

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

Variance Request  
BZZ-3933

**Applicant:** Marc Southerland & Simba Blood

**Address of Property:** 3917 39<sup>th</sup> Avenue South

**Contact Person and Phone:** Marc Southerland, (612) 721-2923

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

**Date Application Deemed Complete:** February 5, 2008

**Publication of Staff Report:** April 4, 2008

**Public Hearing:** April 10, 2008

**Appeal Period Expiration:** April 21, 2008

**End of 60 Day Decision Period:** April 5, 2008. Extended an additional 60 Days to June 4, 2008

**Ward:** 12      **Neighborhood Organization:** Longfellow Community Council

**Existing Zoning:** R1A Single Family District

**Proposed Use:** An enclosed front porch.

**Proposed Variance:** A variance to reduce the required front yard setback from 20 feet to 13 feet 10 inches and a variance to reduce the north interior side yard setback from 5 feet to 3 feet 7 inches to allow for a new enclosed front porch on an existing single family dwelling located at 3917 39<sup>th</sup> Avenue South.

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

**Background:** The subject property is located on an interior lot that is approximately 40ft. by 128 ft. (5,120 sq. ft.). The applicant is proposing to replace an existing 7 foot deep enclosed front porch with a new enclosed front porch that is 10 feet deep. The proposed porch will be 13 feet 10 inches from the property line and requires a variance to reduce the front yard setback from 20 feet to 13 feet 10 inches.

The existing enclosed front porch is located approximately one foot in from the building wall of the dwelling. The proposed front porch will be extended out toward the property line to follow the building wall of the dwelling. The porch will be 3 feet 7 inches from the north interior side property line and requires a variance to reduce the side yard setback from 5 feet to 3 feet 7 inches.

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

- 1. The property cannot be put to a reasonable use under the conditions allowed by the official controls and strict adherence to the regulations of this zoning ordinance would cause undue hardship.**

**Front Yard Setback:**

The applicant is seeking a variance reduce the front yard setback from 20 feet to 13 feet 10 inches to allow for an enclosed front porch. It appears that few properties along this block of 39<sup>th</sup> Avenue are conforming to district front yard setback of 20 feet. From the information the applicant has provided the setback of homes vary from 11 feet 6 inches to greater than 17 feet from the front property line. The applicants have the ability to reconstruct the existing front porch which is located at approximately 16 feet 10 inches from the front property line without a variance. Staff does not believe there is undue hardship caused by strict adherence to the Zoning Ordinance. The applicants have alternatives to the variance including the ability to replace the existing 7 foot deep front porch without a variance.

**Side Yard Setback**

The applicant is seeking a variance to reduce the side yard setback from 5 feet to 3 feet 7 inches to allow for an enclosed front porch. Strict interpretation of the zoning ordinance would allow for the nonconforming front porch to be rebuilt on the same footprint. Staff does not believe there is undue hardship caused by the ordinance. Staff further believes that the applicants have design alternatives that do not require 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.**

The circumstances are not unique to this parcel of land. The subject structure and neighboring structures were built prior to the zoning ordinance requiring a 20 foot front yard setback or 5 foot side yard setback. However, this is not necessarily unique to this parcel; much of Minneapolis was developed prior to required setbacks. Staff does not believe this is a unique enough circumstance to justify the proposed variances.

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

**Front Yard Setback**

Staff does not believe that granting the front yard setback variance will negatively alter the essential character of the neighborhood. From the information the applicant has provided the

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setback of homes along this block of 39<sup>th</sup> Avenue vary from 11 feet 6 inches to greater than 17 feet. The proposed setback of 13 feet 10 inches will be less than others on the block.

Staff is concerned that the impact of the proposed enclosed porch could be injurious to the use or enjoyment of the adjacent properties at 3915 39<sup>th</sup> Avenue South and 3921 Avenue South.

The adjacent property to the north, 3915 39<sup>th</sup> Avenue South, is setback 16 feet 5 inches from the front property line and the property to the south, 3921 39<sup>th</sup> Avenue South, is located 17 feet from the front property line. If staff applied the established front yard setback measurement by drawing a line from the front corners of the adjacent properties the established front yard setback would be approximately 16 feet 9 inches. The proposed front yard setback is 3 feet closer to the front property line than the established setback.

**Side Yard Setback**

Staff does not believe the granting the side yard setback variance will negatively alter the essential character of the neighborhood. The existing house setback of 3 feet 7 inches establishes a building wall along the north edge of the property line. The impact of the proposed variance will likely be experienced by the property to the owner to the north at 3915 39<sup>th</sup> Avenue South. This adjacent structure, like most properties along the block, is located on the north edge of the property leaving a large south interior side yard. Staff does not believe the side yard setback variance will be injurious to the property owner to the north due the large south side yard on that property.

- 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 variances would not likely increase congestion in the area or increase the danger of fire safety, nor would the variances be detrimental to welfare or 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 **deny** a variance to reduce the required front yard setback from 20 feet to 13 feet 10 inches and **deny** a variance to reduce the north interior side yard setback from 5 feet to 3 feet 7 inches to allow for a new enclosed front porch on an existing single family dwelling located at 3917 39<sup>th</sup> Avenue South in the R1A Single Family District.

**Attachments:**

1. Applicant statement
2. Map of subject site
3. Plans for proposed porch
4. Photos of the subject site