

**Department of Community Planning and Economic Development - Planning Division Report****Variance Request  
BZZ-2239****Date:** April 7, 2005**Applicant:** Melissa Avery and Andrew Schnoes**Address of Property:** 4845 Irving Avenue South**Contact Person and Phone:** Melissa Avery or Andrew Schnoes, (612) 927-0789**Planning Staff and Phone:** Tanya Holmgren, (612) 673-5887**Date Application Deemed Complete:** March 14, 2005**End of 60 Day Decision Period:** May 13, 2005**End of 120 Day Decision Period:** July 12, 2005**Ward:** 13      **Neighborhood Organization:** Lynhurst Neighborhood Association (LYNAS)**Existing Zoning:** R1, Single-family District**Proposed Use:** A conversion of an open front porch to an enclosed porch on an existing single-family dwelling.**Proposed Request:** A variance application to reduce the front yard setback established by connecting a line between the front two corners of the two adjacent residential structures along Irving Avenue South to 16 ft. to allow for the construction of a replacement deck.**Zoning code section authorizing the requested variance:** 525.520 (1)**Background:** The subject property is approximately 50 ft. by 135 ft. (6,750 sq. ft.). The property consists of an existing single-family dwelling with a two car tuck-under rear facing garage. The front door is elevated from ground level and requires stairs or landings to access the doors. The dwelling on the subject property is located 31 ft. from the front property line, the adjacent property to the north is setback 39 ft., and the adjacent property to the south is setback 30 ft. and has an 8 ft. deep enclosed porch in front of the dwelling.

The applicants recently removed an existing deck that was on the property at the time they purchased the dwelling in 1996. The applicant states the previous deck was sinking and wanted to replace it with a smaller deck to allow space for landscaping of the yard. Due to the removal of the deck, a set of stairs has been constructed as a temporary solution to the elevation change.

The applicant is applying for a variance to reduce the front yard setback established by connecting a line between the front two corners of the two adjacent residential structures along Irving Avenue South to 16 ft. to allow for the construction of a deck. The applicant has proposed to reconstruct a front deck addition to an existing dwelling that allows access to the front door, the front facing French doors, and allows usability of the front yard. The applicant states the new deck that will extend 14 ft. from the front of the dwelling is smaller than the previous deck that extended in front of the existing tress and out 30 ft. from the dwelling. The new deck will be located entirely behind two large cottonwood trees located in the front of the dwelling.

Decks located in required yards are allowed by code to be constructed to 50 sq. ft. and project no more than 4 ft. into the required yard. The proposed deck will total 437 sq. ft. (and will project 11.5 ft. into the required front yard. The projection from the front of the dwelling will be 14 ft.

**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.**

**Established front yard setback:** The applicant is seeking variance application to reduce the front yard setback established by connecting a line between the front two corners of the two adjacent residential structures along Irving Avenue South to 16 ft. to allow for the construction of a 437 sq. ft. two-level deck. The deck will be located 16 ft. from the property line along Irving Avenue South and will project 14 ft. from the front most portion of the façade of the dwelling. Strict adherence to the code requires that the subject property construct a deck that is 50 sq. ft. and project no more than 4 ft. into the side yard. Strict adherence to the regulations would not allow for the proposed deck addition to the existing single-family dwelling. The applicant states that the topography of the front yard limits the amount of useable front yard area. Strict adherence to the regulations would not allow for the deck as proposed. Based on the topography of the front yard, staff believes that a deck will allow for the dwelling inhabitants to use the front yard which is a reasonable use of the property.

- 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.**

**Established front yard setback:** The conditions upon which the setback variance is requested are not unique to the parcel of land. The applicant has proposed to construct a deck on the front of an existing single-family dwelling that is located in front of the established front yard setback. Staff does recognize the previous front deck exceeded the front setback. It is the fact that a large deck in the front of the dwelling is inconsistent with the area. Staff believes this is a circumstance created by the applicant.

The applicant states that the configuration of the property limits the ability to construct a deck to the rear of the dwelling. An existing driveway occupies approximately 60 percent of the rear yard and the location an existing air conditioning unit and a shed adjacent to the dwelling. The location of the existing structures and the configuration of the lots are not circumstances created by the applicant.

Crime prevention through environmental design promotes front porches and decks to encourage pedestrian activity and provide 'eyes on the street' as a neighborhood safety strategy. Therefore, staff would support a replacement front deck to provide room for pedestrian use that is more consistent with the area. The alternative to the variance would cause an undue hardship to the property owner, by not allowing the deck addition.

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.**

**Established front yard setback:** Staff believes the deck addition will not substantially alter the essential character of the surrounding neighborhood. The proposed deck addition will maintain the required side yard setbacks from the adjacent properties. The variance request is required in order to construct a deck that is greater than 50 sq. ft. Staff feels a deck that is greater than 4 ft. deep is more useable, however a 14 ft. deck is out of scale with the neighboring structures. The topography of the front yard limits the use of the front yard. Without a deck in the front yard, the inhabitants of the dwelling are limited in use of the front yard. The applicant states that the deck integrates well with the architecture of the house, will increase the curb appeal of the dwelling, and will help to break up the flat front surface of the house. Staff believes that the deck addition will not be injurious to the use or enjoyment of other property in the vicinity.

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

**Front yard setback:** Granting the front yard setback variance would likely have no impact on the congestion of area streets or fire safety, nor would the proposed deck addition to the existing dwelling be detrimental to the public welfare or endanger the public safety.

**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 application to reduce the front yard setback established by connecting a line between the front two corners of the two adjacent residential structures along Irving Avenue South to 16 ft. to allow for the construction of a deck.