

Department of Community Planning and Economic Development – Planning Division**Variance Request
BZZ-2717**

Date: December 1, 2005

Applicant: Gregory Lee

Address of Property: 5501 Thomas Avenue South

Contact Person and Phone: Gregory Lee, (612) 925-9474

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

Date Application Deemed Complete: November 3, 2005

End of 60 Day Decision Period: January 2, 2006

Appeal Period Expiration: December 12, 2005

Ward: 13 **Neighborhood Organization:** Armatage Neighborhood Association

Existing Zoning: R1 Single Family Residence District

Proposed Use: A front deck addition to an existing single-family dwelling.

Proposed Variance: A variance to reduce the required front yard setback along Thomas Avenue South from the setback established by the front corner of the adjacent residential structure to the south from 36 ft. to 28 ft. 6 in. to construct a 6 ft. 6 in. by 15 ft. deck to an existing single family dwelling located at 5501 Thomas Avenue South in the R1 Single Family District.

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

Background: The subject property is approximately 50 ft. by 128 ft. (6,400 sq. ft.) and consists of an existing single-family dwelling and a garage attached by a breezeway. The existing single-family dwelling maintains the established front yard setback.

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 variance reduce the required front yard setback along Thomas Avenue South from the setback established by the adjacent residential structure from 38ft. 6 in. to 28 ft. 6 in. to allow a ground level deck in required front yard of a single-family dwelling. The applicant has stated that he intends on using the deck in the same function of that of a front porch, which would be a permitted obstruction in the required front yard at 6 ft. in depth. Strict adherence to the code requires that the subject property construct a deck behind the established front yard setback or an open front porch, 6 ft. in depth. Constructing a deck within the regulations would require that a permanent roof structure be located above the decking and changing the size of the decking from 6 ft. 6 in. to 6 ft., thereby making it an open front porch, which is a permitted obstruction in the required front yard. A deck is a reasonable use of a residential property. Strict adherence to the regulations would not allow for the proposed deck in the front of the existing single-family dwelling.

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.**

Front yard setback: The circumstances upon which the setback variances are requested are unique to the parcel of land due to the location of the existing dwellings and the existing roofline which would prevent a permanent roof structure over the deck. The applicant has stated that he intends on using the deck in the same function of that of a front porch, which would be a permitted obstruction in the required front yard at 6 ft. in depth. The applicant has not created these circumstances and the alternative to the variance would cause an undue hardship to the property owner, by not allowing the deck addition. The single-family dwelling on the subject property meets the established front yard setbacks; it is the size and the lack of a permanent roof structure over the decking that require the variance.

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 believes the deck will not substantially alter the essential character of the surrounding neighborhood. The applicant has submitted photos of three other front yard decks within one-half block of the subject property. The proposed deck will maintain the required side yard setback from the adjacent property to the south. The variance request is required in order to construct a deck that is located in the required front yard. Staff believes that the proposed deck will not be injurious to the use or enjoyment of other property in the vicinity, however, the visual impact of the proposed deck would be reduced substantially if landscaping is incorporated around the deck.

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.**

CPED Planning Division Report
BZZ-2717

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 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 required front yard setback along Thomas Avenue South from the setback established by the front corner of the adjacent residential structure to the south from 36 ft. to 28 ft. 6 in. to construct a 6 ft. 6 in. by 15 ft. deck to an existing single family dwelling located at 5501 Thomas Avenue South in the R1 Single Family District subject to the following condition:

1. Review and approval of a final landscaping plan by the Planning Department.