



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

**Date:** December 14, 2006

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

**Referral to:** Zoning and Planning Committee

**Subject:** Appeal of the Board of Adjustment action denying a variance for property located at 4820 31<sup>st</sup> Avenue South (BZZ-3304) by Gordon Neumann.

**Recommendation:** The Zoning Board of Adjustment, notwithstanding staff recommendation, denied a variance to decrease the established front yard setback from 22 feet to 20 feet 6 inches to allow for a one-story addition with a roof top deck to an existing single family dwelling located at 4820 31<sup>st</sup> Avenue South in the R1A, Single Family District.

**Previous Directives:** N/A

**Prepared or Submitted by:** Brian Schaffer, City Planner, 612-673-2670

**Approved by:** Jack Byers, Planning Supervisor, 612-673-2634

**Presenters in Committee:** Brian Schaffer, City Planner

### Financial Impact (Check those that apply)

- No financial impact (If checked, go directly to Background/Supporting Information).
- Action requires an appropriation increase to the \_\_\_\_\_ Capital Budget or \_\_\_\_\_ Operating Budget.
- Action provides increased revenue for appropriation increase.
- Action requires use of contingency or reserves.
- Business Plan: \_\_\_\_\_ Action is within the plan. \_\_\_\_\_ Action requires a change to plan.
- Other financial impact (Explain):
- Request provided to department's finance contact when provided to the Committee Coordinator.

### Community Impact (use any categories that apply)

**Ward:** 12

**Neighborhood Notification:** The Nokomis East Neighborhood Association was notified of this application by letter, mailed on October 26, 2006.

**City Goals:** See staff report.

**Comprehensive Plan:** See staff report.

**Zoning Code:** See staff report.

**Living Wage/Job Linkage:** Not applicable.

**End of 60/120-day Decision Period:** The 60 decision period expires on December 24, 2006.

**Other:** Not applicable.

**Background/Supporting Information Attached:** Gordon Neumann of 4820 31<sup>st</sup> Avenue South has filed an appeal of the decision of the Zoning Board of Adjustment denying the reduced front yard variance. The Zoning Board of Adjustment voted 4-3, with 1 member recused, to deny the variance on November 16, 2006. The applicant filed an appeal on November 27, 2006. The applicant's statement is included in the staff report.

# Board of Adjustment Hearing Testimony and Actions

Thursday, November 16, 2006  
2:00 p.m., Room 317 City Hall

**Board Membership:** Mr. Matt Ditzler, Mr. David Fields, Mr. John Finlayson, Mr. Paul Gates, Ms. Marissa Lasky, Ms. Alissa Luepke Pier, Mr. Matt Perry, and Mr. Peter Rand

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

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## TESTIMONY

6. **4820 31<sup>st</sup> Avenue South: (BZZ-3304, Ward 12)**

Gordon Neumann has applied for a variance to decrease the established front yard setback from 22 feet to 20 feet 6 inches to allow for a one-story addition with a roof top deck to an existing two-story single family dwelling at 4820 31<sup>st</sup> Avenue South in the R1A District.

Notwithstanding staff recommendation, Mr. Rand moved and Ms. Luepke-Pier seconded the motion to **deny** the variance to reduce the established front yard setback from 22 feet to 20 feet 6 inches to allow for a one-story addition and roof top deck to an existing single family dwelling located at 4820 31<sup>st</sup> Avenue South in the R1A, Single Family District.

**Roll Call Vote:**

Yeas: Fields, Luepke Pier, Perry, Rand

Nays: Ditzler, Finlayson, Gates

Recused: Lasky

Absent: None

Due to technical difficulties taping of the Public Hearing was not successful. The following is a summary of the meeting.

- Staff presented the staff report.
- The applicant spoke.
- No one spoke in favor of the variance.
- Seven citizens spoke in opposition to the variance (attached is the sign in sheet with the citizens who spoke).
- In its discussion the Zoning Board of Adjustment cited lack of hardship as a finding to deny the variance.
- Board member Lasky recused herself because she arrived late to the hearing.

**Department of Community Planning and Economic Development – Planning Division**

Variance Request  
BZZ-3304

**Date:** November 16, 2006

**Applicant:** Gordon Neumann

**Address of Property:** 4820 31<sup>st</sup> Avenue South

**Contact Person and Phone:** Gordon Neumann, (612) 366-2050

**Planning Staff and Phone:** Brian Schaffer, (612) 673-2670

**Date Application Deemed Complete:** October 25, 2006

**Public Hearing:** November 16, 2006

**Appeal Period Expiration:** November 27, 2006

**End of 60 Day Decision Period:** December 26, 2006

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

**Existing Zoning:** R1A, Single Family District

**Proposed Use:** One-story addition and roof top deck to the front of two-story single family dwelling.

**Proposed Variance:** A variance to decrease the established front yard setback from 22 feet to 20 feet 6 inches to allow for a one-story addition with a roof top deck to an existing two-story single family dwelling at 4820 31<sup>st</sup> Avenue South in the R1A District.

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

**Background:** The subject property is located on an interior lot that is approximately 48 ft. by 133 ft. (6,384 sq. ft.). The existing two-story dwelling is located 30 feet six inches from the front property line. Section 546.160 of the Zoning Ordinance addresses yard requirements. It states that the standard district front yard setback shall be increased when the properties on either side of a subject property have a larger front yard setback. A line shall be drawn between the front corners of the adjacent principal structures creating an established front yard setback. All structures on the subject property shall be located behind the established front yard setback.

546.160. Yard requirements. (a) In general. The minimum yard requirements for uses located in the residence districts shall be as set forth in each residence district, and in Chapter 535, Regulations of General Applicability, except as provided below. Required

yards shall be unobstructed from the ground level to the sky, except as provided as a permitted obstruction in Chapter 535, Regulations of General Applicability.

(b) Front yard increased. The required front yard shall be increased where the established front yard of the closest principal building originally designed for residential purposes located on the same block face on either side of the property exceeds the front yard required by the zoning district. In such case, the required front yard shall be not less than such established front yard, provided that where there are principal buildings originally designed for residential purposes on both sides of the property, the required front yard shall be not less than that established by a line joining the nearest front corners of both buildings. Nothing in this provision shall authorize a front yard less than that required by the zoning district.

The front yard setback for the R1A district is 20 feet and the existing dwelling, located at 30 feet 6 inches, meets this setback. The dwellings located to the north and south of the subject dwelling at 4816 and 4824 31<sup>st</sup> Avenue South are located 22 feet from the front property line along 31<sup>st</sup> Avenue South.

The applicant is proposing to build a one-story addition with a roof top deck on the front of the dwelling. The front façade will be stucco. The addition extends ten feet in front of the dwelling and is located 20 feet 6 inches from the front property line. This addition meets the district front yard setback of 20 feet, but extends one foot six inches into the established front yard setback at 22 feet. The applicant was granted a building permit, BIRE 3043018, on August 10<sup>th</sup> 2006 and has constructed the addition in accordance to the approved plans. The applicant is replacing an existing enclosed front porch, which according to the applicant, was located approximately 21 feet from the front property line.

#### **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 has requested a variance to reduce the established front yard setback along 31<sup>st</sup> Avenue South from 22 feet to 20 feet 6 inches to allow for the construction of a one story addition and roof top deck. The front yard setback of the dwellings along the western block of 31<sup>st</sup> Avenue South range from 20 feet to 23 feet and the adjacent single-family dwellings to the north and south of the subject property are setback 22 feet from the front property line. The district front yard setback is 20 feet. Staff believes a one story addition with roof top deck is a reasonable use of the property and recognizes the hardship created by the location of the adjacent properties to the south and the north.

- 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 circumstances upon which the setback variance is requested are unique to the parcel of land due to the existing locations of the subject dwelling and the adjacent dwellings to the north and south. The location of the subject dwelling is a circumstance that is unique to this parcel and not 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.**

Staff believes the proposed addition will not alter the essential character of the surrounding neighborhood. The adjacent properties have enclosed porches and the proposed one story addition will be similar in size.

- 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 likely have no impact on the congestion of area streets or fire safety, nor would it be detrimental to the public welfare or endanger the public safety.

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

The Department of Community Planning and Economic Development – Planning Division recommends that the Board of Adjustment adopt the findings above and **approve** the variance to reduce the established front yard setback from 22 feet to 20 feet 6 inches to allow for a one-story addition and roof top deck to an existing single family dwelling located at 4820 31<sup>st</sup> Avenue South in the R1A, Single Family District.