

**Department of Community Planning and Economic Development**  
Variances  
BZZ 6106

**Date:** July 25, 2013

**Applicant:** Robert LeVasseur

**Address of Property:** 4843 35<sup>th</sup> Avenue South

**Contact Person and Phone:** Robert LeVasseur, (612) 275-9468

**CPED Staff and Phone:** Shanna Sether, (612) 673-2307

**Date Application Deemed Complete:** June 17, 2013

**End of 60-Day Decision Period:** August 16, 2013

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

**Existing Zoning:** R1 Single-Family District

**Existing Overlay District:** Not applicable

**Zoning Plate Number:** 33

**Proposed Use:** First floor addition, ground level patio and walkway to an existing single-family dwelling.

**Concurrent Review:**

- Variance to reduce the required front yard setback along 35<sup>th</sup> Avenue South from the setback established by connecting a line between the front of the homes on the two adjacent properties from approximately 28 feet to approximately 23 feet 7 inches to allow for a second story addition over the existing first floor.
- Variance to reduce the required front yard setback along 35<sup>th</sup> Avenue South from approximately 28 feet to approximately 5 feet to allow for a ground level patio.
- Variance to increase the permitted width of a walkway in the required front yard setback along 35<sup>th</sup> Avenue South from four feet to six feet.

**Applicable zoning code provisions:** Chapter 525, Article IX Variances, Specifically Section 525.520(1) “to vary the minimum yard requirements” and Chapter 546 Residence Districts

**Background:** The subject property is approximately 40 feet by 134.5 feet (5,380 square feet). The site has an existing single-family dwelling with a shared driveway that accesses a recently constructed detached garage at the rear of the property. The existing single-family dwelling was constructed in its present location in 1947. The minimum required front yard setback in the R1 Single-Family District is

25 feet or the established setback, whichever is greater. The adjacent neighbor to the north is setback approximately 30 feet and the structure to the south is setback approximately 18 feet 6 inches. The established setback is approximately 28 feet from the front property line. The existing single-family dwelling is located approximately 23 feet 7 inches from the front property line along 35<sup>th</sup> Avenue South. The applicant is proposing to construct a second story addition over the existing first floor and the structure will be 2 ½ stories. Therefore, the applicant is seeking a variance to reduce the required front yard setback along 35<sup>th</sup> Avenue South from approximately 28 feet to approximately 23 feet 7 inches to allow for a second story addition over the existing first floor.

The applicant recently constructed a stamped concrete patio and walkway in the front yard. A ground level patio is a permitted obstruction in the required front yard if it is 50 square feet in area or less. The patio is approximately 100 square feet in area and therefore requires a variance. A walkway is also a permitted obstruction in the required front yard setback, if it does not exceed 4 feet in width. The walkway connecting the front stoop to the public sidewalk is 6 feet in width and also requires a variance to be located in the required front yard setback.

Staff has not received any correspondence from the Nokomis East Neighborhood Association. Staff will forward comments, if any are received, at the Board of Adjustment public hearing.

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

**VARIANCE:** to reduce the required front yard setback along 35<sup>th</sup> Avenue South from the setback established by connecting a line between the front of the homes on the two adjacent properties from approximately 28 feet to approximately 23 feet 7 inches to allow for a second story addition over the existing first floor.

**1. Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.**

The circumstances upon which the setback variance is requested are unique to the parcel of land due to the location of the adjacent neighbor's house, the location of the existing dwelling and the substandard lot size. The applicant is proposing to remove the existing half-story and add a full second-story above the existing first floor of the existing single family dwelling. Approximately 40 square feet of the proposed second floor addition is located closer than 28 feet to the front property line. Further, the existing dwelling was constructed in its present location in 1947. The subject property is in the R1 District and is substandard to the minimum lot area and lot width. Staff finds that these circumstances have created practical difficulties in complying with the ordinance.

**2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.**

The applicant is seeking a variance to reduce the front yard setback established by the adjacent residential structures along 35<sup>th</sup> Avenue South from approximately 28 feet to 23 feet 7 inches in order to allow for the construction of an additional story to an existing single-family dwelling. The purpose of yard requirements is to provide for orderly development and use of land and to

minimize conflicts among land uses by governing the location of accessory uses and structures. Approximately 40 square feet of the proposed second floor addition is located closer than 28 feet to the front property line. The proposed addition will not be located any closer to the front property line than the existing structure. Staff finds that the applicant is proposing to use the property in a reasonable manner.

- 3. The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.**

Staff finds that the granting of this variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. The applicant is proposing to increase the height of the house from one and a half stories to two and a half stories. Approximately 40 square feet of the proposed second floor addition is located closer than 28 feet to the front property line. The proposed materials of the addition are stucco to match the existing dwelling and detached garage. Further, granting of the variance will not increase the danger of fire safety or be detrimental to the public welfare or endanger the public safety.

**VARIANCES:** (1) to reduce the required front yard setback along 35<sup>th</sup> Avenue South from approximately 28 feet to approximately 5 feet to allow for a ground level patio; and (2) to increase the permitted width of a walkway in the required front yard setback along 35<sup>th</sup> Avenue South from four feet to six feet.

- 1. Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.**

Staff finds that there are unique circumstances of the property, including the location of the adjacent neighbor's house and the substandard lot size; however staff finds that these circumstances do not create a practical difficulty in complying with the ordinance. The minimum front yard setback in the R1 District is 25 feet, but has been increased to 28 feet due to the location of the adjacent neighbor to the north. The applicant added a stamped concrete patio and walkway at the front of the existing dwelling. A ground level patio, 50 square feet or less in area, and a walkway not exceeding 4 feet width are both permitted obstructions in the required front yard setback.

- 2. The property owner or authorized applicant proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.**

The minimum front yard setback in the R1 District is 25 feet, but has been increased to 28 feet due to the location of the adjacent neighbor to the north. The purpose of yard requirements is to provide for orderly development and use of land and to minimize conflicts among land uses by governing the location of accessory uses and structures. The existing dwelling to the south

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includes an enclosed front porch, located approximately 18 feet to the front property line. The next neighbor to the south has a two-story open front porch and a walkway that exceeds 4 feet in width. The applicant added a stamped concrete patio and walkway to the front of the existing dwelling. Staff would find that the patio would allow for a reasonable use of the property that is consistent with the spirit and intent of the ordinance with the addition of a landscaped area to mitigate any potential nuisance.

- 3. The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.**

Granting of these variances would not negatively alter the essential character of the area. Many of the dwellings in the area have porches, both open and enclosed, and patios in the surrounding area. The applicant is added a stamped concrete patio and walkway at the front of the existing dwelling. If granted, the proposed variances will not be detrimental to the health, safety or welfare of the public or those utilizing the property.

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

The Department of Community Planning and Economic Development recommends that the Board of Adjustment adopt staff findings and **approve** the variance to reduce the required front yard setback along 35<sup>th</sup> Avenue South from the setback established by connecting a line between the front of the homes on the two adjacent properties from approximately 28 feet to approximately 23 feet 7 inches to allow for a second story addition over the existing first floor for the property located at 4843 35<sup>th</sup> Avenue South in the R1 Single-Family District, subject to the following conditions of approval:

1. The exterior materials of the addition shall match the existing dwelling.
2. Approval of the final site, elevation and floor plans by the Department of Community Planning and Economic Development.
3. All site improvements shall be completed by July 25, 2015, unless extended by the Zoning Administrator, or the permit may be revoked for non-compliance.

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

The Department of Community Planning and Economic Development recommends that the Board of Adjustment adopt staff findings and **deny** the variance to reduce the required front yard setback along 35<sup>th</sup> Avenue South from approximately 28 feet to approximately 5 feet to allow for a ground level patio for the property located at 4843 35<sup>th</sup> Avenue South in the R1 Single-Family District.

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

The Department of Community Planning and Economic Development recommends that the Board of Adjustment adopt staff findings and **deny** the variance to increase the permitted width of a walkway in the required front yard setback along 35<sup>th</sup> Avenue South from four feet to six feet for the property located at 4843 35<sup>th</sup> Avenue South in the R1 Single-Family District.

**Attachments:**

1. Written descriptions and findings submitted by the applicant
2. E-mails to Council Member Colvin-Roy and Nokomis East Neighborhood Association
3. Correspondence
4. Zoning map
5. Existing survey
6. Site plan
7. Floor plans
8. Building elevations
9. Photos