



**Request for City Council Committee Action
From the Department of Community Planning & Economic Development**

Date: February 3, 2005

To: Council Member Gary Schiff, Zoning and Planning Committee

Prepared by: Tanya Holmgren, Zoning Specialist

Presenter in Committee: Tanya Holmgren, Zoning Specialist

Approved by: Jason Wittenberg, Supervisor, CPED Planning-Development Services

Subject: Appeal of the decision of the Zoning Board of Adjustment by Krista Lang-Shasky.

BZZ-2124 – 4233 Sheridan Avenue South – Krista Lang-Shasky has applied for a variance to reduce the front yard setback established by connecting a line between the front two corners of the two adjacent residential structures along Sheridan Avenue South to 48 ft. to allow for an existing open porch to be enclosed in the R1 District at 4233 Sheridan Avenue South.

RECOMMENDATION: The Zoning Board of Adjustment adopted staff recommendation and denied the variance application.

Previous Directives: N/A

Financial Impact (Check those that apply)

No financial impact - or - Action is within current department budget.

Community Impact

Other: See attached.

Background/Supporting Information

Krista Lang-Shasky has filed an appeal of the decision of the Zoning Board of Adjustment. The appeal is associated with the decision of the Zoning Board of

Adjustment to deny the requested variance to reduce the required front yard setback along Sheridan Avenue South to 48 ft. to allow for an existing open porch to be enclosed.

According to the appellant, the Board of Adjustment's action to deny the variance is being appealed because the enclosed porch was an original feature of the dwelling and that by requiring the porch to meet regulations would alter the structure and the neighborhood. The appellant has supplied information regarding the originally constructed enclosed porch, including a historic picture of the dwelling with the enclosed porch. The applicant has also supplied pictures of dwellings of similar character with enclosed porches. The appellant's complete statement of the action being appealed and reasons for the appeal is attached.

Planning Division staff recommended denial of the variance to reduce the required front yard setback along Sheridan Avenue South. Staff felt, based on the evidence provided, enclosing an open porch that was not original to structure was not consistent with the structure or the surrounding area.

At the January 6, 2005 Zoning Board of Adjustment meeting, seven (7) Zoning Board of Adjustment members were present. Six (6) members voted to adopt the staff recommendation and denied the variance. The January 6, 2005 Board of Adjustment minutes and the Planning Division staff report are attached.

**Department of Community Planning and Economic Development - Planning Division
Report**

Variance Request
BZZ-2124

Date: January 6, 2005

Applicant: Krista Lang-Shasky

Address of Property: 4233 Sheridan Avenue South

Contact Person and Phone: David Hamer, (612) 298-3462

Planning Staff and Phone: Tanya Holmgren, (612) 673-5887

Date Application Deemed Complete: December 2, 2004

End of 60 Day Decision Period: January 31, 2005

End of 120 Day Decision Period: April 1, 2005

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

Existing Zoning: R1, Single-family District

Proposed Use: A conversion of an open front porch to an enclosed porch on an existing single-family dwelling.

Proposed Request: A variance to reduce the front yard setback established by connecting a line between the front two corners of the two adjacent residential structures along Sheridan Avenue South to 48 ft. to allow for an existing open porch to be enclosed.

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

Background: The subject property is approximately 50 ft. by 170 ft. (8,500 sq. ft.). The property consists of an existing single-family dwelling with an existing 10.5 ft. deep open front porch addition that runs the width of the dwelling. The existing open front porch is located approximately 48 ft. from the front property line along Sheridan Avenue South. The applicant is applying for a variance to reduce the front yard setback established by connecting a line between the front two corners of the two adjacent residential structures along Sheridan Avenue South to 48 ft. to allow for an existing open porch to be enclosed. The applicant has proposed to enclose the existing 10.5 ft. open porch with screens and knee walls. The applicant states the space is to be screened to restore and enhance the existing structure. The applicant also states the structure is not be altered.

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.

Front yard setback: The applicant is seeking a variance to reduce the front yard setback established by connecting a line between the front two corners of the two adjacent residential structures along Sheridan

Avenue South to 48 ft. to allow for an existing open porch to be enclosed. The existing open porch projects 10.5 ft. from the front façade of the dwelling. The applicant has proposed to enclose the existing open porch with screens and knee walls. Staff does recognize the existing open porch does exceed the front setback, however it is an existing circumstance and if the porch remained unaltered, would not require a variance. Strict adherence to the regulations would not allow for the proposed enclosed porch. The applicant also states the property cannot be put to reasonable use due to the congested street the property is on and the exposure to environmental elements. Staff believes that an open porch in front of the dwelling allows reasonable use of the property in compliance with the regulations.

2. **The circumstances are unique to the parcel of land for which the variance is sought and have not been created by any persons presently having an interest in the property. Economic considerations alone shall not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance.**

Front yard setback: The conditions upon which the setback variance is requested are not unique to the parcel of land and were created by the applicant. The applicant has proposed to enclose a porch on the front of an existing single-family dwelling that is located in front of the established front yard setback. Staff does recognize the existing open front porch exceeds the front setback. It is the fact the applicant has proposed to enclose the porch that has caused the need for the variance. Staff believes this is a circumstance created by the applicant. Crime prevention through environmental design promotes front porches to encourage pedestrian activity and provide ‘eyes on the street’ as a neighborhood safety strategy. Therefore, staff would support an open porch to provide room for pedestrian use.

3. **The granting of the variance will be in keeping with the spirit and intent of the ordinance and will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity.**

Front yard setback: Staff believes that granting the setback variance will alter the essential character of the surrounding neighborhood and could be injurious to the use or enjoyment of other property in the vicinity. Staff believes that maintaining the open porch is compatible with the design of the dwelling and will provide for pedestrian activity contributing to the vitality and safety of the neighborhood. The applicant states the screened porch is intended to enhance the existing structure and the plans do not include any alteration to the dwelling. Staff believes the existing open porch is consistent with the existing dwelling and the area. Staff believes porches original to dwellings are constructed in character with the structure. Open porches, such as the adjacent property to the south, that are modified alter the original character of the dwelling. Staff believes the adjacent dwelling is an example of what the code was designed to prevent and that the existing open porch meets the intent of the ordinance.

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

Front yard setback: Granting the setback variance would likely have no impact on the congestion of area streets or fire safety, nor would the variance be detrimental to the public welfare or endanger the public safety, but it would be inconsistent with other properties in the vicinity.

Recommendation of the Department of Community Planning and Economic Development:

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the findings above and deny the variance to reduce the required front yard setback along Harriet Avenue South from 20 ft. to 6 ft. to allow an existing open porch to be enclosed.

**Board of Adjustment
Hearing Testimony and Actions**

Thursday, January 6, 2005
2:00 p.m., Room 317 City Hall

Board Membership: Ms. Debra Bloom, Mr. David Fields, Mr. John Finlayson, Mr. Daniel Flo, Mr. Paul Gates, Ms. Marissa Lasky, Mr. Barry Morgan, Mr. Peter Rand

Board Members Absent: Mr. David Fields, Mr. Rand departed at 3:01 p.m.

The Board of Adjustment of the City of Minneapolis met at **2:00 p.m.**, on **Thursday, January 6 2005**, in **Room 317 City Hall**, Minneapolis, Minnesota, and considered requests for the following items:

3. 4233 Sheridan Avenue South (BZZ-2124, Ward 13)

David Hamer on behalf of Krista Lang-Shasky has applied for a variance to reduce the front yard setback established by connecting a line between the front two corners of the two adjacent residential structures along Sheridan Avenue South to 48 ft. to allow for an existing open porch to be enclosed in the R1 District at 4233 Sheridan Avenue South.

CPED Department Planning Division Recommendation by Ms. Holmgren:

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 front yard setback established by connecting a line between the front two corners of the two adjacent residential structures along Sheridan Avenue South to 48 ft. to allow for an existing open porch to be enclosed.

TESTIMONY

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

Finlayson: Is the applicant present? Would you care to make a statement? Could you please state your name and address for the record.

David Hamer, 3615 - 25th Avenue South. I believe there was a mistake on the report too that said, that the two adjacent properties were open porches. The one on the south is fully enclosed, just wanted to make a note of that. I disagree with some of the findings based on what was said about the crime prevention. I agree with and understand the idea about crime prevention through environmental design. Although I disagree that partially enclosing the porch would make it less safe and could be injurious to the use and enjoyment of other properties within the vicinity. I believe that creating a space that would be more useful specific to the site will increase use of the porch, therefore providing more eyes on the street. I disagree that the existing open porch is consistent with the existing dwellings in the area. I do not feel that this is an unusual circumstance, there has been many modifications in this neighborhood to enclose existing porches. I have contacted and met with Linden Hills Neighborhood Council and they have no objection. I have also made effort to contact the adjacent property owners and they support this.

Finlayson: Thank you. Anyone else to speak in favor of this item? Anyone to speak against? I see no one. We will close the public portion of this item. Board commentary, please.

Bloom: What I am seeing is that there are two adjacent properties, 4231 and 4237. 4231 has an open porch right now and 4237 has an enclosed porch?

Tanya Holmgren (Staff): I thought that I had made that change. I did identify that the one porch was enclosed before I finished the staff report and I never made the change in the staff report. It was a failure on my part.

Bloom: Just making sure. That is fine, I just wanted to make sure that I was seeing the pictures right. We have to look for hardship and while I sympathize with the property owner and his desire to enclose his porch, there is not a hardship that is unique to this property that requires an enclosed porch. So, I would move staff recommendations.

Rand: Second.

Bloom: With an amendment for Sheridan instead of Harriet.

Finlayson: Further comments?

Gates: Just to reiterate to the applicant that we are required to find a hardship, if we are going to disagree with the staff recommendation and in my view there is not anything that is unique about the house or property which would allow us to make that finding, so unless I hear otherwise from someone else I will be supporting the motion.

Rand: Again, I seconded the motion and I would say there is not anything or unique or something special about not enclosing it, so therefore I seconded the motion.

Finlayson: No further comment, please call the roll.

Roll Call Vote:

Yeas: Bloom, Flo, Gates, Lasky, Morgan, Rand

Nays: Finlayson

Recused: None

Absent: Fields

Ms. Bloom moved to adopt staff recommendation and **deny** the variance. Mr. Rand seconded the motion. Motion passed.

The Motion **denied** the variance to reduce the front yard setback established by connecting a line between the front two corners of the two adjacent residential structures along Sheridan Avenue South to 48 ft. to allow for an existing open porch to be enclosed.

Board of Adjustment
HEARING ACTIONS/MINUTES

Thursday, January 6, 2005
2:00 p.m., Room 317 City Hall

Board Membership: Ms. Debra Bloom, Mr. David Fields, Mr. John Finlayson, Mr. Daniel Flo, Mr. Paul Gates, Ms. Marissa Lasky, Mr. Barry Morgan, Mr. Peter Rand

Board Members Absent: Mr. David Fields, Mr. Rand departed at 3:01 p.m.

The meeting was called to order at 2:01 p.m.

The Minutes were approved: Thursday, December 16, 2004

The Consent Agenda was approved for the following items: 1 and 8

The Board of Adjustment of the City of Minneapolis met at **2:00 p.m.**, on **Thursday, January 6 2005**, in **Room 317 City Hall**, Minneapolis, Minnesota, and considered requests for the following items:

1. 4936 – 39th Avenue South (BZZ-2118, Ward 12)

Frank Bowar has applied for a variance to reduce the required front yard setback along 39th Avenue South from the setback established by connecting a line between the front two corners of the two adjacent residential structures to allow for the construction of a new front open porch on an existing single family dwelling on property located at 4936 39th Avenue South in District R1.

Ms. Bloom moved to adopt staff recommendation on the consent agenda. Mr. Gates seconded the motion. Motion passed.

The Motion **approved** the variance to reduce the required front yard setback along 39th Avenue South from the setback established by connecting a line between the front two corners of the two adjacent residential structures to allow for the construction of a new front open porch on an existing single family dwelling subject to the following conditions:

1. That the Planning Department review and approve the final site and elevation plans.
2. That the exterior building materials used for the addition shall be compatible to the exterior building materials of the house.
3. That the porch be maintained as an open porch and shall not be enclosed with screens, drywall and/or glass windows at any point in time in the future without obtaining a variance.

Roll Call Vote:

Yeas: Bloom, Finlayson, Flo, Gates, Lasky, Morgan, Rand

Nays: None

Recused: None

Absent: Fields

2. 3027 – 46th Avenue South (BZZ-2139, Ward 12)

Chad and Lindsay Lurich have applied to establish legal nonconforming rights for a two-family dwelling located in the R1A district at 3027 46th Avenue South.

Ms. Bloom moved to **continue** the item one cycle, until the next Board of Adjustment meeting on January 20, 2005. Mr. Flo seconded the motion. Motion passed.

Roll Call Vote:

Yeas: Bloom, Finlayson, Flo, Gates, Lasky, Morgan, Rand

Nays: None

Recused: None

Absent: Fields

3. 4233 Sheridan Avenue South (BZZ-2124, Ward 13)

David Hamer on behalf of Krista Lang-Shasky has applied for a variance to reduce the front yard setback established by connecting a line between the front two corners of the two adjacent residential structures along Sheridan Avenue South to 48 ft. to allow for an existing open porch to be enclosed in the R1 District at 4233 Sheridan Avenue South.

Ms. Bloom moved to adopt staff recommendation and **deny** the variance. Mr. Rand seconded the motion. Motion passed.

The Motion **denied** the variance to reduce the front yard setback established by connecting a line between the front two corners of the two adjacent residential structures along Sheridan Avenue South to 48 ft. to allow for an existing open porch to be enclosed.

Roll Call Vote:

Yeas: Bloom, Flo, Gates, Lasky, Morgan, Rand

Nays: Finlayson

Recused: None

Absent: Fields

4. 5247 Girard Avenue South (BZZ-2133, Ward 13)

On behalf of Donald Weld, Vic Harvath has applied for a variance to reduce the required front yard setback along 53rd Street West from the setback established by the adjacent residential structure of 35 feet, 10 inches to 12 feet, 2 inches to allow for the construction of an addition, including attached garage, onto an existing single family dwelling on property located at 5247 Girard Avenue South in District R1.

Mr. Rand moved to adopt staff recommendation and **approve** the variance. Mr. Gates seconded the motion. Motion passed.

The Motion **approved** the variance to reduce the required front yard setback along 53rd Street West from the setback established by the adjacent residential structure of 35 feet, 10 inches to 12 feet, 2 inches to allow for the construction of an addition, including attached garage, onto an existing single family dwelling subject to the following conditions:

1. That the Planning Division review and approve the final site and elevation plans that measure to an architect or engineering scale.
2. That the primary exterior materials of the addition be stucco to match the primary materials of the existing structure.

Roll Call Vote:

Yeas: Bloom, Finlayson, Flo, Gates, Lasky, Morgan, Rand

Nays: None

Recused: None

Absent: Fields

5. 1509 – 4th Street South (BZZ-2136, Ward 2)

Hassan Warsame on behalf of Riverside Plaza Limited Partnership has applied for a variance to reduce the required amount of off-street parking for a Place of Assembly from 77 to 0 spaces in the I1 District at 1509 4th Street South.

Notwithstanding staff recommendation, Mr. Rand moved to **approve** the parking variance based on the following findings: the proposed project will not add a burden of parking to the existing area and the unavailability of parking in the area or onsite demands that community parking resources be used to address the parking demand the facility has. Ms. Bloom seconded the motion. Motioned passed.

The Motion **approved** the variance to reduce the required amount of off-street parking for a Place of Assembly from 77 to 0 spaces.

Roll Call Vote:

Yeas: Bloom, Finlayson, Flo, Morgan, Rand

Nays: Gates, Lasky

Recused: None

Absent: Fields

6. 1500 Como Avenue Southeast (BZZ-2138, Ward 2)

On behalf of Ackerman and Daugherty Investments, LLC, Erik Lees has applied for a variance to reduce the required off-street parking from 8 spaces to 0 spaces for the

property located at 1500 Como Avenue Southeast in District C1 to allow for a coffee shop.

Mr. Rand moved to adopt staff recommendation and **approve** the parking variance. Mr. Gates seconded the motion. Motion passed.

The Motion **approved** the variance to reduce the required off-street parking from 8 spaces to 0 spaces for the property located at 1500 Como Avenue Southeast to allow for a coffee shop, subject to the following conditions:

1. That the Planning Division review and approve building permits for interior renovation.
2. That the applicant complete and comply with minor site plan review.
3. That the applicant install at least 4 bicycle parking racks.

Roll Call Vote:

Yeas: Bloom, Finlayson, Flo, Gates, Morgan, Rand

Nays: None

Recused: Lasky

Absent: Fields

7. 2830 – 12th Avenue South (BZZ-2132, Ward 6)

Greater Metropolitan Housing Corporation has applied for a variance to reduce the required interior side yard setback from 5 ft. to 4 ft. to allow for a new single family dwelling on property located at 2830 12th Avenue South in District R2B.

Notwithstanding staff recommendation, Mr. Flo moved to **approve** the variance based on the following findings: that the width of the lot is smaller than the typical city lot and the proximity of the house on the property to the south are unique circumstances that create a hardship for the project. Mr. Gates seconded the motion. Motion passed.

The Motion **approved** the variance to reduce the required interior side yard setback from 5 ft. to 4 ft. to allow for a new single family dwelling subject to the following condition:

1. That the Planning Division review and approve the final site and elevation plans.

Roll Call Vote:

Yeas: Bloom, Finlayson, Flo, Gates, Lasky, Morgan

Nays: None

Recused: None

Absent: Fields, Rand

8. 2761 Ewing Avenue South (BZZ-2130, Ward 7)

Mitchell Blatt and Michele Lepsche have applied for a variance to reduce the required interior side yard setback from 6 ft. to 3.5 ft. to allow for an addition to a single family dwelling on property located at 2761 Ewing Avenue South in District R1.

Ms. Bloom moved to adopt staff recommendation on the consent agenda. Mr. Gates seconded the motion. Motion passed.

The Motion **approved** the variance to reduce the required interior side yard setback from 6 ft. to 3.5 ft. to allow for an addition to a single family dwelling subject to the following conditions:

1. That the Planning Department review and approve the final site and elevation plans.
2. That the exterior building materials used for the addition shall be compatible to the exterior building materials of the house.

Roll Call Vote:

Yeas: Bloom, Finlayson, Flo, Gates, Lasky, Morgan, Rand

Nays: None

Recused: None

Absent: Fields

MEETING ADJOURNED

Mr. Morgan moved to adjourn the Board of Adjustment meeting at 3:11 p.m.
All present Board Members seconded the motion.