendation that it was the best procedure for me to proceed with a variance application. I respect Mr. Poor's advice and I followed it. Similarly, the definition of the regularly used term *residential purposes* is a term I also believe is misconstrued. I argue that the spirit and intent of the term *resident purposes* is to rule out uses that are not of a residential or residentially nature such as a commercial or industrial use. And to conform to the basic nature of the area is the question. The studio or garage, if you will, is involved in a citizen taxpayer's reasonable residential use. In my particular circumstance I am not using the structure to operate retail or wholesale businesses, nor am I manufacturing anything except the latest and greatest prototypes recipes for the Loring Pasta Bar menu to try on two or four guinea pigs otherwise known as my small family. My adjacent neighbors both probably do some professionally related work within their domiciles. Dick being an expert professional musician, he has a drum kit, string bass, some recording equipment. John Lasilla probably works on interior designs and compiles fabric swatch boards and so forth. Obviously, I am not introducing – I'm you know, I'm saying some funny stuff about a subject that's not really very funny. But it does illustrate the appropriateness and in character use for which I seek the variance. In addition, Statute or Ordinance 537.80 references garages as being of residential use. On page 3 of the Findings City staff opines that the proposed structure to connect the two structures and thus make them one will be out of character with the other houses in the vicinity. Well I respectfully disagree. Speaking as a design professional myself, owner of Jason McLean Designs, Loring Design Build Guild, being a winner of an AIA award – American Institute of Architects for excellence and design, blah, blah, blah. I just completed a year-long project on the historic Music Hall theater in New Hampshire and my relatively well-know design and construction activities, all in Minneapolis over the past 25 years as designer and builder of local destinations including The Loring Café, Loring Bar, Loring Playhouse, Loring Pasta Bar, Varsity Theater and even the Kitty Cat Klub, I focus on the personality and appreciate design concepts and have cultivated a strong and successful following for my work in this area. The fact is that the residential character of the Bryn Mawr area is eclectic. Modern houses and remodeled houses and 100-year-old houses – they all mingle. There is no cohesive character and it's being suggested that to change where I'm permitted to build – there's no building height challenge, there are no disproportionate McMansion type oversized issues. The proposed structure is not only designed in a style that is completely in harmony with the existing 22-year-old structure on the property as well as the other Steve Jensen architect designed house that is built but two lots away at 1105 Cedar Circle, which by the way, features a bridge connection between its garage and the house proper. And as the neighbor to the north, John Lasilla, just this morning wrote to me quote "I think it's a really great

solution and fitting for our architecturally eclectic neighborhood.” The character of the neighborhood is being maintained without any disruption whatsoever. However, the character of the neighborhood is, in my view, being tampered with by the redrawn formerly established setback line. I hope to succeed in conveying the contradiction of that situation. Established gets unestablished? The front yard setback requirement is based on a statute or ordinance whose intention and spirit is to preserve a reasonable uniformity and a respectful distance equally applied to all the properties on a given street. And of course, as well known the members of the commission, the standard is normally 25 feet has been said. This re-established line, per City staff findings, now exceeds a whopping 75 feet and actually represents an anomaly to the street and to the neighborhood. This new fangled setback line will, if ratified by the honorable Board, contribute to an upending of the uniformity and reasonable enjoyment/use of this property through no fault of mine and possibly cause a giant slab gray concrete to replace an artfully landscaped features that are enjoyed by me, my family and the cause of nearly daily compliments. This is something that my nearest neighbors know is beautiful and a resourceful treatment to a challenging topography. It permitted me to realize my plan. If permitted to realize my plan I can create a better dwelling and through the past years efforts with the City be fully compliant. For a bit of Minneapolis lore consider – it was not my fault that the 1920’s gangster, Kid Cann built Dick’s house, the house to the south, as his Minneapolis hideaway. Kid Cann wanted some remote hideout way up the hill. He even built a set of trolley tracks that are still there to enable groceries and supplies to be dropped off at the foot of the hill and then be hoisted up the hill without having to come down and into the sight of the police or a rival bad guys crosshairs. I wanted to move down the hill. I wanted to participate in my neighborhood and not hide out. I did that five years ago. I have loved the experience of keeping in the mix of my nice neighborhood hearing Linda and Todd’s kids across the street play, the rumble of the school bus at 7 a.m. each of these recent chilly mornings, which leads me to this short conclusion of citizen-based comments. I was raised, as I hope my kids are, and Linda and Todd’s and all the other kids in our neighborhood, to believe in our country. Land of the free, home of the brave. But when I respectfully and painstakingly go through the processes of seeking to legally use my home in a careful, respectful, quiet manner that does not encroach on the comfort and enjoyment of others, but rather as their testimony indicates and proves that enjoyment in a way that is intended to be an improvement I get saddened that these very efforts seem ignored in favor of resisting beneficial change. I have other personal reasons too for wanting to stay down the hill. Sometimes a house, or a room may bear some bad memories perhaps a failed marriage. I have had a few of those. Just one bad marriage. The simple move down to the room below resolved all of that. And I have to ask what in the world is going on in a city that simultaneously prides itself on a well-deserved artistic culture, people making the most out of things, which is something I’ve done my entire career. Taking things that don’t work and making them work. The Loring Café, foundering Dinkytown, the Varsity Theater getting ready for the wrecking ball. The City prides itself on visionary progress and its commitment to the 21st century. Green valleys. We live in a 20 by 24 house now. It’s very efficient and we’re perfectly happy there. At the same time the City unfairly is beset with more than its fair share of blighted properties. Run down, absentee landlords, dangerous situations. It seems a unanimous indication the affected neighborhood would encourage the City to

encourage simple efforts such as mine. So I respectfully ask this honorable Board to carefully look at it for what it is and what I want to do. Recognize it as consistent with the nature of my neighborhood and fulfills the best interests of the City Zoning Ordinances. I thank you very much and I welcome your questions.

Matt Perry: Thank you Mr. McLean for your comments and your presentation sir. Questions of Applicant? Mr. Cahill.

Sean Cahill: Thank you Mr. Chair. Mr. McLean thank you for your comments. This kind of arose because we're having difficulties getting around 53.190 correct 535 the limit of one principle residential structure, correct?

Jason McLean: My proposition is to resolve that by physically connecting them and I want you all to know that in the five years that we have been residing in the studio, there has not be any – nobody has been occupying the what is referred to as the main house. It's just been a single family. I have no intention of changing that.

Sean Cahill: Okay, thank you.

Matt Perry: Other questions of the Applicant? I see none. Thanks for your testimony. Is there anyone else here to speak in favor of this application? Yes ma'am, if you'd state your name and address for the record please. And if you would please confine your comments to the variances themselves. Thanks.

Abby Keul: My name is **Abby Keul**, and for the past four and a half years I've been a member of the single family dwelling at 1116 Vincent.

Matt Perry: Okay, thanks.

Abby Keul: I did prepare a statement but I'd also like to quick look at the string test once more if that's okay.

Matt Perry: In what regard?

Abby Keul: Well it seems her drawing the string from the left to the right, but if you draw it from the right to the left doesn't that suddenly change things?

Matt Perry: Okay, I don't really want to argue the – if you've got some complaint about the string test it is what it is. That's the way setbacks are established.

Abby Keul: It's always drawn from the left-most property to the right-most property?

Matt Perry: I'm happy to entertain – I'm not really following what you're saying so I'm happy to entertain if you want to put up on the overhead.

Abby Keul: May I? Okay, great. Okay. Well I guess this is what I had in mind. This is quite a bit different.

Matt Perry: Okay, so as the staff has noted the string test goes from the principle dwelling on either side and where you just drew it to is where I believe the garage used to be and that is not a principle dwelling and so that is not actually the string test itself. The string test goes from the principle dwelling which is farther back to where I think you are the current occupant of the home, which is to the north, and to that attached garage corner to the south.

Abby Keul: I'm drawing it from one principle dwelling, right here, to where the structure was.

Matt Perry: But that's not the principle dwelling. The string test doesn't work like that.

Abby Keul: Well this isn't a principle dwelling either, that's what I'm trying to understand.

Matt Perry: The staff has provided education to both us and to the public that in fact if the garage is attached to the principle dwelling it then counted as a part of the principle dwelling when using the string test. So in fact you're not being accurate there. But

Abby Keul: I'm just trying to clarify

Matt Perry: Right, you're not understanding the string test. So the string test is drawn with the red is in fact what the string test – that has been accurately drawn.

Abby Keul: Okay, alright. Thank you. Okay, so here now I'd like to respond to the reasons that I can identify that are given by the staff in the Memorandum, Findings for recommending that variance request by Jason McLean be denied. The first reason that I can see for recommended denial stated in the Memorandum in point 1 of the Findings is that quote: "strict adherence to the regulations would not allow for the enclosed walkways or the parking area in the required front yard." Well, this is in fact why a variance would be needed to approve this property arrangement and therefore it is a poor reason to deny a request for a variance. Moreover, any visitor to the neighborhood would notice that strict adherence to regulations prohibiting parking areas in front yards is not the norm. Our immediate neighbor to the north is a good example. I have a photo of that here if that matters. The other reason that I could find for the recommendation was that there's a reasonable alternative and I can only say that that is an alternative that's far from ideal. Jason mentioned this a bit but a denial would considerably diminish the quality of life at this property. We'd be forced to give up this open air living situation that we've been enjoying three seasons a year and really the only sunlight that makes it through the trees on this property is enjoyed inside and in front of the garage structure. The cost of living, as he mentioned, is also reduced in the arrangement the variance would allow for. These sacrifices are not minor. The only other reason that I can find that's given in the Memorandum for recommending that the variance be denied is given

in point three of the Findings. Quote: “granting of the variances would likely alter the essential character or the surrounding neighborhood and or will be injurious to the use or enjoyment of the other property in the area.” However, it is then stated in point four of the Findings that granting the setback variance would not be detrimental to the public welfare. And if detriment to the public welfare is reasonably equivalent to what is injurious to the use or enjoyment of the other property in the area then we are left to assume that staff only believes that granting the variance would alter the essential character or the surrounding neighborhood. But it is unclear what staff believes to be the essential character of the neighborhood or how staff came to the conclusion that granting the variance we run counter to that essence. As a member of the neighborhood I disagree with this conclusion, as do my immediate neighbors who wrote letters of endorsement for the variance application. In addition to the Bryn Mawr Neighborhood Association. If Bryn Mawr Neighborhood Association is not in a good position to decide or deny what conforms with the essential character of the neighborhood or what would be injurious to the use or enjoyment of the property then I’m not sure what group is qualified to do that. There were no other reasons that I could find in the Memorandum to support staff recommendation. And if I missed any in that short document I hope that someone will bring those forth to be considered. It is also noteworthy that the spirit and intent of the ordinance is addressed by staff in point 3 of the Findings: quote “the spirit and intent of the ordinance is to allow for a single family dwelling in the R1 District. The Applicant is attempting to retain the use as a single family dwelling by attaching the two structures.” So there’s evidence here that the pursuit of the variance is recognized in the Findings as consistent with the spirit and intent of the ordinance. Therefore, the possibility of this ordinance or ordinances should remain open as long as well founded reasons for its denial are not forthcoming. That is all that I have today.

Matt Perry: Okay. And I’m sorry, I didn’t mean to suggest that you had to be an expert on the string test. I was just pointing out that your interpretation was not correct.

Abby Keul: Yah, that’s valid.

Matt Perry: Okay. Do you have anything else?

Abby Keul: No, I do not.

Matt Perry: Thank you very much for your testimony. Is anyone else here to speak in favor of this application for these variances? Yes sir? If you could state your name and address for the record please.

John Lasilla: John Lasilla. I’m Abby and Jason’s neighbor directly to the north at 1112 Vincent and I look at the property from windows every day. I’ve looked over the design, I have a background in environmental design, architecture and interior design and I am completely for the project just because I think the aesthetics of the design do not deter in any way from the style of architecture on the block and the other homes in the neighborhood which are of great variety and very eclectic so I think it’s a great design solution to the problem. Thank you.

Matt Perry: Thank you very much for your testimony. Is there anyone else here to speak in favor? Is there anyone here to speak against this application? I see no one. Let's close the public hearing. Board comment please? Mr. Manning.

Bruce Manning: Thank you Mr. Chair. Having heard the testimony of the neighbor and Applicant and having spent some time wandering around in this area in preparation for hearing this item I have no problem disagreeing with the staff's third finding as to the spirit and intent of the ordinance and the character of the neighborhood. That's as far as I've gotten so far, but I think that one's fairly easy. As we always say here we know the staff does an excellent job on very difficult assignments and this certainly is a challenging one. So I'm not disagreeing with the staff's methodology or suggesting that I don't pay careful attention to these, but with all due respect I think they're wrong on the third finding.

Matt Perry: Alright, thank you Mr. Manning, and for the public who may not be aware, in order for a variance or variances to be granted all four of these findings must be found for. Additional Board comment? Mr. Finlayson.

John Finlayson: At present, based on the testimony I've heard, I'm inclined to follow staff's recommendation.

Matt Perry: Is there a second?

John Finlayson: There's no motion.

Matt Perry: Oh, I'm sorry. Mr. Cahill and then Mr. Koch.

Sean Cahill: I'd just point out that one part that I am uncomfortable with is given testimony from Mr. McLean do you basically note that you would like to live there in the studio and what I see (unintelligible) variances as is we're being asked to give two exceptions to allow a way around the law as in you can't have two homes without a piece of property (sic) and given I don't think the spirit and intent of the ordinance is going to be that we can use variances to find kind of a funny way around different aspects of the law so I will be not supporting the motion. Thank you.

Matt Perry: Well I'm sorry for causing the confusion. There is no motion on the floor right now and I apologize for that. Mr. Koch?

Chris Koch: Boy, although this is an unusual lot, there's plenty of I think evidence to say that this is an unusual situation I still can't get my around the hardship. I just don't see the hardship here. Given that we can't take into account economic factors alone, there is plenty of space, god forbid, to tear this down and build it in the required setback. I'm not advocating that, but again, I just can't get around hardship. As much as I would love to.

Matt Perry: Alright. Thank you for those comments. Mr. Sandberg and then Mr. Nutt.

Dick Sandberg: Mr. Chair I may have a question for staff here.

Matt Perry: Sure.

Dick Sandberg: In that we are being asked to approve a variance from 75 to 50 feet, which would include the construction of the walkway. That variance does not include the use of the structure as a – the studio structure as a habitable space. Is a variance required in order to continue using that structure as habitable space or once that 50 foot variance is issued does that by definition make the entire structure a conforming structure?

Shanna Sether: It's generally discouraged to occupy the studio space of an accessory structure for habitable space, living in, et cetera. It's not generally prohibited by the Zoning Code, however, it's going to change the way Mr. McLean uses his property. So with the removal of the kitchen that would require that at least meals were prepared and the kitchen facility is located in the single family dwelling towards the rear of the lot. So it doesn't prohibit that from – we're not going to require that any changes occur in the studio on the second floor with the exception of the removal of the kitchen with the denial of the variance.

Dick Sandberg: (unintelligible – mike not on)

Shanna Sether: With the exception of the removal of the kitchen?

Dick Sandberg: (unintelligible – mike not on)

Shanna Sether: Within the existing studio space.

Dick Sandberg: So what we're being asked to consider is a 50 foot variance, not the variance of the use of the structure in front

Shanna Sether: Absolutely. The use of ...

Dick Sandberg: ...of that 50 foot. The 50 foot being all behind the existing structure.

Shanna Sether: Absolutely. I would say that the purview for these variance requests relate to the portion of the walkway that's located here as I'm pointing out on the screen. And then also to allow this to be a permanent parking area. I know that Mr. McLean had referred to the class 5 issue before and that conversation was related to the material to park a vehicle on temporarily or permanently. Class 5 is a permitted material for a single family home in a single family district. You wouldn't have to pave it with asphalt or concrete. So to park on it temporarily does meet the Zoning Code.

Matt Perry: Okay, Mr. Nutt. I believe you were in line and then Mr. Ditzler.

James Nutt: Thank you Chairman Perry. I'm trying to condense what we're deciding on. What the actual variance is and not all the information. Although we do appreciate information. We have a couple prongs we have to go through to approve this. I'm having an issue with (unintelligible) in this order. The problem with reasonable use. – I don't see where there's not other reasonable uses for the property without this variance. Sorry, but I don't. The spirit and intent, I am also an architect and design professional and much as I wish we could rule on aesthetics, we can't. What we're talking about nonconformance with the neighborhood is having two family dwellings on the same lot. But that's where it's at and that's what we have to do.

(unintelligible from audience)

James Nutt: Connecting two dwelling with two kitchens, but I don't believe that's what we're actually talking about here. We're not actually talking this and maybe I shouldn't have gone down that road.

Matt Perry: And excuse me ...

(unintelligible from audience)

Matt Perry: Excuse me, excuse me, Mr. Nutt, if you would address your comments to the Board. The public hearing is closed. Public comment is no longer permitted.

James Nutt: Thank you for the clarification. I apologize. And also one of the prongs is also it's not – the situation can't be a product of decisions made by (unintelligible) you can't go for a variance that you've created. And I actually see that abandoning the garage as being creating the situation. So that's where I'm standing and I'm inclined to agree with staff recommendation.

Matt Perry: Okay, thank you Mr. Nutt for those comments. Mr. Ditzler.

Matt Ditzler: I'll be brief, then I will make a motion. I really do appreciate the Applicant's testimony. The Applicant is obviously very gifted and talented and I frequent his establishments often and thank him for his contribution to Minneapolis. Unfortunately the testimony that I heard I didn't see any rebuttal against staff's finding for 1 or 2 and nor have I heard anybody on the Board offer testimony that way either. While it's very narrowly interpreted I think that's what we have to rule on is what we've heard here today and so I'm going to make a motion that we uphold staff and move staff recommendation.

John Finlayson: Second

Matt Perry: Okay, there's a motion and a second for staff's recommendation to deny both variances. Mr. Sandberg and then Mr. Manning.

Dick Sandberg: I guess I'm going to try and think about reasonableness of constructing a walkway from the garage structure up the hill. I think with the uniqueness of the property and the slope there it is reasonable to have an enclosed walkway to a structure that that's far up a hill. I think staff kind of alluded to that when they – in the initial presentation saying that if it were not being done for the purpose of expanding the structure that a walkway might be a reasonable use and I think I agree with that. The fact that we're being asked for the variance only for the 50 feet behind the string test where that structure is being added I think would allow me to ignore the question of whether there are two structures and we're combining it or not. I think it still is a reasonable use to add a walkway to that property. So I'm inclined to believe that the Applicant has a case for at least the first variance.

Matt Perry: Okay, so to be clear, you're making a statement against the motion that's on the floor.

Dick Sandberg: I am.

Matt Perry: Okay. Mr. Manning?

Bruce Manning: I am also not going to be supporting the motion that is currently before us. We're talking about a very small triangle of space behind and existing structure on an extremely steep lot in a heavily wooded area. As I said in my first comment, I think that the structure for which the variance is being sought is the connecting space which is invisible to the street. Not offensive to the neighbors who might have the best chance with a lot of effort to see it. And that given this particular neighborhood and this block, granting the walkway variance is not injurious to the character of the neighborhood. The same actually goes for the parking area. I recognize the City requires a provision of an off-street parking space. It doesn't require the provision of a garage. Bryn Mawr, as with any neighborhoods in Minneapolis, and certainly many properties with extraordinarily steep slopes, it's not unusual at all to find a car tucked into the front there. And so on the third one I disagree with staff on both variances. I agree with Mr. Sandberg as to the steepness of the slope and do believe in fact that the uniqueness of the property, both the existing garage, the age of the garage next door, trying to situate a house on a hill like this requires a garage forward structure or no garage, which is what we see along the street. The purpose of the string test, such as it is, is to provide a consistent view down the block and a certain kind of uniformity. It has almost no application here, perhaps none whatsoever. I am not inclined to slice a reasonably deep 150 foot property in half by the application of the string test. I (unintelligible) the Applicant's identification of what in fact is the setback that is expected in the neighborhood to a pedestrian, to a homeowner, to any reasonable person walking through the neighborhood is entirely correct. I'd initially thought that perhaps the tearing down of Kid Cann's garage was a red herring, but I'm no longer convinced. I believe that the string test just isn't applicable here and it's certainly not applicable since we're not talking about the garage here, we're talking about a little triangle that connects the walkway. So for those reasons I will not be supporting the motion in front of us.

Matt Perry: Alright. Just a reminder to folks – my colleagues – that an Applicant must now show that property can not be put to a reasonable use without the variance. There's absolutely no way to use the property in a reasonable way without the variances, so if you could keep that in mind I'd appreciate it. Any other comment? Will the **Clerk** please call the roll?

Clerk: Mr. Cahill?

Sean Cahill: Yes.

Clerk: Mr. Ditzler?

Matt Ditzler: Yes.

Clerk: Mr. Finalyson?

John Finlayson: Yes.

Clerk: Mr. Keobounpheng?

Souliyahn Keobounpheng: Yes.

Clerk: Mr. Koch?

Chris Koch: No.

Clerk: Mr. Manning:

Bruce Manning: No.

Clerk: Mr. Nutt?

James Nutt: Yes.

Clerk: Mr. Sandberg?

Dick Sandberg: No.

Clerk: The motion passes.

Matt Perry: Alright, the motion was to deny both those variances. Both those variances are in fact denied. You can see staff after the hearing to see what your options are. I do want to thank each of the Applicants who spoke on this just to say that your testimony was heartfelt and sincere and I appreciate that. It's clear you have a great deal of emotional, aside from the financial investments, it's clear that you have a very strong

emotional investment in the City of Minneapolis and the City of Minneapolis appreciates that.