



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

**Date:** September 16, 2010

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

**Referral to:** Zoning & Planning Committee

**Subject:**

**Name of Appellant:** Thor Truelson  
**Name of Original Applicant:** Thor Truelson  
**Property Address:** 4917 Girard Avenue South  
**Ward #:** 13

**Appeal of decision of the Zoning Board of Adjustment** to deny five variances to allow for a new 22 ft. by 22 ft. 6 in. detached garage with a roof-top deck accessory to an existing single-family dwelling on a for the property located at 4917 Girard Avenue South in the R1 Single-Family District.

**Recommendation:**

The Zoning Board of Adjustment and staff recommend concurrence with the action taken on August 19, 2010, for the property at 4917 Girard Avenue South, Ward #13, as follows:

**2. 4917 Girard Ave S (BZZ-4857, Ward 13)**

**A. Variance:** Application by Thor Truelson for a variance to reduce the required front yard along Girard Avenue South from approximately 36 ft. to approximately 8 ft. to allow for a new detached accessory structure to an existing single-family dwelling located at 4917 Girard Avenue South in the R1 District.

**ACTIONS:** Notwithstanding staff recommendation, the Board of Adjustment **denied** the variance to reduce the required front yard along Girard Avenue South from approximately 36 ft. to approximately 8 ft. to allow for a new detached accessory structure to an existing single-family dwelling located at 4917 Girard Avenue South in the R1 District, based on the following findings:

1. That the Ordinance requires a one-car garage and this exceeds; and
2. That the particular location which is unique to this property would be injurious to the neighborhood.

**B. Variance:** Application by Thor Truelson for a variance to reduce the required front yard along Girard Avenue South from approximately 36 ft. to approximately 8 ft. to allow for a roof-top deck, above a proposed detached garage, to an existing single-family dwelling located at 4917 Girard Avenue South in the R1 District.

**ACTIONS:** The Board of Adjustment **adopted** the findings and **denied** the variance to reduce the required front yard along Girard Avenue South from approximately 36 ft. to approximately 8 ft. to allow for a roof-top deck, above a proposed detached garage, to an existing single-family dwelling located at 4917 Girard Avenue South in the R1 District.

**C. Variance:** Application by Thor Truelson for a variance to reduce the required north interior side yard from 6 ft. to 1 ft. to allow for a new detached accessory structure to an existing single-family dwelling located at 4917 Girard Avenue South in the R1 District.

**ACTIONS:** Notwithstanding staff recommendation, the Board of Adjustment **denied** the variance to reduce the required north interior side yard from 6 ft. to 1 ft. to allow for a new detached accessory structure to an existing single-family dwelling located at 4917 Girard Avenue South in the R1 District, based on the following findings:

1. That the Ordinance requires a one-car garage and this exceeds; and
2. That the particular location which is unique to this property would be injurious to the neighborhood.

**D. Variance:** Application by Thor Truelson for a variance to reduce the required north interior side yard from 6 ft. to 1 ft. to allow for a roof-top deck, above a proposed detached garage, to an existing single-family dwelling located at 4917 Girard Avenue South in the R1 District.

**ACTIONS:** The Board of Adjustment **adopted** the findings and **denied** the variance to reduce the required north interior side yard from 6 ft. to 1 ft. to allow for a roof-top deck, above a proposed detached garage, to an existing single-family dwelling located at 4917 Girard Avenue South in the R1 District.

**E. Variance:** Application by Thor Truelson for a variance to allow a new detached accessory structure not located entirely to the rear of an existing single-family dwelling located at 4917 Girard Avenue South in the R1 District.

**ACTIONS:** Notwithstanding staff recommendation, the Board of Adjustment **denied** the variance to allow a new detached accessory structure not located entirely to the rear of an existing single-family dwelling located at 4917 Girard Avenue South in the R1 District, based on the following findings:

1. That the Ordinance requires a one-car garage and this exceeds; and
2. That the particular location which is unique to this property would be injurious to the neighborhood.

**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
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**Community Impact**

- Neighborhood Notification: Lynnhurst 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 August 30, 2010, staff sent a letter to the applicant extending the 60 day decision period to no later than November 11, 2010.

**Background/Supporting Information**

Thor Truelson has filed an appeal of the decision of the Board of Adjustment to deny all five variances to allow for a new 22 ft. by 22 ft. 6 in. detached garage with a roof-top deck accessory to an existing single-family dwelling on a for the property located at 4917 Girard Avenue South in the R1 Single-Family District. At its meeting on August 19, 2010, the Board of Adjustment voted 5-0 to adopt staff findings and deny two of the required variances to allow for the roof-top deck. In addition, the Board of Adjustment voted 5-0, notwithstanding staff recommendation to deny three of the required variances to allow for the detached garage. The appeal (attached) was filed on August 27, 2010. The appellant's complete statement of the action being appealed and reasons for the appeal are attached. 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-4857

**Date:** August 19, 2009

**Applicant:** Thor Truelson

**Address of Property:** 4917 Girard Avenue South

**Project Name:** 4917 Girard Avenue South Detached Garage

**Contact Person:** Thor Truelson, (612) 824-2386

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

**Date Application Deemed Complete:** July 15, 2010

**End of 60-Day Decision Period:** September 13, 2010

**Ward:** 13      **Neighborhood Organization:** Lynnhurst Neighborhood Association

**Existing Zoning:** R1 Single Family District

**Zoning Plate Number:** 30

**Legal Description:** Not applicable

**Proposed Use:** A detached garage with a roof-top deck addition to an existing single-family dwelling.

**Concurrent Review:**

- Variance to reduce the required front yard along Girard Avenue South to approximately 8 ft. to allow for a new detached garage
- Variance to reduce the required front yard along Girard Avenue South to approximately 8 ft. to allow for a roof-top deck over a proposed detached garage
- Variance to reduce the required north interior side yard along from 6 ft. to approximately 1 ft. to allow for a new detached garage
- Variance to reduce the required north interior side yard along from 6 ft. to approximately 1 ft. to allow for a roof-top deck over a proposed detached garage
- Variance to allow for a detached accessory structure not entirely to the rear of the principal structures along Girard Avenue South.

**Zoning code section authorizing the requested variance:** Chapter 525, Article IX Variances, Specifically Section 525.520(1) (1) (1) (1) “to vary the yard requirements, including permitted obstructions into required yards not allowed by the applicable regulations” and 525.520 (8) “to permit parking that cannot comply with the location requirements...”

**Background:** The subject property is approximately 40 ft. by 135 ft. (5,400 sq. ft.). The property consists of an existing two-story dwelling. The dwelling was constructed in 1918 and there doesn't appear to have ever been an off-street parking area on the property. The applicant is proposing to construct a new 22 ft. 6in. by 22 ft., front-facing detached garage to the structure.

The existing dwelling is located approximately 36 ft. from the front property line along Girard Avenue South. The applicant is proposing to construct a 495 sq. ft. detached garage with a roof-top deck. The required front yard setback along Girard Avenue South, established by connecting a line between the two adjacent structures, is approximately 36 ft. and the applicant is proposing to locate the garage approximately 8 ft. to the front property line. The minimum north interior side yard setback in the R1 District is 6 ft. and the applicant is proposing to locate the garage and roof-top deck 1 ft. to the property line. A detached accessory structure is not a permitted obstruction in either the required front or interior side yards, when the structure is located outside the rear 40 ft. of the lot. Therefore, the proposed detached garage requires variances to allow for the proposed location. In addition, the roof-top deck is not a permitted obstruction and also requires variances of the required front and north interior side yards.

The zoning code also prohibits the location of a detached accessory structure, when it is not located entirely to the rear of the principal structure. Therefore, a variance to permit the location of the detached garage, in front of the existing principal structure, is required.

As of writing this staff report, staff has not received any correspondence from the Lynnhurst Neighborhood Association. Staff will forward comments, if any are received, at the Board of Adjustment meeting.

**Findings Required by the Minneapolis Zoning Code - Variance:**

- 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.**

**Garage:** The zoning code requires a minimum of one off-street parking space per dwelling unit. The structure on the subject property was constructed in 1918, prior to the regulations requiring off-street parking and is therefore nonconforming. The applicant is seeking variances to allow for the proposed location of a new detached accessory structure. The applicant has requested variances to reduce the required yards in the front and interior side and to allow for a detached garage to be located not entirely to the rear of the principal structure. The parcel is approximately 40 feet wide and 5,400 square feet in area; 10 feet narrower than the required minimum width and 600 square feet less than the required minimum lot area in the R1 District. In addition, the subject property does not have access to an alley, which would have allowed for an accessory structure to be constructed at the rear of the site. The existing dwelling on the subject property is located approximately 4 ft. 6 in. to the north and 7 ft. 5 in. to the south interior side property lines. The minimum width to allow for a driveway is 10 ft., which can be reduced to 8 ft. with approval of a variance. Strict adherence to the regulations would not allow for any parking area or garage on the subject property without a substantial remodel of the existing dwelling, including the removal of part of the structure. Staff believes strict adherence to the zoning code would cause undue hardship due to the constraints of the substandard lot and lack of access to an alley.

**Roof-top deck:** The applicant has requested variances to reduce the front and north interior side yard to allow for a 585 square foot deck above a proposed detached garage. Staff does not believe variances to reduce the front and north interior side yards are required to accomplish a deck addition to the dwelling that would serve the property owner. Due to the inability of locating a garage at the rear of the property, the property owners have a greater amount of rear yard that would allow for a deck addition that does not require a variance. Staff cannot find that hardship exists in this case, as the property has sufficient area in the rear to construct a deck without the need for a variance.

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.**

**Garage:** The circumstances upon which the setback variance is requested are unique to the parcel of land due to the substandard lot width and the lack of alley access. The applicant did not create these circumstances and the alternative to the variance would cause a hardship to the property owner by not allowing for adequate use and access to this property. The zoning code requires a minimum of one off-street parking space per dwelling unit. The structure on the subject property was constructed in 1918, prior to the regulations requiring off-street parking and is therefore nonconforming. The applicant is seeking variances to allow for the proposed location of a new detached accessory structure. The applicant has requested variances to reduce the required yards in the front and interior side and to allow for a detached garage to be located not entirely to the rear of the principal structure. The parcel is approximately 40 feet wide and 5,400 square feet in area; 10 feet narrower than the required minimum width and 600 square feet less than the required minimum lot area in the R1 District. In addition, the subject property does not have access to an alley, which would have allowed for an accessory structure to be constructed at the rear of the site. The existing dwelling on the subject property is located approximately 4 ft. 6 in. to the north and 7 ft. 5 in. to the south interior side property lines. The minimum width to allow for a driveway is 10 ft., which can be reduced to 8 ft. with approval of a variance. Strict adherence to the regulations would not allow for any parking area or garage on the subject property without a substantial remodel of the existing dwelling, including the removal of part of the structure.

**Roof-top deck:** The circumstances upon which the setback variance is requested are not unique to the parcel of land and the alternative to the variance would not cause a hardship to the property owner. Staff does not believe variances to reduce the front and north interior side yards are required to accomplish a deck addition to the dwelling that would serve the property owner. Due to the inability of locating a garage at the rear of the property, the property owners have a greater amount of rear yard that would allow for a deck addition that does not require a variance. The proposal for a 585 square foot deck in the required yards is a circumstance that would be created by the applicant.

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

**Garage – North Interior Side Yard:** Staff believes the proposal of the new detached garage located 1 ft. to the north interior side may alter the essential character of the surrounding neighborhood and be injurious to the surrounding property. Staff does recognize the substandard lot width of the property and the difficulty this poses for the property owner, however does not believe that a 1 ft. side yard setback is appropriate for the garage addition and instead recommends that the applicant locate their garage 3 ft. to the north interior property line. Further, staff believes that a setback of 3 ft. along the north property line will allow for additional landscaping to protect views. Staff believes that the proposed detached garage will be less likely to be injurious to the use or enjoyment of other property in the vicinity, if the garage is setback at least 3 ft.

**Garage – Front yard and location:** The granting of the variance will be in keeping with the spirit and intent of the ordinance by allowing the subject property to meet the minimum off-street parking requirement. The regulations regarding parking were established to recognize the parking needs of uses and structures while enhancing the compatibility between parking and their surrounding uses. While the location of the parking garage is not ideal, staff believes that the proposed detached garage will not significantly impact the use and enjoyment of other property in the vicinity. In addition, the applicant is proposing to match the exterior materials of the proposed detached garage to the exterior materials of the principal structure. In addition, staff believes the proposed location of the detached garage will not alter the essential character of the surrounding neighborhood. The entire block of properties directly across Girard Avenue South are located on through lots. All of the principal structures face West Minnehaha Parkway and the accessory parking structures front along Girard Avenue South. In addition, due to the change of grade, the detached accessory structure will be recessed into the grade making it less visible along the view corridor and not block existing windows in the single-family home. In addition, staff believes that the views would be further mitigated through landscaping of the north and south sides of the proposed detached garage. Further, staff believes that with the proposed setback along the north property line of 3 ft. will allow for additional landscaping to protect views, as well.

There is an existing boulevard tree that will be required to be removed if the new curb cut is approved. The applicant will need to work with the Park Board staff on relocating or replacing the existing tree.

There is an existing 9 ft. wide curb cut adjacent to the property that does not lead to a driveway or approved parking area. Notwithstanding the outcome of the requested variances, the applicant will be required to close the existing curb cut.

**Roof-top deck:** Staff believes the proposal of the roof-top deck located in the front and north interior side yards may alter the essential character of the surrounding neighborhood and be injurious to the surrounding property. Staff does recognize the substandard lot width of the property and the difficulty this poses for the property owner, however there is substantial area in the rear of the property that would allow for a deck without the need of a variance.

- 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.**

**All variances:** Granting of the requested variances would likely have no impact on the congestion of area streets or fire safety, nor would the proposed detached garage accessory to the existing single-family dwelling be detrimental to the public welfare or endanger the public safety.

**Recommendation of the Department of Community Planning and Economic Development - Variance:**

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the findings above and **approve** the variance to reduce the required front yard along Girard Avenue South from approximately 36 ft. to approximately 8 ft. to allow for a new detached accessory structure to an existing single-family dwelling located at 4917 Girard Avenue South in the R1 District, subject to the following conditions:

1. Community Planning and Economic Development Department – Planning Division staff review and approval of the site and elevation plans.
2. The exterior materials of the detached garage shall match the existing dwelling.
3. The detached garage shall not block any existing windows in the single-family dwelling.
4. The north and south sides of the garage shall be landscaped with plant materials matching the height of the roof of the proposed detached garage.

**Recommendation of the Department of Community Planning and Economic Development - Variance:**

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 Girard Avenue South from approximately 36 ft. to approximately 8 ft. to allow for a roof-top deck, above a proposed detached garage, to an existing single-family dwelling located at 4917 Girard Avenue South in the R1 District.

**Recommendation of the Department of Community Planning and Economic Development - Variance:**

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the findings above and **approve** the variance to reduce the required north interior side yard from 6 ft. to **3 ft.** to allow for a new detached accessory structure to an existing single-family dwelling located at 4917 Girard Avenue South in the R1 District, subject to the following conditions:

1. Community Planning and Economic Development Department – Planning Division staff review and approval of the site and elevation plans.
2. The exterior materials of the detached garage shall match the existing dwelling.
3. The north side of the garage shall be landscaped with plant materials matching the height of the roof of the proposed detached garage.

**Recommendation of the Department of Community Planning and Economic Development - Variance:**

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 north interior side yard from 6 ft. to 1 ft. to allow for a roof-top deck, above a proposed detached garage, to an existing single-family dwelling located at 4917 Girard Avenue South in the R1 District.

**Recommendation of the Department of Community Planning and Economic Development - Variance:**

The Department of Community Planning and Economic Development Planning Division recommends that the Board of Adjustment adopt the findings above and **approve** the variance to allow a new detached accessory structure not located entirely to the rear of an existing single-family dwelling located at 4917 Girard Avenue South in the R1 District, subject to the following conditions:

1. Community Planning and Economic Development Department – Planning Division staff review and approval of the site and elevation plans.
2. The exterior materials of the detached garage shall match the existing dwelling.
3. The detached garage shall not block any existing windows in the single-family dwelling.

**Attachments:**

- 1) Written descriptions and findings submitted by the applicant
- 2) Correspondence from neighbors, neighborhood associations, etc.
- 3) Copy of e-mail sent to neighborhood organization and CM Hodges
- 4) Zoning map
- 5) Site plan
- 6) Building elevations
- 7) Photographs

**Minutes of August 19, 2010, Board of Adjustment**  
**4917 Girard Avenue South**  
**BZZ-4857**

Action by Board of Adjustment:

**2. 4917 Girard Ave S (BZZ-4857, Ward 13)**

**A. Variance:** Application by Thor Truelson for a variance to reduce the required front yard along Girard Avenue South from approximately 36 ft. to approximately 8 ft. to allow for a new detached accessory structure to an existing single-family dwelling located at 4917 Girard Avenue South in the R1 District.

**ACTIONS:** Notwithstanding staff recommendation, the Board of Adjustment **denied** the variance to reduce the required front yard along Girard Avenue South from approximately 36 ft. to approximately 8 ft. to allow for a new detached accessory structure to an existing single-family dwelling located at 4917 Girard Avenue South in the R1 District, based on the following findings:

1. That the Ordinance requires a one-car garage and this exceeds; and
2. That the particular location which is unique to this property would be injurious to the neighborhood.

**B. Variance:** Application by Thor Truelson for a variance to reduce the required front yard along Girard Avenue South from approximately 36 ft. to approximately 8 ft. to allow for a roof-top deck, above a proposed detached garage, to an existing single-family dwelling located at 4917 Girard Avenue South in the R1 District.

**ACTIONS:** The Board of Adjustment **adopted** the findings and **denied** the variance to reduce the required front yard along Girard Avenue South from approximately 36 ft. to approximately 8 ft. to allow for a roof-top deck, above a proposed detached garage, to an existing single-family dwelling located at 4917 Girard Avenue South in the R1 District.

**C. Variance:** Application by Thor Truelson for a variance to reduce the required north interior side yard from 6 ft. to 1 ft. to allow for a new detached accessory structure to an existing single-family dwelling located at 4917 Girard Avenue South in the R1 District.

**ACTIONS:** Notwithstanding staff recommendation, the Board of Adjustment **denied** the variance to reduce the required north interior side yard from 6 ft. to 1 ft. to allow for a new detached accessory structure to an existing single-family dwelling located at 4917 Girard Avenue South in the R1 District, based on the following findings:

1. That the Ordinance requires a one-car garage and this exceeds; and
2. That the particular location which is unique to this property would be injurious to the neighborhood.

**D. Variance:** Application by Thor Truelson for a variance to reduce the required north interior side yard from 6 ft. to 1 ft. to allow for a roof-top deck, above a proposed detached garage, to an existing single-family dwelling located at 4917 Girard Avenue South in the R1 District.

**ACTIONS:** The Board of Adjustment **adopted** the findings and **denied** the variance to reduce the required north interior side yard from 6 ft. to 1 ft. to allow for a roof-top deck, above a proposed detached garage, to an existing single-family dwelling located at 4917 Girard Avenue South in the R1 District.

**E. Variance:** Application by Thor Truelson for a variance to allow a new detached accessory structure not located entirely to the rear of an existing single-family dwelling located at 4917 Girard Avenue South in the R1 District.

**ACTIONS:** Notwithstanding staff recommendation, the Board of Adjustment **denied** the variance to allow a new detached accessory structure not located entirely to the rear of an existing single-family dwelling located at 4917 Girard Avenue South in the R1 District, based on the following findings:

1. That the Ordinance requires a one-car garage and this exceeds; and
2. That the particular location which is unique to this property would be injurious to the neighborhood

#### **Minutes of Board of Adjustment for Z&P on Thursday, August 12th, 2010:**

**Bruce Manning:** I am calling 4917 Girard Avenue South. Ms. Sether.

**Shanna Sether:** Thank you Mr. Vice Chair, Board of Adjustment members. The second item for discussion on this evening's meeting is for the property located at 4917 Girard Avenue South. This property is located in the R1 Single Family Zoning District. The Applicant is proposing a total of 5 variances in order to allow for a garage addition with a rooftop deck. Here's a rendering of the proposed site plan that shows the existing dwelling at Girard Avenue South, the proposed detailed garage measuring 22 ½ feet wide by 22 feet in length, a new curb cut, and the closure of an existing curb cut. In order for the application to move forward as proposed, as I previously mentioned, there are 4 required variances. The first variance is to reduce the front yard setback along Girard Avenue South from approximately 36 feet to approximately 8 feet to allow for the garage in the front. The second variance is a reduction of the front yard setback similarly from 36 feet to 8 feet to allow for a rooftop deck directly over the proposed roof of the detached accessory structure. The third variance is to allow for a reduction of the north interior side yard from 6 feet to 1 foot for the detached garage. Again, for reduction of the north interior side yard setback from 6 feet to 1 foot to allow for the rooftop deck. And then finally the fifth variance is to allow for an accessory structure to be located not entirely to the rear of the principle structure. So in this case, the entire detached garage is in front of the house, therefore that variance is required.

**Bruce Manning:** So is it the fifth or the fourth? I'm sorry Ms. Sether.

**Shanna Sether:** Fifth, I'm sorry. So two for the garage for front and side. Two for the rooftop deck for front and side and then the fifth variance is to allow for the location.

**Bruce Manning:** Thank you.

**Shanna Sether:** Thanks. The subject property is approximately 40 feet in width but 135 in depth which comes out to about 5,400 square feet in total area. The existing two-story structure was constructed in 1918 and there do not appear to be ever any off-street parking area provided on this site. In 1998 there was a variance approved by the Zoning Board of Adjustment to allow for a detached accessory structure in the front yard. You do not have, I'm sorry, a copy of those approvals before you today, however, staff did receive the file. Of course those approvals were not guaranteed because a building permit was not pulled for that particular project within one year of the date of those approvals. So now in 2010 we (unintelligible) for the same or similar project to allow for a two car detached garage with a rooftop deck accessory to an existing single family dwelling. As previously mentioned the detached accessory structure is about 22 ½ feet wide, 22 feet in depth which comes out to 495 square feet, that is less than the required maximum allowed of 676 square feet for an accessory structure to a single family dwelling. The front yard setback created along Girard Avenue South is approximately 36 feet. This is what we refer to as the string test as you're all familiar with, where we can connect the two adjacent structures on either side of the property at their closest corner creating a line across the property. So we would go from here to approximately there. That established setback is 36 feet. The minimum District setback for the R1 District is 25 feet. The Applicant is requesting the reduction of the greater, the front yard increased, which is the established of 36 feet down to approximately 8 feet. Staff is recommending partial approval of this particular application. Particularly, the 3, or 2 of the required applications for variance to allow for the garage with a modification of partial approval of the interior side yard, and denial of the required variances to allow for the rooftop deck. What I'm going to do is just talk about the required findings for each project and come together at the end again to reiterate the recommendation before you today. So first, as previously mentioned, the garage requires 3 variances: front yard, side yard and to locate the structure in front of the house. The Zoning Code requires a minimum of on off-street parking space per dwelling unit. Therefore, the requirement for this particular use is one because it's a single family dwelling. Because the structure was built in 1918, prior to our first requirements in the Zoning Code requiring parking which was in 1963, we would consider this use to be nonconforming as to parking because there was provided off-street parking. This particular lot is substandard in size in both lot width and lot area, the lot width is 40 feet, the minimum in the R1 District is 50. The minimum lot area in the R1 District is 6,000 square feet, they're about 600 square feet shy of that. So it's what we would call a substandard lot. In addition, this particular lot also lacks alley access. I'm going to zoom in a little bit more on this particular block of Girard. That's 49<sup>th</sup> Street to the north, 50<sup>th</sup> to the west, or 50<sup>th</sup> Street West to the south and Fremont Avenue South to the East. As you can see, this particular block does not have an alley access. The majority of homes have detached accessory structures located to the rear of the principle dwellings, however, with the exception of the lots on the corner that have their access off of the north south streets on 49<sup>th</sup> and 50<sup>th</sup>. The majority of them have a shared drive with their neighbor. There are three homes in a row that do not have any off-street parking similar to the subject property. And that is the property directly to the north and the property directly to the south. All three of those lots are in a similar situation where they are smaller than the average lot in the R1 District with the required minimum, and do not have the access to the alley to provide that off-street parking to the rear. As you can see from the drawing, the house is currently set back 4 ½ feet to the north property line. Approximately 7 feet 5 inches to the south. The minimum width for a driveway in the City of Minneapolis is 10 feet. That can be varied down to 8 feet. So you can see that there's no possible way to provide a driveway on the subject parcel to access the rear of the lot. Therefore, staff

believes that strict adherence to the regulations would not allow for any parking area or garage on the subject property without a substantial remodel of the existing structure, including removal of part of the structure, to allow for any sort of driveway that accesses the rear of the property. Staff cannot take into consideration the potential of a shared driveway, we can only look at the subject property before us today. Whereas, of course, that would be an ideal situation, we have to work within the parameters of the existing parcel. The subject property is owned by one person. The two adjacent properties on both the north and south side are owned by different property owners, so the property owner doesn't have the option of essentially giving land to himself on either side. Further, staff believes that strict adherence to the Zoning Code would cause undue hardship due to the constraints of the substandard lot and the lack of an alley. For the same reason, staff believes that the circumstances are unique to the parcel of land and have not been created by the Applicant. As previously mentioned, the house was constructed in 1918. There have not been any substantial additions to the structure that have prohibited the ability to provide parking on the site. An alley has not been provided on this particular block of the City of Minneapolis and the lot width and lot area are substandard in the R1 District. Again, these are circumstances that are not created by the Applicant. Further, staff believes that granting of the variance will keep within the spirit and intent of the Ordinance and not alter the essential character of the locality, particularly for the two variance to allow for the garage as it relates to the front yard reduction and the location. Staff believes that the regulations regarding parking were established to recognize parking needs for uses and structures while enhancing the compatibility between parking and their surrounding uses. While the particular location of this garage is not ideal, staff believes that the Applicant has provided some mitigation features that will help protect views along the front yard. The proposed is something that we haven't mentioned yet. There is a substantial grade change from the public street to the subject property. Essentially what you have is a garage that will be, for the majority, tucked into the existing hill along the front side. In addition, the Applicant is proposing to heavily landscape both the north and south sides to also protect views, again, along the corridor. Those two particular issues are relevant for preventing the view for the front yard reduction and locating the principle structure, I'm sorry, locating the accessory structure in front of the principle structure.

**Sean Cahill:** Ms. Sether, real quick question. Those plans you just had up – did we receive those beforehand, or did we receive those this evening?

**Shanna Sether:** They should be in your packet.

**Sean Cahill:** Okay, I don't – I'm not seeing them so. I just want to make sure we have them beforehand.

**Shanna Sether:** I apologize that those are not in your packet. We do have them here for viewing today. As a condition of approval, that was going to be required either way. If the application is approved. Staff however, has concerns about locating the detached accessory garage only one foot to the north interior property line. Staff believes there is a potential for nuisance there. There is a substantial hill, it may require some substantial grading of the site. Is concerned about the proximity, in addition, to provide any type of landscaping we need more than a foot. At a minimum, staff is recommending a north interior side yard reduction of only 3 feet in lieu of the 1 foot requested. The minimum District setback, again, is 6 feet.

**Bruce Manning:** Ms. Sether, is that to the wall or to the eave?

**Shanna Sether:** That would be to the wall.

**Bruce Manning:** So it might be shorter as to the eave?

**Shanna Sether:** In this particular design, the structure almost goes straight up from the wall as you can see from that drawing there.

**Bruce Manning:** Excellent. Thank you.

**Shanna Sether:** And finally, for the requested variances to allow for the garage, staff does not believe that granting of those particular variances would have any impact with the congestion of the public street, be detrimental to the fire safety, endanger the – excuse me be detrimental to the public welfare and endanger the public safety. With that, staff is recommending approval of those applications, I'll discuss in a little greater length when I get to the end of the presentation. Now I'd like to go back to the rooftop deck. Unlike our situation with the proposed detached garage, an outdoor space somewhere on the site is achievable in the rear yard or closer to the interior side yard, but behind the existing dwelling, without the cause or need of a variance. Therefore, staff cannot find that hardship exists in this case to allow for a rooftop deck because, as previously mentioned, they have other options available to them. The circumstances are not unique in the fact that providing a rooftop deck is something necessary. Again, if they want to have a larger deck, the back yard is an option without needing the variance. Staff believes that it can be injurious to the use and enjoyment of other property in the vicinity given the reduction of the front yard and the side yard. There are no other similar structures among this side of Girard Avenue South. The Applicant did provide a number of pictures of nearby properties, as they determined to be nearby, showing other rooftop decks over existing garages. However, all of those pictures of those properties were outside of the 350 foot circumference which staff would not necessarily consider to be relevant in this case. However, we do not believe that the granting of the variances to allow for the rooftop deck would be necessarily detrimental to life safety or increase the congestion of the public streets. So even though staff finds that the rooftop deck would meet finding number 4, we do not find that findings 1, 2 and 3 have been made for the rooftop deck. Therefore, staff is recommending the following: Approval of the reduction of the front yard setback along Girard Avenue South from approximately 36 feet to approximately 8 feet to allow for a new detached accessory structure with conditions of approval. Denial of the variance to reduce the front yard setback along Girard Avenue South from 36 feet to 8 feet to allow for a rooftop deck. Approval of the reduction of the north interior side yard from 6 feet to 3 feet, not the requested 1 foot, to allow for a new detached accessory structure subject to conditions of approval. Denial of the reduction of the north interior side yard setback from 6 feet to 1 foot to allow for a rooftop deck and approval of a variance to allow for a new detached accessory structure not located entirely to the rear of an existing single family dwelling subject to conditions of approval. With that that concludes my presentation. I can take any questions.

**Bruce Manning:** Are there any questions for Ms. Sether? Other than me? There is an existing curb cut shown of 9 feet in width, what do we know about that, if anything? Other than that it's there.

**Shanna Sether:** That's about it.

**Bruce Manning:** Okay, thank you.

**Shanna Sether:** We know that it's there. There has never been any proof of any driveway. There's most certainly not ever access to any sort of a accessory structure. We did a full permit search on this particular property back to its construction date in 1918. So as we know it, it's just a curb cut.

**Bruce Manning:** Any other questions for Ms. Sether. Yes, Mr. Nutt.

**James Nutt:** Thank you Ms. Sether. When we say denial of the rooftop patio, is that denial of the rooftop patio as they have it drawn with setbacks or is it denial of a rooftop patio at all?

**Shanna Sether:** It's denial of any rooftop patio. So essentially what they could do in lieu of having the proposed patio with the guard rails is removal of the guard rails, they could landscape over it. They could bring in additional grade to most certainly submerge it into the hill and then also prevent additional views. But essentially it would not allow for outdoor seating or entertainment area such as a patio would typically offer in that particular location.

**Bruce Manning:** Ms. Sether, again I'm sorry if you would, do we understand that the proposed rooftop deck would be connected to the house? Does this step up to the area labeled "hard pavement" come level with the back of the garage?

**Shanna Sether:** Essentially what one could do is walk directly out of the house onto this stoop labeled "hard pavement" here, and walk directly onto the rooftop. Essentially it's completely level with the front of the front door.

**Bruce Manning:** Okay, great. Thank you. Mr. Nutt.

**James Nutt:** Thank you Vice-Chair. So you're saying that they could put grass on top of this roof?

**Shanna Sether:** Yes.

**James Nutt:** If they were to do that, given that there's at least an 8 foot drop from that grass to the front sidewalk, would they be required to have a guard rail there anyway?

**Shanna Sether:** That would be relevant for the Building Code and may be required that they provide a guard rail there. That's something that would be addressed at the permit stage. Essentially what staff is stating is you could not have an outdoor area that's enclosed with a guard rail used as a patio.

**Bruce Manning:** I see no further questions for Ms. Sether. Is the Applicant here? Excellent. Would you like to speak in favor of your application? Please do so. If you wouldn't mind stepping up to the mike and identifying yourself.

**Thor Truelson:** Oh, hey, I'm Thor Truelson. I'm own the property at 4917 Girard Avenue South. I don't really have that much to add. Ms. Sether pretty much summed up the whole project. I would like to say though that the deck portion, the patio if you

may, is not such a bad idea because it's sort of dead space otherwise. It kind of all depends on who's using it for what. In this neighborhood I wouldn't see how some college pledges would use it to party on really hard core or anything like that, but I'm not sure. My house is for sale and so this is in order to sell my house that I'm doing this. I don't know who would live there after me, and I don't know what they would be like and so I guess that's up in the air. But it hopefully – it would be sort of dead space and it would be kind of convenient to just sit out there and whatever – enjoy. We have to – the people on the east side of Girard Avenue get to look straight into the backyards and garages of the other people because that's sort of the view of it. I don't know if you have that information in front of you, but when you look at the street you can see that the front yards of everybody on the east side looks directly into the backyards of everybody on the west side. So as far as unsightly patios, or whatever, we get to look at theirs, they could look at ours as well I suppose. It doesn't matter. It depends on who's using it I guess. That's really all I have to say. It would be sort of convenient just to be able to convert it to that, whereas, otherwise it's just kind of a dead space in the yard. I don't know.

**Bruce Manning:** I have a question for you sir. Staff is essentially recommending approval of the concept of the accessory structure, the garage and the front yard as well as the setbacks for the garage but not for the deck. The application was for a 1 foot side yard setback, the staff would recommend approval at 3 feet. Do you have any objections to that?

**Thor Truelson:** I have no objection to that.

**Bruce Manning.** Okay, thank you. Are there any other questions for the Applicant? I do not see any. Thank you very much sir. Is there anyone else here today to speak in favor of the application? Okay. Is there anyone to speak in opposition to the application? Two things before you introduce yourself and give your address which we appreciate, and it looks like there's a bevy of folks to speak today. To the extent that someone who has spoken before you, you don't have this problem, has said comments that you wish to echo we'd appreciate it if you simply said my neighbor so-and-so, or whoever it was, has already said that, I'd just like to echo it as opposed to repeating them. The other think I'd sort of like to point out, having had a chance to read the submissions and maybe some of the authors of some of those submissions, Mr. Truelson's intent to either sell the house or leave the neighborhood, et cetera, are not really relevant to the decision we're making today. The variance runs with the land not the property owner nor what the property owner intends to do with it. So those comments are going to keep all of us from dinner as opposed to helping our decision in any way. So with those comments, thank you so much please introduce yourself and let us know where you live and go ahead.

**Karina Karlén:** Mr. Chairman and members of the Board my name is Karina Karlén and I live at 4933 Girard Avenue South. I noticed in the presentation that the first point is that the lack of a garage provides undue hardship to this homeowner. In fact, this homeowner has lived at this address since 2002 and has never felt that there was any undue hardship. There is now a City Ordinance that requires, at least for this home at 4917, at least one off-street parking spot. But this home was constructed before that Ordinance was put into place and so this particular home, as the other two homes nearby, are exempted from that particular requirement. I know that you mentioned that whether this home is for sale is irrelevant to this Board, but I would just say that if a

homeowner is leaving the neighborhood for another city in a different part of the country that perhaps they're not as invested in the neighborhood and look and feel and maintaining all of that and any possible negative impact to the neighborhood as those homeowners who've been in the area for a long period of time and intend to remain there. We're also interested to understand, and I don't know who can help us understand this, what the guarantees would be that the new homeowners would comply with anything that is submitted by the present homeowner in terms of guarantees of what the building would look like and so on and so forth. And perhaps you'll cover that in the discussion. Secondly, in terms of aesthetics of the neighborhood, I feel very, very strongly that this would significantly impact the look and feel of the neighborhood. Our neighbor, Thor, has indicated that all of us on Girard Avenue South on the east side face garages and back patios and so on and so forth, and that's true. The pictures will support that. But, the City of Minneapolis has an ordinance that's long standing that no garages should be placed in front of a home. And the houses that we face, in fact on the east side of Girard Avenue South, we do face their backyards because it's a funny little half-street. But those lots are much larger. Those garages are mainly attached. They're generally one car garages. Those homes are much larger and so those garages fit the size and the scale of those lots and the front entry of those homes are not impacted. So those homes are all very consistent with the look and the feel of the neighborhood and a forward facing garage would not be. I do have some concerns related to the plans in terms of scope and scale. I know that plans that are submitted to this Board must be of the appropriate scope and scale. To that I am interested to know whether or not a registered survey has been done. I don't believe one has been done. And in fact, a dear friend of mine happens to be an architect and took a stab, using the submitted measurements, at what this might in fact look like. So, if I might.

**Bruce Manning:** Please go ahead and do that. Let me just say for the record the staff is the arbiter of the sufficiency of the application. To my knowledge we've never required either registered architecture, similar drawing, to the extent that someone wants to build something and was subject to 1 foot or 3 foot or 5 foot or 8 foot or 12 foot setback they would have to in fact get a survey and mark the corners in order to do that.

**Karina Karlén:** So this is the plan. You'll see here the plan is submitted and you will see how much smaller the garage appears to be than the house. And in fact you see that the front door comes directly out to the corner of the garage. In fact, this is a much more realistic view of what this would look like. And these plans were in fact done by an architect whose name is not on here because we didn't pay for this service, but we'd be happy to do that, certainly. You'll see at the top of the drawing the house and the rear and you will see, in fact, what the real size and scale of the garage would be with the sidewalk. I don't know if that's very clear here. So this would be the house here, and then this would be the garage, plus the landscaping, plus the sidewalk. So essentially this whole structure with the sidewalk will create an appearance of an upside down wedding cake from the street. Which, at least in my estimation and I know it's subjective, would be very inconsistent with the look and feel of the neighborhood and not be very aesthetically pleasing. In fact, I believe that it makes this neighborhood look more like a rental type of a neighborhood rather than an owner occupied neighborhood. The staff report also talks about the relocation of a boulevard tree, and perhaps that's not something that's addressed by this particular committee but we don't quite, as residents, understand where that boulevard tree would be relocated. And that is a requirement of the approval of the variance.

**Bruce Manning:** You are correct that that's not something we will address. It will be addressed in the process of approvals if a variance were granted. I appreciate that you're tying your comments back to the 4 findings that we have to address. Thank you.

**Karina Karlén:** Okay. And then lastly, in terms of the staff report, the last topic that I'd like to address is that of public safety. We have quite a bit of foot traffic on Girard Avenue South. We happen to be a half a block from Minnehaha Creek and just a few blocks from Lake Harriet, and so we have people who are running and walking and kids on bikes and elderly people walking their dogs and so on and so forth. I've never done the math but I can imagine that it's about a hundred people walking down Girard Avenue South on our sidewalks every day and the visibility from this garage will not be sufficient to avoid hitting those kids and those dogs and those pedestrians. Particularly if they happen to be speaking to one another, if the kids are pushing strollers and so on and so forth. So that's a concern. Another item that was not covered in the staff report, but that I understand, has been discussed with Public Works is that the sidewalk would have to be lowered anywhere between 10 and 19 inches. And because a survey hasn't yet been done I don't think it's clear whether it is 10 inches or whether it is 19 inches and I'm concerned with how that would affect that sidewalk. Obviously, in Minnesota that will be very slippery and icy in the winter time if we have that kind of a drop in the grade in the sidewalk. And then last but not least, I understand that you don't require a registered survey, but we've been advised by the homeowner that only about 19 inches of this garage will be visible. And in fact, the architect indicated, again without a registered survey, that it may be as much as 4 feet. So I would suggest that it is very difficult to approve such a plan when so many of the facts don't add up. And lastly, in terms of the look and the feel of this neighborhood, of course, once a forward facing garage is approved only 8 feet from the sidewalk we as homeowners are concerned about the domino effect. And I think that concludes my comments. Thank you.

**Bruce Manning:** Thanks for your comments. Is there anyone else here to speak in opposition to the application? Please ma'am. If you could state your name and address for the record?

**Seale Lee:** My name is Seale Lee and I live at 4904 Girard Avenue South where I've lived for 30 years. I am the second homeowner of the house I live in which was built in 1934. So I obviously have a deep and abiding care for my own home. I happen to be one of the houses that faces the Parkway and my backyard and patio are among those that the residents of Girard look onto. With all due respect to Mr. Truelson, and I say this with a bit of humor, I am hoping that really don't feel that you have to look at the view of your neighbor's unsightly patios because the homes that face the Parkway are very substantial homes and very well kept. So I would like to just comment on that statement that he made. In a couple of things that Mrs. Sether said I would like just correct for the record. She stated that the majority of homes on Girard have shared driveways. That is not correct. They have driveways, they have single driveways. The majority of homes on Girard Avenue have single driveways. Also, she commented that no other similar structures for rooftop decks exist in the neighborhood, and that was part of the reasoning why the rooftop deck, among other reasons, was not approved. I would like to say in that same vein that there are, to my knowledge, no existing detached front garages in my neighborhood. I've lived there for 30 years and I'm not aware of any. There are a number of attached front facing garages, but not separate. I think the number of variances seems to be more than what the one other case that we heard. This is a request for 5 variances. That seems to me to be a little bit more than what the other

case that was heard. I don't know what the typical number – I see a gentleman is laughing here, or chuckling. Maybe that doesn't have anything to do with it, but the more variances that are made, it would seem to me, the more concern I have as a homeowner.

**Bruce Manning:** I appreciate that. For the record, I think we would have counted the last one as 12 variances.

**Seale Lee:** Oh, okay then no wonder you were laughing. Thank you. You have every right to .....

**Bruce Manning:** But to your last point, we treat each property on its terms.

**Seale Lee:** Okay, and that's good.

**Bruce Manning:** I appreciate your remark and you're always welcome to come down here every second Thursday and join us.

**Seale Lee:** Looks like you have fun.

**Bruce Manning:** Anyone else to speak here in opposition to the application? I think you know the drill sir.

**Randall Rogers:** My name is Randall Rogers, I reside at 4933 Girard Avenue. And I think the case against has been well represented and I concur with all that's been said. The only addition I would make is just a very specifically look at point 3, that granting of the variance will be keeping with the spirit and intent of the Ordinance and will not alter the essential character of the locality and I would emphasize the fact that this is a very family residential non-rental sort of feeling street and one of the beauties of it is the strong slope that occurs all the way as you walk down the street and obscuring it with a garage would dramatically change the character of the locality. That's all I have.

**Bruce Manning:** Thank you very much Mr. Rogers. Is there anyone else to speak in opposition to the application? Going once, going twice ... Ma'am.

**Mary Faulkner:** Hi. Hello my name is Mary Faulkner and I live at 4921 Girard Avenue South. I concur with what people have talked about. I want to talk about my – I live right next door to Thor and I will be one of the ones that will be looking out of my dining room window over Thor's garage. I also have an ash tree right outside my dining room window and I have concerns for both my ash tree and the boulevard. I have had a certified arborist come and look at the property and he said that if the garage is put in that the tree would do okay if, and the if's are: that no heavy equipment rolls over the tree roots on Thor's side of the property, or that heavy building products are piled on that area. Either of those things could kill my tree. Thor has said that he will not put things there, but as you said, this variance goes from Thor to whoever he sells the property to, and how do I have that kind of coverage so that my tree – my boulevard tree, my elm tree, and my ash tree don't die and I end up having to pay to take it down plus the loss of it. I understand that there are building permits where you can purchase a permit to put your building equipment on the street. I don't know whether there is a part of the variance where if you decide for the garage, which I am not for, but if you do decide for it if you could put in the variance that whoever owns the property would have to buy a

permit to put the building products on the street. Aesthetically, I don't understand why one would be giving him a two-car garage when the Ordinance only says that they need a one-car garage and it is – it takes up so much of the room of the front yard that I've been able to look out over for almost 40 years. I also have some concerns about the height because we don't know the height of the garage outside – above the lawn. Because we don't know where the figures came from that Thor provided that that is accurate. And if it's 4 feet up I'm going to be right up – the rooftop's going to be in my face.

**Bruce Manning:** Thank you very much Ms. Faulkner. Is there anyone else to speak in opposition to the application? I'm afraid I have a question which I should have asked earlier. Ms. Sether do you know if the Lynnhurst Neighborhood Association was contacted and if they were, what they (unintelligible)?

**Shanna Sether:** The Applicant contacted the Lynnhurst Neighborhood Association via e-mail as well as staff sent our 21-day notice to them. We have not received any letter or phone call from the Lynnhurst Neighborhood Association either in opposition or support of the application.

**Bruce Manning:** Thank you. With that I will close the public record and take Board comment. Mr. Finlayson.

**John Finlayson:** Thank you. I know it's the norm in Minneapolis is garage rear. Garage front is normally thought of as a suburban entity, and it generally is, and we're not in the habit of approving garage front unless that's the only option. There is a right to have off-street parking. In this particular case the grade is such that would be prohibitive. It would also require a shared driveway agreement with a neighbor to get to the rear and that doesn't really appear to have been pursued. So there is a right to have off-street parking, either a parking pad or a garage, either one. You're actually probably better off with a garage. I know of a situation in my neighborhood where somebody put an Airstream trailer in their front yard and it was there for a decade. So at least this will be covered. If there's any solace in this, he will never, ever – I'm a real estate appraiser – get his money back out of the money he's putting into this garage. It doesn't make economic sense. He's better off selling it as it is. But that's as it is. It's nothing anything we have control over, however, I think the staff is quite correct about creating a patio deck, balcony, whatever you call it, in the front yard. The purpose of not allowing these things in the front yard – that is to say the garage is allowed, but a deck or a patio is not, is that when people walk out of their front doors to head to the street they have an expectation of an open sight line going both directions. So as it sits, for it's little cause, I'm going to support staff recommendation in favor granting the garage but denying the patio/deck/balcony – whatever it is. I wait to hear my fellow Board members' opinion on this as well.

**Bruce Manning:** Thank you Mr. Finlayson. Mr. Koch?

**Chris Koch:** You know I agree with most of what he said. Clearly a person has right to have a parking area, covered or uncovered. But given the nature of the lot slope it seems that the proposed detached structure is purely the cheapest way to do it. And I can't take an economic route into consideration. Just because it happens to be cheaper than making it truly a tuck-under which seems to be feasible, although I'm not a designer, I can tell that – Okay we could make a tuck-under fully enclosed garage here

and alot more expensive and alot more work. But expense can't bear into the situation so if I can see that there's a reasonable alternative to – nobody likes a front facing garage. Especially on a street where there – where there aren't any and I just don't like it... (end of tape)

**Sean Cahill:** ... for all the neighbors who came out here and shared your time with us. I know it's a long night and you already sat through already a long one so I appreciate your time. Given that how I'm going to be voting this is pretty much between a rock and a hard place. A lot of these we see is that there is a understanding that there are alot of bad ideas that come before us and the understanding is that while we do what we can to ensure that there is certain requirements met and that we do make some certain exceptions is people do kind of have a right to do with their property as they wish. And the fact that we're granting a variance here, more importantly, is because the property at hand does not have something which I think most people in the area do, which is parking. I've lived downtown and it's a pain in the butt to have off-street parking, I understand and it is I do think of great economic value but and I do believe the Applicant does have a right to put some sort of parking on there. Unfortunately, the ways the laws are written it's very difficult to fit that garage in there. Given that, I understand there's alot of public outcry against this and I recognize that and it's troubling and I wish there was some way I could have you talk to the Applicant outside of here, but unfortunately what he has proposed I do believe is reasonable within the law. Even though a good idea is, you know, or excuse me, that a bad idea is legal it's still, you know, we still have to pass it and we're a legal body and not a good idea or design board so I do appreciate your time coming here and I'm sorry that I couldn't agree more with ya but I will be supporting staff's recommendation. Thank you.

**Bruce Manning:** Thank you Mr. Cahill. Mr. Nutt.

**James Nutt:** Thank you Vice-Chair. I'm having a little bit of a hard time with the hardship on this in that you do have on-street – option of on-street parking and you would have the option of a one-car garage for this. And as much as I respect our staff's hard work I have to disagree with this keeping in with the context and the spirit of the neighborhood. I really do believe that this goes against that and I do believe that it would set a bad precedent for these other houses that do not have the access to the back, although I do lament the property's inability to have that garage in the back. Although we can't judge on this, I have two concerns. One would be if you create this structure your front door of this house and your windows would be looking onto a roof, a garage roof, and those get to look terrible very quickly in matter of a couple years. As well as the height – the 8 feet going to your sidewalk is going to require some kind of a guard rail and that's going to make it more visible. I know we're not judging on that, but it's a reality to the site. So I do not believe that this keeps with the neighborhood, although I do deeply respect our staff's recommendation. So I can't be in favor of this variance.

**Bruce Manning:** I'm going to throw a question out to my fellow Board members if I may. I certainly welcome your experience and your perspective. I believe the square footage of the proposed two-car garage is within the – it's less than the maximum required for a detached accessory structure, but I what I don't understand is the hardship seems to be one of lack of one off-street parking space and the proposal is for two. And it's a 22 ½ foot wide garage, which is going to be set 3 feet off of the property line so it's reaching out to 25, 26 feet. I mean, it's a narrow lot. And I don't think – I don't what – if

there's anything to do about it in the front application, but I'm actually struggling for a two-car garage as opposed to a one-car garage. John, I'd welcome your comments.

**John Finlayson:** Yeah, actually the two-car garage, what is it 670 square foot limitation on garages on lots this size so in and of itself it fits the norm, but we're not actually required to grant a two-car garage. We did deny on the basis that one-car is sufficient. You know the other aspect of it too is that, speaking as a real estate appraiser, I mean a garage stall in that neighborhood is worth \$2,000. So a two-car garage is worth 4 grand if you can build a two-car garage for \$3,900 you made a profit, but that ain't gonna happen. I shudder to guess what these numbers are because it's going to be a lot of concrete. So upon reflection I don't have any problem denying it because a one-car is sufficient.

**Bruce Manning:** But it seems – if I may speak again – it seems to me the basis for the hardship is the lack of what the City provides, which is one off-street parking space and so I'm not sure I can find a hardship for the building as proposed. That defense where I guess I'm struggling – I actually see more of a logic to the rooftop deck once it got the darn building there because from the last (unintelligible) roof, it's dying to be sat on. It's going to be sat on anyway. You're going to have to protect it. Once you put a guard rail up you might as well have it be a nice outdoor space. But so that one actually makes a bit more sense to me, but the two-car one-car is where I'm struggling.

**John Finlayson:** Actually too with placement of the garage, I mean, I'm talking nearly the placement on the ground. At what point is it? How far does it rise up? I mean it could actually affect the – negatively affect the marketability of the house when somebody goes inside and looks outside and they get to look at garage instead of the rest of the neighborhood so it's, I mean it's not my property.

**Bruce Manning:** Mr. Nutt.

**James Nutt:** If we're speaking to the roof as well, you will get leaves and everything – you will be walking on top of this roof and that's going to deteriorate it even further. I know we're not judging on this but it is a consideration.

**Bruce Manning:** Again, so if the justification I'm putting in the front yard, and I think we all agree that we've granted these before and you see them sporadically throughout the neighborhoods where it's not available, if the justification is the right a single off-street parking space I'm having trouble with a two-car garage given the concerns the staff has about the deck and given, I think important concerns the neighborhood has raised about the character of the neighborhood. I guess I'd be inclined to grant a one-car garage 3 feet from the line which is - which again I don't why you'd build, but I'm done. I'll look to Mr. Koch.

**Chris Koch:** I'd like to make a motion that we deny the application as presented.

**Bruce Manning:** Is there a second?

**James Nutt:** Second.

**Bruce Manning:** We have a second. A motion and a second to deny the application. Comment. Mr. Finlayson.

**John Finlayson:** Yeah, I believe we have to have a finding when we go against staff recommendation...

**Bruce Manning:** We do sir.

**John Finlayson:** ...and I'd suggest that the finding is that our Ordinance requires a one-car garage and this exceeds and the – as stated, that the location which is unique to this property would be injurious to the neighborhood.

**Chris Koch:** Thank you.

**Bruce Manning:** Mr. Cahill.

**Sean Cahill:** Thank you Mr. Chair. Sorry, I'll actually second that finding and maybe add to it is that that's going to go towards the spirit and intent rather than any hardship showing. I think the problem with hardship is that once it's been shown that he can't do anything that's where the limitation stops. The spirit and intent is where we can put the limitation on the one- or two-car garage. Given that we have a right that exists for a one-car it would injurious to the spirit and intent of that ordinance to allow a two-car garage. So I'd say that our denial should go under findings number 3, but we do realize there's hardship given the current prohibition. So...

**Bruce Manning:** Ms. Sether, before I go any further I want to make sure that we have satisfied the City's procedural checklist for such a motion.

**Shanna Sether:** Absolutely.

**Bruce Manning:** Is there any further comment on the motion? I'm going to call the clerk to have us vote. I didn't vote on the last application because my vote wasn't necessary to maintain a quorum number of members voting out of respect to the Chair who was not here, and whom I'm sitting in for today, who as a matter of practice doesn't vote on motions. However, because we are now at 5 I will be voting on this motion. Will the clerk please call the roll for a vote?

**Clerk:** Mr. Cahill?

**Sean Cahill:** Yes

**Clerk:** Mr. Finlayson?

**John Finlayson:** Aye.

**Clerk:** Mr. Koch?

**Chris Koch:** Yes.

**Clerk:** Mr. Manning?

**Bruce Manning:** Yes.

**Clerk:** Mr. Nutt?

**James Nutt:** Yes.

**Clerk:** The motion passes.

**Bruce Manning:** Your motion has been denied, sorry the variance has been denied, the motion has passed. Mr. Truelson you are free to speak with Ms. Sether after the close of this meeting or other staff members.