



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

Date: August 11, 2005

To: Council Member Gary Schiff, Zoning and Planning Committee

Prepared by: Jim Voll, City Planner 612-673-3887

Presenter in Committee: Jim Voll, City Planner

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

Subject: Appeal of the decision of the Zoning Board of Adjustment by Michael West.

5350 – 26th Avenue South (BZZ-2392, Ward 12) - Michael West has applied for a variance to reduce the front yard setback established by the front corners of the two adjacent residential structures along 26th Avenue South from 31 ft. to 25 ft. to allow for an enclosed porch in the R1 Single-family District at 5350 26th Avenue South.

RECOMMENDATION: The Zoning Board of Adjustment adopt the staff recommendation and denied the variance to reduce the required front yard setback along 26th Avenue South from 31 feet to 25 feet to allow an enclosed porch addition to the front of the house in the R1 Single-family District for property located at 5350 26th Avenue South.

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.

End of 60/120 Day Decision Period: On July 12, 2005, staff sent a letter to the applicant extending the 60 day decision period to no later than September 28, 2005.

Background/Supporting Information

Michael West has filed an appeal of the decision of the Board of Adjustment denying his application for a front yard variance from 31 feet to 25 feet to allow an enclosed porch. Planning Division staff recommended denial of the variance. At the July 7, 2005, Zoning Board of Adjustment meeting, six (6) Zoning Board of Adjustment members were present. Six (6) members voted to adopt the staff recommendation and denied the variance. The July 7, 2005, Board of Adjustment minutes, actions, and Planning Division staff report are attached.

Department of Community Planning and Economic Development - Planning Division Report

Variance Request
BZZ-2392

Date: July 7, 2005

Applicant: Michael West

Address of Property: 5350 26th Avenue South

Contact Person and Phone: Michael West 612-721-6159

Planning Staff and Phone: Jim Voll 612-673-3887

Date Application Deemed Complete: May 31, 2005

End of 60 Day Decision Period: July 30, 2005

Appeal Period Expiration: July 18, 2005

Ward: 12 **Neighborhood Organization:** Nokomis East

Existing Zoning: R1 Single-family District

Proposed Use: Front addition to an existing single-family house.

Proposed Variance: A variance to reduce the required front yard setback established by the two adjacent residential structures along 26th Avenue South from 31 feet to 25 feet to allow an enclosed porch.

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

Background: The subject property consists of an existing single-family dwelling. The applicant has constructed a six foot by 24 foot enclosed porch on the front of the house. This addition was done without obtaining building permits or zoning approval. The applicant has received notice from the City of the requirement to obtain a building permit. The property is zoned R1 Single-family Residential, which has a required front yard setback of 25 feet. However, the established front yard of the two adjacent residential structures is 31 feet and by ordinance the front yard setback is the greater of the district setback or the established setback. The applicant's house is setback 31 feet and the addition extends six feet into the established setback. Therefore, the applicant is applying for a variance to reduce the required front yard setback along 26th Avenue South from 31 feet to 25 feet to allow the addition.

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.

The applicant is seeking a variance to reduce the required front yard setback along 26th Avenue South from 31 feet to 25 feet. The enclosed porch addition projects six feet from the front façade of the dwelling. The subject property is flat and rectangular and the lot is 6,601 square feet, which is larger than the typical lot size throughout much of the City. The majority of the houses on this side of the street are ramblers without porches setback approximately 31 feet. Staff can find no hardship that would prevent the applicant from reasonably using his property in a manner similar to properties in the area.

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.**

The subject property is flat and rectangular and the lot is 6,601 square feet, which is larger than the typical lot size throughout much of the City. The majority of the houses on this side of the street are ramblers without porches setback approximately 31 feet. There is not a unique circumstance relating to this parcel of land. The need for the variance has been created by the applicant rather than the zoning ordinance.

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.**

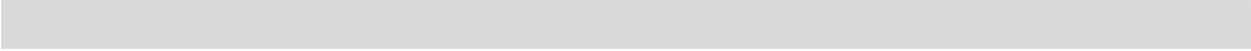
The intent of setbacks is to provide a uniform building line down a block face, to preserve views up and down the street, and to ensure access to light and air. The majority of the homes on the same side of the block as the subject property are ramblers without porches that are setback approximately 31 feet. The variance would add an addition on the front of the house that would be out of character with the surrounding homes and that would encroach into the setback six feet more than the majority of the other homes on the block and therefore, the proposed variance circumvents 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.**

Granting the setback variance would 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 26th Avenue South from 31 feet to 25 feet to allow an enclosed porch addition to the front of the house for property located at 5350 26th Avenue South.



Board of Adjustment Hearing Testimony and Actions

Thursday, July 7, 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. Barry Morgan

Committee Clerk: Michelle Howard

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

9. 5350 – 26th Avenue South (BZZ-2392, Ward 12)

Michael West has applied for a variance to reduce the front yard setback established by the front corners of the two adjacent residential structures along 26th Avenue South from 31 ft. to 25 ft. to allow for an enclosed porch in the R1 District at 5350 26th Avenue South.

CPED Department Planning Division Recommendation by Mr. Voll:

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 26th Avenue South from 31 feet to 25 feet to allow an enclosed porch addition to the front of the house for property located at 5350 26th Avenue South.

TESTIMONY

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

Finlayson: Is the applicant present? Name and address for the record, please.

My name is **Michael West** and I reside at 5350 – 26th Avenue South and I want to thank you for this opportunity. There is a lot of things, thought that my wife and I put into putting this porch up, one of the main reasons is that we live near the airport and the only times we really have to enjoy our outside is in the evenings and we thought that if we put a porch up we could cut some of the noise down, when the airplanes are available. When they are not then we can open the windows and enjoy the fresh air from outside . The other thing I guess I am not quite in understanding is that, from the information that I received I could build an open porch, six feet

out onto the property without a variance, but now that it is enclosed I need a variance. I understand that it is visual for neighbors and esthetics and things like that. Did mention that there are trees in the way, and then the next block up there are front porches and we are the only block on both sides of the street that does not have front porches. Not that everyone has one, I guess I don't see what the problem is and I don't understand all the variance laws. I have talked with several of my neighbors they rather like it, I should have brought them too, to represent that. That is all I have to say.

Finlayson: Ms. Bloom?

Bloom: If I could just ask a quick question. It appears that there are two rows of boards on the bottom and it appears that you were going to put a patio or deck in front of the porch?

West: No, I kind of over built it, by double bracing to support the porch and that is going to be enclosed with lattice and plants.

Finlayson: Mr. Gates?

Gates: Am I correct that one of the photographs on the last page of the packet indicates the house as existed before the porch was added?

Staff: Yes

Gates: So, it looks like the Chicago Style window in the center, which I take to be the living room actually projected in front of the house on the right.

West: By one foot.

Gates: So, the six foot addition of the new porch comes out in front of that point or the one foot.

West: At that point.

Gates: So, it is seven feet in front.

West: Yes, seven feet from the foundation.

Gates: And the six foot dimension is an exterior dimension.

West: Yes.

Gates: And the glass window, I am seeing in this photograph, the original window, is still there?

West: Yes, we are not going to open it up for a house expansion.

Gates: So, the actual depth of the interior of the porch is six feet less the new outside wall?

West: Yes.

Gates: Okay, thank you.

Finlayson: I see no further questions, thank you! Is there anyone else to speak in favor? Anyone to speak against? I see no one. Close the public portion of this item, Board comment please.

Lasky: *Could not hear Ms. Lasky's voice/comments on tape recording.*

Bloom: I would like to make a motion for that reason, I would like to move staff recommendation.

Finlayson: Is there a second?

Flo: I'll second that.

Finlayson: Further discussion? Please call the roll.

Roll Call Vote:

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

Nays: None

Recused: None

Absent: Morgan, Rand

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

The motion **denied** the variance to reduce the required front yard setback along 26th Avenue South from 31 feet to 25 feet to allow an enclosed porch addition to the front of the house in the R1 District for property located at 5350 26th Avenue South.