



LAND USE APPLICATION SUMMARY

Property Location: 3821 Washburn Avenue South
Project Name: Sport Court
Prepared By: Andrew Frenz, Zoning Inspector, (612) 673-3790
Applicant: Thomas Jasper
Project Contact: Thomas Jasper
Request: To construct a sport court and basketball hoop (recreational playground equipment).

Required Applications:

Variance	To reduce the minimum interior side yard requirement adjacent to the south property line from eight feet to two feet.
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SITE DATA

Existing Zoning	RI Single-Family District SH Shoreland Overlay District
Lot Area	9,200 square feet
Ward(s)	13
Neighborhood(s)	Linden Hills
Designated Future Land Use	Urban Neighborhood
Land Use Features	Not Applicable
Small Area Plan(s)	Not Applicable

Date Application Deemed Complete	September 19, 2016	Date Extension Letter Sent	Not applicable
End of 60-Day Decision Period	November 18, 2016	End of 120-Day Decision Period	Not applicable

BACKGROUND

SITE DESCRIPTION AND PRESENT USE. The subject property is a 9,200 square foot lot located in the RI Single-Family District and the SH Shoreland Overlay District. The property is occupied by a single-family dwelling that was constructed in 2014.

SURROUNDING PROPERTIES AND NEIGHBORHOOD. The property to the immediate south of the subject property (3825 Washburn Avenue South) is occupied by a single-family dwelling. To the rear of the subject property is an undeveloped alley.

The surrounding area is developed almost exclusively with low-density residential uses. Lake Calhoun is located approximately one block to the north.

PROJECT DESCRIPTION. A sport court and basketball hoop have been installed at the southwest corner of the subject property. Portions of the sport court are located in both the required interior side yard and the required rear yard. Recreational playground equipment is allowed as a permitted obstruction in the required rear yard, but not in the required interior side yard. The sport court and basketball hoop are located two feet from the south property line, while an interior side yard of eight feet in depth is required along the property line. The applicant has requested a variance to allow the sport court and basketball hoop to remain in the interior side yard.

This application was continued from the October 13, 2016, Zoning Board of Adjustment meeting. The application was continued at the applicant’s request. The applicant met with the neighborhood organization after submitting the application and requested additional time to make modifications to the application following the meeting with the neighborhood organization.

RELATED APPROVALS.

Planning Case #	Application	Description	Action
BZZ-6443	Administrative Site Plan Review of New I-4 Unit Dwelling	Construct new 2.5 story single-family dwelling with attached garage.	Approved 6/27/2014

PUBLIC COMMENTS. The Linden Hills Neighborhood Council Zoning & Housing Committee has submitted a letter in support of the application. The applicant has also included letters from several nearby property owners supporting the project with his application. Several emails regarding the project have been received from nearby property owners. All comments have been attached to this report. Any additional correspondence received prior to the public meeting will be forwarded on to the Zoning Board of Adjustment for consideration.

ANALYSIS

VARIANCE

The Department of Community Planning and Economic Development has analyzed the application for a variance of Chapter 525, Article IX Variances, specifically Section 525.520(1) “to vary the yard requirements, including permitted obstruction into required yards not allowed by the applicable regulations,” based on the following findings:

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 of the interior side yard variance are not unique to the subject property and have been created by the applicant. The applicant states that the current location of the sport court and basketball hoop, inside the required yard, is preferable from a safety standpoint and that relocating the court and hoop to a more central part of the back yard, outside of the required yard, would be less safe than the current location. The applicant does not elaborate on why the relocation of the sport court would present a safety concern. Staff does not share the applicant's position that relocating the court would present a safety concern. The subject property is 9,200 square feet in area, and the home is located 20.2 feet from the rear property line. The property has significant open space to the rear of the home where recreational playground equipment could be located without a variance. However, much of this space is presently occupied by a large patio and outdoor kitchen constructed by the applicant. Staff does not find that a practical difficulty exists in complying with the required interior side 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 property is located in the RI Single-Family District and is used as a single-family dwelling. The use of the property will not change as part of the proposed project.

Yard controls are established to provide for the orderly development and use of land and to minimize conflicts among land uses by regulating the dimension and use of yards in order to provide adequate light, air, open space and separation of uses. The proposed variance would not be in keeping with the spirit and intent of the ordinance. Recreational equipment such as a basketball court is among the more impactful uses accessory to single-family dwellings from the perspective of noise generated and the potential for play equipment to cross property lines onto adjacent property. The granting of the proposed variance would not minimize conflicts or provide adequate separation between uses. Staff does not find that the variance would be in keeping with the spirit and intent of the ordinance and the comprehensive plan.

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.*

The proposed variance will not alter the essential character of the area. The basketball hoop and sport court are minimally visible from adjacent properties and the public right of way. The proposed variance may be injurious to the use and enjoyment of the property located to the immediate south of the subject property, as it would place a relatively impactful use for a single-family district unusually close to the shared property line. 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.

Additional Standards for Variances within the SH Shoreland Overlay District

In addition, the Zoning Board of Adjustment shall consider, but not be limited to, the following factors when considering conditional use permit or variance requests within the SH Shoreland Overlay District:

1. *The prevention of soil erosion or other possible pollution of public waters, both during and after construction.*

The construction of the sport court and basketball hoop has not caused the subject property to exceed its maximum impervious surface coverage. The subject property is located approximately

850 feet from public waters, and many barriers that would prevent runoff and erosion from the subject property to the public water exist, including fences, public streets, and drainage ponds. When the home on the subject property was constructed in 2014, appropriate erosion control measures were in place.

2. *Limiting the visibility of structures and other development from protected waters.*

The subject property is located approximately one block from Lake Calhoun, and approximately 850 feet from the body of water itself. Much of the area between the subject property and the body of water is developed with a variety of structures that are significantly taller than the proposed development. As a result, the proposed development will not be visible from the body of water.

3. *The suitability of the protected water to safely accommodate the types, uses and numbers of watercraft that the development may generate.*

This standard is not applicable for the proposed development.

RECOMMENDATIONS

The Department of Community Planning and Economic Development recommends that the Zoning Board of Adjustment adopt staff findings for the application by Thomas Jasper for the property located at 3821 Washburn Avenue South:

A. Variance to reduce the interior side yard requirement.

Recommended motion: **Deny** the application for a variance to reduce the interior side yard requirement adjacent to the south property line from 8 feet to 2 feet.

ATTACHMENTS

1. Zoning map
2. Written description and findings submitted by applicant
3. Site Plan
4. Survey
5. Photos
6. Correspondence submitted by applicant
7. Public comments

Thomas Jasper

13th

NAME OF APPLICANT

WARD



PROPERTY ADDRESS

3821 Washburn Avenue South

FILE NUMBER

BZZ-7940

Statement of Reason for the Variance
RFS # / Request Number: 16-1190624
RE: 3821 Washburn Avenue South

Background:

The property owner, Thomas F. Jasper, in the month of May 2016 contracted Outdoor Escapes, LLC to design an outdoor living space in the backyard of the owner's residence at 3821 Washburn Ave So., Minneapolis, MN 55410. A copy of the Landscaping Plan (the Plan, Exhibit 1a), the property map (Exhibit 1b) and a current survey (Exhibits 1c & 1d) are submitted herein.

The primary purpose of the project was to install a sport-court for the family. In addition there would be an outdoor dining and sitting area, and an elevated garden area. During the construction of the retaining wall for the project, the city zoning inspector, Mr. Steve Weckman (the Inspector), received a phone call from a concerned neighbor that the construction of the project may be in violation of the city's impervious surface ordinance. The Inspector inspected the property and held a meeting with the contact representative and Plan designer from Outdoor Escapes, Mr. Aaron Lutz. As part of that meeting the Inspector requested a copy of the Plan that was provided to him via email by Mr. Lutz on July 8th (See Exhibit 2). Subsequent to the receipt of the Plan, and prior to the pouring of the cement for the sport-court, the Inspector called Mr. Lutz and informed him that the Plan as provided, based on his review, did not violate the impervious surface ordinance.

On the phone call the Inspector did not comment about any other actions that the Inspector needed to complete. Both Mr. Lutz and Mr. Jasper assumed that the Inspector had no other concerns about the project and that it was reasonable for the project to proceed as the only issue they were aware of (the neighbor's concern about the hard-scape issue) had been resolved. It should be noted that based on the nature of the project there was no requirement for the project plan to be approved by the city. Mr. Jasper had the cement for the entire project poured from July 12th through July 14th. A portion of the court (See highlighted area on Exhibit 1a) is adjacent to a retaining wall that runs parallel to the south property line of the contiguous neighbor to the south (See E/W Wall 1 on Exhibit 1a & photo on Exhibit 5a).

Subsequent to the pouring of the sport court and prior to July 18th, the basketball hoop was installed with a cement base footing for the support mechanism. The location of the support mechanism for the basketball hoop and the location of the cement for the sport court were both reflected on the Plan provided to the Inspector on July 8th (See Exhibit 1a).

On July 18th in an e-mail the Inspector informed Mr. Lutz that the location of a portion of the sport court and the support base for the basketball hoop violated the

city side set-back ordinance, as it was installed within a five-foot set-back area adjacent to the south neighbor's property line (See attached Exhibit 3). In the e-mail the Inspector references the conversation that he had with and Mr. Lutz (acknowledging that a conversation around approving the impervious surface issue did in fact occur), where he states that he was "comfortable with the hardcover compliance". When Mr. Jasper and Mr. Lutz inquired of the Inspector as to why he did not mention this side set-back violation earlier (as it was all shown on the plan previously provided to the Inspector) the Inspector informed them that his verbal approval over the phone was only in regard to the impervious surface issue and that he had not completed a full review of the Plan at that time. That being stated, on that same phone call the Inspector never informed Mr. Lutz that any additional review was going to take place on the project. Had the Inspector mentioned that a review of the plan was still in process, Mr. Jasper would have delayed the cement pour for the backyard.

It should be noted that the Inspector in an e-mail dated July 28th (See Exhibit 3a) informed Mr. Lutz that the side set back required was 6 feet, not the 5 feet that he mentioned in his July 18th e-mail. In a meeting with the Planning Office, Mr. Andrew Frenz (Zoning Inspector) informed Mr. Jasper that the side set-back was actually 8 feet, which is approximated in the highlighted area on the plan (Exhibit 1a).

As part of the Plan a fence was to be installed on the property line in question. Mr. Jasper worked with his contiguous neighbor to the south that already had a fence in place on their property line. They jointly agreed that Mr. Jasper would take responsibility for removing their existing fence, which he did. A new fence was installed by Town & Country Fence for Mr. Jasper on his property. This new fence blocks all neighbors' view of the sport court area and to a large degree the basketball hoop.

Variance Request:

Mr. Jasper 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. Mr. Jasper 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.

The practical difficulty in this case is based on the fact that the sport-court and basketball hoop are already in place due to the circumstances described above. Had the Inspector informed Mr. Lutz (or Mr. Jasper) at the time of the phone call to Mr. Lutz where he stated he was comfortable with the hard-scape issue (or anytime after the phone call but before the start of the cement pouring on July 12th), Mr. Jasper would have waited to pour the cement until a determination was made and then would have considered all alternatives. It was a reasonable assumption for Mr. Jasper to assume the plan that was provided to the Inspector was "approved" given

the Inspector's comfort with the impervious surface issue and that the Inspector did not mention any other issues or processes that needed to be completed.

If the variance is not approved it would have a negative impact on Mr. Jasper's family ability to enjoy their home. A retro-fit of the backyard space to be in compliance would also be detrimental to the family's ability to enjoy their home. In addition to removing the cement in the highlighted area and moving the basketball hoop support, the retaining wall labeled E/W Wall 2 on Exhibit 1 a and a portion of the retaining wall that runs north and south closer to the house will need to be removed. The garden area will be reduced in size to allow for the sport-court to fit in the space. New cement will need to be poured in the area that is currently the garden. Additionally, the patio cement to the West of the garden (which is a different composition and color than the sport court cement) will need to be removed and the appropriate cement will need to be installed.

The contiguous neighbors to the south (Ms. Joan Rothfuss and Mr. Paul Shambroom), to the north (Jim and Julie Graves) and to the east (Richard Shannon), were all informed by Mr. Jasper of the project prior to it commencing and as the project was in motion. These neighbors have reviewed the area of violation and have signed letters signifying they do not object to the property remaining in its current state. See the attached Exhibit 4a, 4b and 4c. The newly installed fence around the backyard of the property makes it difficult for these neighbors to see the sport-court area as installed. The sport-court area in the southeast of Mr. Jasper's lot, backs up to the northeast of the lot owned by Ms. Rothfuss and Mr. Shambroom, which is a heavily wooded area in their backyard. Having the fence between the properties clearly insulates Ms. Rothfuss and Mr. Shambroom from the sport-court area (see photo on Exhibit 5a). Mr. Jasper does not intend to put any structures of any type in the sport-court area other than the already installed basketball hoop.

On the evening of September 19th, Mr. Jasper met with two members (Mr. Ryan Johnson and Mr. Walter Pitt) of the Linden Hills Neighborhood Council (LHNC) at a regularly scheduled meeting to discuss his variance request. That evening Mr. Jasper provided the LHNC information in regards to the project and has answered questions and provided additional information to them as requested. Mr. Jasper was informed via emails from both Mr. Johnson and Mr. Pitt that a letter of support from the LHNC was being drafted and would be provided to the city (See Exhibit 6). Unfortunately that letter has not been received by Mr. Jasper as of the date of submission.

Safety is a primary concern of Mr. Jasper – safety for his family, his neighbors and for anyone that should ever need to access the property. Mr. Jasper believes that the location of the sport-court and basketball hoop in its current position is preferable from a safety standpoint versus a position in compliance with the side set back ordinance. If the position of the court and basketball hoop were to be moved eight feet to the North (away from the fence line) it would create a potential physical

obstacle in the backyard that would be less safe than the current location for both use of the court and access to and around the property (see photo at Exhibit 5a).

Additional pictures of the property are attached as Exhibit 5 (a – h) and described therein.

Mr. Jasper believes that this violation could have been avoided if the unfortunate miscommunication in regards to the submitted plan between the Inspector and Mr. Lutz (or Mr. Jasper) would not have occurred. Unfortunately it did occur. Mr. Jasper wants to be on the record that in many of his other dealings with Inspector Weckman he has found the Inspector to be professional and helpful.

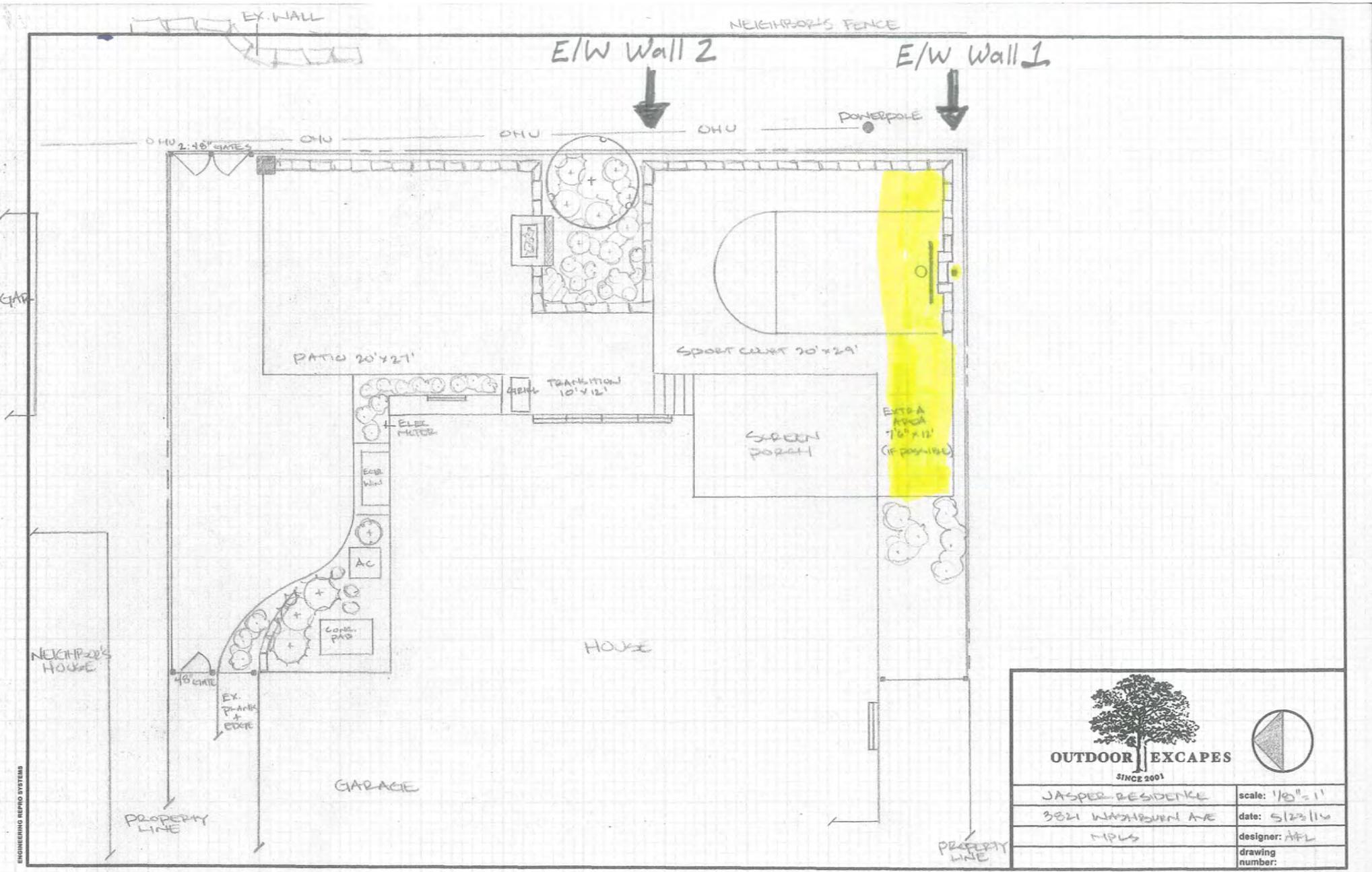
All of the above being stated, Mr. Jasper respectfully requests a variance to the ordinance as;

- a. The current location of the sport-court and basketball hoop is most ideal from a safety and enjoyment perspective versus any alternative that would comply with the ordinance.
- b. the three contiguous neighbors that share property lines with Mr. Jasper do not object to the property remaining in its current state as evidenced by their letters to the city
- c. the Linden Hills Neighborhood Council has communicated to Mr. Jasper that they intend to support the variance request
- d. the physical location of the variance area has little to no impact to the neighboring property owners in terms of effecting use of their property
- e. the project as completed complies with the impervious surface ordinance
- f. there is no plan by Mr. Jasper to build any structures of any type in the side-set back area other than the already constructed sport-court and basketball hoop
- g. the miscommunication from the Inspector, in regards to his review of Plan and the impervious surface issue, was not caused by Mr. Jasper or Mr. Lutz
- h. the granting of this variance will not alter the essential character of the surrounding neighborhood and would not be seen by almost all property owners in the area.
- i. the required changes to the project plan to cure the violation would limit the family's enjoyment of their home and come at significant cost


Thomas F. Jasper
jjasper@me.com 612.810.8348

10/12/16
Date

Exhibit 1a





OUTDOOR ESCAPES
SINCE 2001



JASPER RESIDENCE	scale: 1/8" = 1'
3821 WASHBURN AVE	date: 5/23/14
MPLS	designer: AFL
	drawing number:



Hennepin County Property Map

Exhibit 1b

Date: 7/7/2016



PARCEL ID: 0802824120016

OWNER NAME: Thomas F Jasper

PARCEL ADDRESS: 3821 Washburn Ave S,
Minneapolis MN 55410

PARCEL AREA: 0.21 acres, 9,184 sq ft

A-T-B: Abstract

SALE PRICE: \$1,399,900

SALE DATA: 06/2015

SALE CODE: Warranty Deed

ASSESSED 2015, PAYABLE 2016
 PROPERTY TYPE: Residential
 HOMESTEAD: Non-Homestead
 MARKET VALUE: \$800,000
 TAX TOTAL: \$13,766.42

ASSESSED 2016, PAYABLE 2017
 PROPERTY TYPE: Residential
 HOMESTEAD: Homestead
 MARKET VALUE: \$1,275,000

Comments: TOTAL SF LOT 9,184

EXISTING

HOUSE 2292'
 PORCH 216'
 STOOD 216'
 FE. WALL 80'
 CONCRETE 816'

3620 SF (39%)

PROPOSED

SPILT LAWN 580'
 PATIO 660'
 CONCRETE (NO 15')
 WALLS 114'

1369 SF (15.3%)

NEW TOTAL
4989 SF
(54.3%)

This data (i) is furnished 'AS IS' with no representation as to completeness or accuracy; (ii) is furnished with no warranty of any kind; and (iii) is not suitable for legal, engineering or surveying purposes. Hennepin County shall not be liable for any damage, injury or loss resulting from this data.

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Exhibit 1c

DESCRIPTION OF PROPERTY SURVEY

Lot 13, 14, AND 15 AND South 5 feet of Lot 16, Block 5, COTTAGE CITY,
according to the recorded plat thereof, Hennepin County, Minnesota

NOTES

Site Address: 3221 Washburn Avenue, Minneapolis, MN 55416

This property is contained in Zone 2 (Areas outside the 1-percent annual chance floodplain, areas of 1% annual chance short flow flooding where average depths are less than 1 foot, areas of 1% annual chance stream flooding where the contributing drainage area is less than 1 square mile or areas protected from the 1% annual chance flood by levees; No Base Flood Elevations or depths are shown within this zone. Impervious surfaces is not included in these zones.) per Flood Insurance Rate Map, Community Flood No. 310502002E, effective date of September 2, 2004.

The Gross lot area is 4,200 +/- square feet or 21 +/- acres.

Elevations are based on Minneapolis Monument 4272
Elevation = 558.708 feet (NGVD2005)

The current zoning for the subject property is R-4 (Low Density Single Family Residential District) per the City of Minneapolis zoning map.

The setback, height, and floor space area restrictions for said zoning designation were obtained from the City of Minneapolis web site.

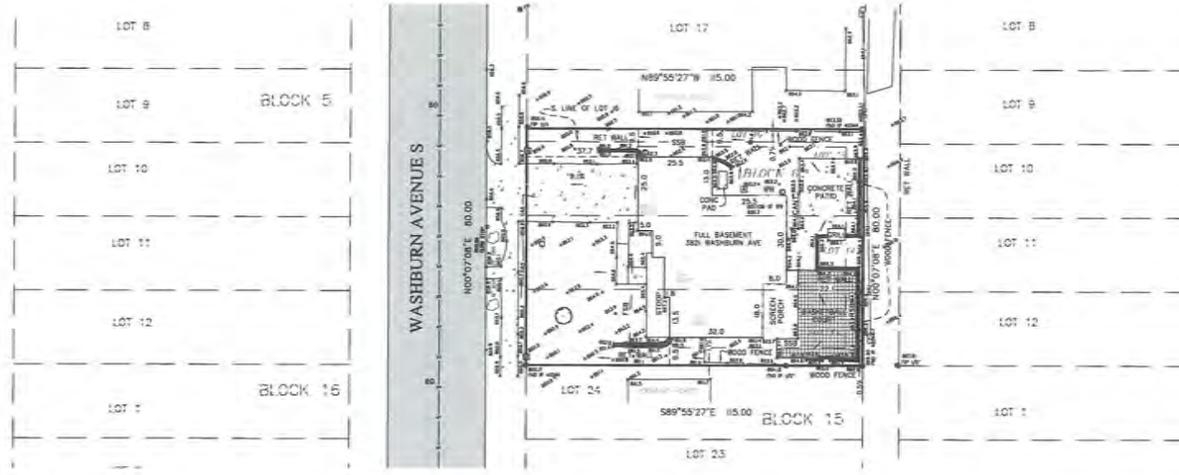
SETBACKS: Front Average Front Setback
25ft 0 feet
Rear 8 feet

Please note that the general restrictions for the subject property may have been amended through a city process. We could be unaware of such amendments if they are not in a recorded document provided to us. We recommend that a zoning letter be obtained from the Zoning Administrator for the conclusive restrictions for this site.

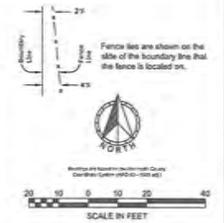
We have shown the location of utilities on the surveyed property by observed evidence only.

Hardcover

House Area = 3,314 S.F.
 Deckway Area = 747 S.F.
 Screened Area = 117 S.F.
 Screened Porch Area = 218 S.F.
 Walkway Area = 27 S.F.
 Concrete Area = 648 S.F.
 Backyard Area = 423 S.F.
 Stoop Area = 70 S.F.
 Total Area = 4,901 S.F. / 280 S.F. = 63.3%



Existing Conditions



SURVEY LEGEND

- | | | |
|---|--|---|
| <ul style="list-style-type: none"> ⊕ CAST IRON MONUMENT ⊕ CATCH BASIN ⊕ FLARED END SECTION ⊕ GATE VALVE ⊕ COP WIRE ⊕ HYDRANT ⊕ IRON PIPE SET ⊕ IRON PIPE FOUND ⊕ LIGHT POLE ⊕ POWER POLE ⊕ SANITARY MANHOLE ⊕ SANITARY CLEANOUT ⊕ SIGN ⊕ AREA GROUND ELEVATION ⊕ DOWNPOUT ⊕ STORM MANHOLE ⊕ YARD LIGHT | <ul style="list-style-type: none"> ⊕ A/C UNIT ⊕ CONCRETE FEEDER ⊕ ELECTRIC TRANSFORMER ⊕ ELECTRIC MANHOLE ⊕ ELECTRIC METER ⊕ GAS METER ⊕ GAS VALVE ⊕ GUARD RAIL ⊕ HAND HOLE ⊕ SOIL BERING ⊕ TREE CONIFEROUS ⊕ TREE DECIDUOUS ⊕ PROPOSED 2" TREE DECIDUOUS ⊕ TELEPHONE MANHOLE ⊕ TELEPHONE FEEDER ⊕ TELEPHONE MANHOLE ⊕ UTILITY FEEDER | <ul style="list-style-type: none"> — CITY — CONCRETE CURB — CONCRETE — CONTOUR EXISTING — CONTOUR PROPOSED — DRAIN TILE — ELECTRIC UNDERGROUND — FENCE — FIBER OPTIC UNDERGROUND — GAS UNDERGROUND — OVERHEAD UTILITY — RAILROAD TRACKS — SANITARY SEWER — STORM SEWER — TELEPHONE UNDERGROUND — UTILITY UNDERGROUND — WATERMAIN |
|---|--|---|

FIELD CREW	NO.	BY	DATE	REVISIONS
CS				
DRAWN BY				
CHECKED BY				
DATE				
5/24/19				

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I hereby certify that this survey, plan or report was prepared by me or under my direct supervision and that I am a duly Licensed Land Surveyor under the laws of the State of Minnesota.
 Dated this 6th day of September, 2019.
 David B. Punderson, Professional Land Surveyor
 Minnesota License No. 40344



SATHRE-BERQUIST, INC.
 150 SOUTH BROADWAY WAYZATA, MN 55391 (651) 476-0000

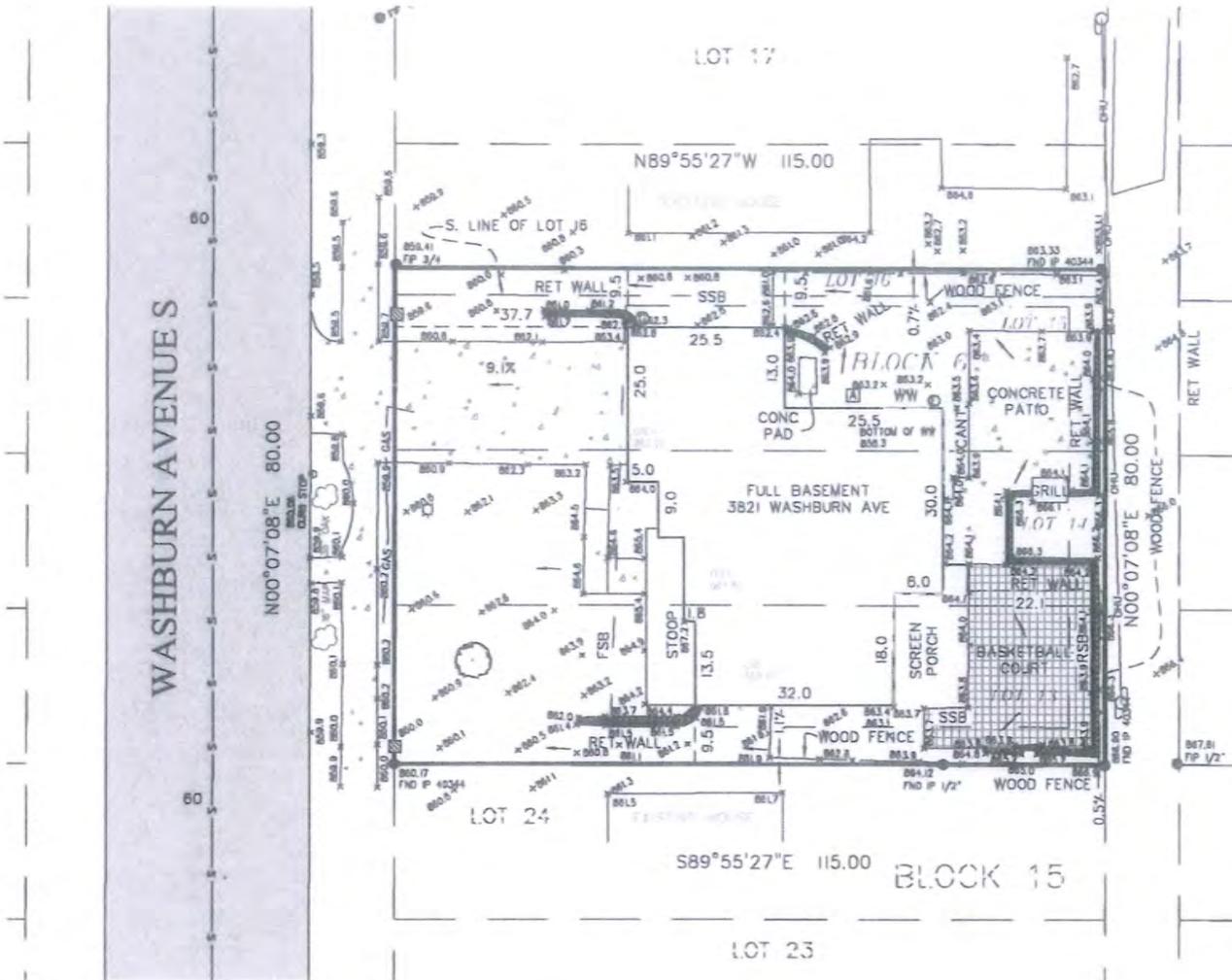
THP28 - PAGE 24 - SEC.08
 HENNEPIN COUNTY
 BOOK XXXPAGE XXX
 MINNEAPOLIS,
 MINNESOTA

Certificate of Survey
 Prepared for:
 Jenny Jasper

FILE NO.
 41177-001
 1
 1

Exhibit 1 d

This is a
tighter view
of the survey
included as
Exhibit 1 c



Existing Conditions

Jasper, Thomas F

From: Aaron Lutz <alutz@outdoorexapes.com>
Sent: Monday, August 15, 2016 7:20 PM
To: Jasper, Thomas F
Cc: Hans Frees
Subject: FW: 3821 Washburn Ave South
Attachments: Jasper hardcover notes 7.6.16.pdf; Jasper survey 7.2.16.pdf; Jasper plan 5.25.16.pdf

This is what I sent to Steve on 7/8/16.

↑
Exhibit 1b

↑
Exhibit 1c
and 1d

↑
Exhibit 1a

He replied on 7/18/16. I'll forward that one next.

From: Aaron Lutz
Sent: Friday, July 08, 2016 9:02 AM ←
To: 'steve.weckman@minneapolismn.gov' <steve.weckman@minneapolismn.gov>
Subject: 3821 Washburn Ave South

Hi Steve,

This is Aaron Lutz the landscape designer for the project you visited last week on Washburn Ave So. Sorry for the delay but attached are the hardcover calculations with existing and proposed features. I also attached the survey and landscaping plan. Please let me know if you need anything else from me and confirm that you received this email and were able to open the attachment.

Thanks,
Aaron

Exhibit 3

From: Aaron Lutz alutz@outdoorexcap.com
Subject: FW: 3821 Washburn Ave South
Date: August 15, 2016 at 7:23 PM
To: Tom Jasper tjasper@tdfbank.com
Cc: Hans Frees hlfrees@outdoorexcap.com

This was Steve's email reply.

He did call me after the 7/8/16 to tell me everything looked good with what I sent him. I don't have the date of that phone call but he did acknowledge it to me. And referenced in this email with his comment regarding "our conversation"

From: Weckman, Stephen J. [<mailto:Steve.Weckman@minneapolismn.gov>]
Sent: Monday, July 18, 2016 2:20 PM
To: Aaron Lutz <alutz@outdoorexcap.com>
Subject: RE: 3821 Washburn Ave South

Aaron,

Sorry for the delay on my review of the plans. After our conversation was comfortable with the hardcover compliance, but I just review the plan and the sport court and basketball hoop must meet a 5' setback from the side property line. The sport court and patio can encroach in a rear yard, we just need to make sure the side yard is unobstructed. Please let me know if you have any questions. Thank you.

Steve Weckman
Zoning Inspector II

City of Minneapolis – Community Planning and Economic Development
250 S. Fourth Street – Room 300
Minneapolis, MN 55415

Office: 612-673-5849

Steve.Weckman@minneapolismn.gov
www.minneapolismn.gov/cped



From: Aaron Lutz [<mailto:alutz@outdoorexcap.com>]
Sent: Friday, July 08, 2016 9:02 AM
To: Weckman, Stephen J.
Subject: 3821 Washburn Ave South

Hi Steve,

This is Aaron Lutz the landscape designer for the project you visited last week on Washburn Ave So. Sorry for the delay but attached are the hardcover calculations with existing and proposed features. I also attached the survey and landscaping plan. Please let me know if you need anything else from me and confirm that you received this email and were able to open the attachment.

Thanks,
Aaron

Exhibit
3a

From: **Stephen J. Weckman** Steve.Weckman@minneapolismn.gov
Subject: FW: 3821 Washburn Ave South
Date: July 28, 2016 at 12:17 PM
To: Tom Jasper tjasper@tcfbank.com

Steve Weckman
Zoning Inspector II

City of Minneapolis – Community Planning and Economic Development
250 S. Fourth Street – Room 300
Minneapolis, MN 55415

Office: 612-673-5849

Steve.Weckman@minneapolismn.gov
www.minneapolismn.gov/cped



From: Weckman, Stephen J. ←
Sent: Thursday, July 28, 2016 12:13 PM ←
To: 'Aaron Lutz'
Cc: Poor, Steve; Ellis, Bradley E.
Subject: RE: 3821 Washburn Ave South

Aaron,

Per our original conversation regarding the sport court and patio installation, you submitted a site plan showing the hardcover for the parcel at less than 60% as required by zoning code. Your review of the existing hardcover for the residence, driveway, patio and stoop is different than the survey provided for the building permit approval, so I believe the hardcover is between 59% and 60% currently. This meets the hardcover requirements, but is more than the 54.3% you had calculated.

When I pulled the construction file for this property, I found out the property is zoned R1, so the required rear yard and interior side yards is 6', not 5' as I originally indicated. The rear yard is not an issue because patios, sport courts and recreational equipment, such as basketball hoops and trampolines are allowed within the required rear yard. The main issue is that both the sport court/patio and basketball post and hoop must be located at least 6' from the south property line. Based on my inspection yesterday, the base for the basketball post is located approximately two feet from the south property line at the nearest point (the basketball post base plate is 24" – 32" from property line). The sport court/patio sections and the basketball hoop/post must be removed from the required yard or a variance must be issued to allow them to remain.

Regarding the retaining walls, they are allowed within the required yards provided they retain natural (predevelopment) grade. I am enclosing our copy of the survey for the property that includes a few elevations in the alley right of way. The elevation of the retaining wall must match the natural grade within the side and rear yards (within 6' feet of the property lines). The survey does not include elevations directly on the property line, but the retaining wall height must be at an elevation between the alley right of way elevation at the elevations in the back yard.

In general, the alley must be returned to its original elevation and have vegetation planted or seeded once the work is complete. The site must have erosion control measures installed now as necessary to prevent erosion from leaving the work site onto the alley or adjacent properties until vegetation is established. The final grading on the subject property must include a swale to convey all drainage from the back yard to the street without adversely impacting the alley or adjacent properties. . I will be sending a violation letter to the owner with a one month due date to bring the property into compliance with zoning requirements. If the owner would like to submit a variance application to allow the existing configuration to remain, an application must be submitted by the violation letter due date. Please let me know if you have any questions. Thank you.

Steve Weckman
Zoning Inspector II

City of Minneapolis – Community Planning and Economic Development
250 S. Fourth Street – Room 300
Minneapolis, MN 55415

Office: 612-673-5849

Steve.Weckman@minneapolismn.gov
www.minneapolismn.gov/cped



From: Weckman, Stephen J.
Sent: Monday, July 18, 2016 2:20 PM
To: 'Aaron Lutz'
Subject: RE: 3821 Washburn Ave South

Aaron,

Sorry for the delay on my review of the plans. After our conversation was comfortable with the hardcover compliance, but I just review the plan and the sport court and basketball hoop must meet a 5' setback from the side property line. The sport court and patio can encroach in a rear yard, we just need to make sure the side yard is unobstructed. Please let me know if you have any questions. Thank you.

Steve Weckman
Zoning Inspector II

City of Minneapolis – Community Planning and Economic Development
250 S. Fourth Street – Room 300
Minneapolis, MN 55415

Office: 612-673-5849

Steve.Weckman@minneapolismn.gov
www.minneapolismn.gov/cped



From: Aaron Lutz [<mailto:alutz@outdoorexperiences.com>]
Sent: Friday, July 08, 2016 9:02 AM
To: Weckman, Stephen J.
Subject: 3821 Washburn Ave South

Hi Steve,

This is Aaron Lutz the landscape designer for the project you visited last week on Washburn Ave So. Sorry for the delay but attached are the hardcover calculations with existing and proposed features. I also attached the survey and landscaping plan. Please let me know if you need anything else from me and confirm that you received this email and were able to open the attachment.

Thanks,
Aaron

August 15, 2016

City of Minneapolis
Community Planning and Economic Development Services, Zoning Enforcement
Section
300 Public Service Center
250 South Fourth Street
Minneapolis, MN 55415

RE: Notice of Non-Compliance for 3821 Washburn Avenue South, Minneapolis, MN
55410 – Request Number: 16-1190624

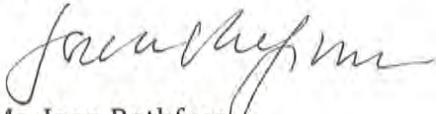
To Whom It May Concern:

We are the adjacent neighbors to Tom Jasper, the homeowner of the property referenced above. We reside at 3825 Washburn Avenue South, Minneapolis, MN.

Tom informed us of his plans to construct a new outdoor living space and fence in his backyard while the project was being planned. Tom has communicated with us sufficiently throughout the time of this project.

We understand that in order to comply with a city set-back ordinance that several feet of cement would need to be cut out and removed from the sport court area on Tom's property. In addition, a basketball hoop support base would also need to be moved several feet away from our shared property line. We have reviewed the area where the violation has been cited and we have no objection to the area remaining in its current state. If you have any questions we can be reached at the contact information below.

Signed,



Ms. Joan Rothfuss
jredfoot@gmail.com
612.865.6531



Mr. Paul Shambroom
pshambro@umn.edu
612.922.3224

CC: Tom Jasper, 3821 Washburn Avenue South, Minneapolis, MN 55410

August 16, 2016

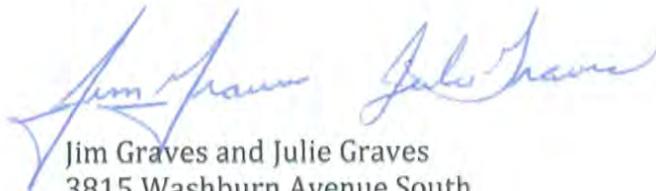
City of Minneapolis
Community Planning and Economic Development Services, Zoning Enforcement
Section
300 Public Service Center
250 South Fourth Street
Minneapolis, MN 55415

**RE: Notice of Non-Compliance for 3821 Washburn Avenue South,
Minneapolis, MN 55410 - Request Number: 16-1190624**

To Whom It May Concern:

We are the property owners of the house contiguous to and north of Tom and Jenny Jaspers. We have been in close communication with the Jaspers throughout their excellent landscaping and outdoor living space construction project and totally support the project. The Jaspers have made a very nice improvement to their home and to our neighborhood.

We have been advised that in order to comply with a city set-back ordinance, several feet of cement would need to be cut out and removed from the sport court area of the improvement and that the basketball hoop support base would also need to be moved several feet north of their southern property line. We have reviewed the area where the violation has been cited and we have no objection to the area remaining in its current state and support a variance to accommodate the existing installation.



Jim Graves and Julie Graves
3815 Washburn Avenue South
Minneapolis, MN 55401

c: Tom and Jenny Jasper, 3821 Washburn Avenue South, Minneapolis, MN 55410

August 17, 2016

City of Minneapolis
Community Planning and Economic Development Services, Zoning Enforcement
Section
300 Public Service Center
250 South Fourth Street
Minneapolis, MN 55415

RE: Notice of Non-Compliance for 3821 Washburn Avenue South, Minneapolis, MN
55410 – Request Number: 16-1190624

To Whom It May Concern:

I am the adjacent neighbor to the east (immediate backyard neighbor) to Tom Jasper, the homeowner of the property referenced above. I reside at 3820 Vincent Avenue South, Minneapolis, MN.

Tom informed me of his plans to construct a new outdoor living space and fence in his backyard while the project was being planned. Tom has communicated with me sufficiently throughout the time of this project.

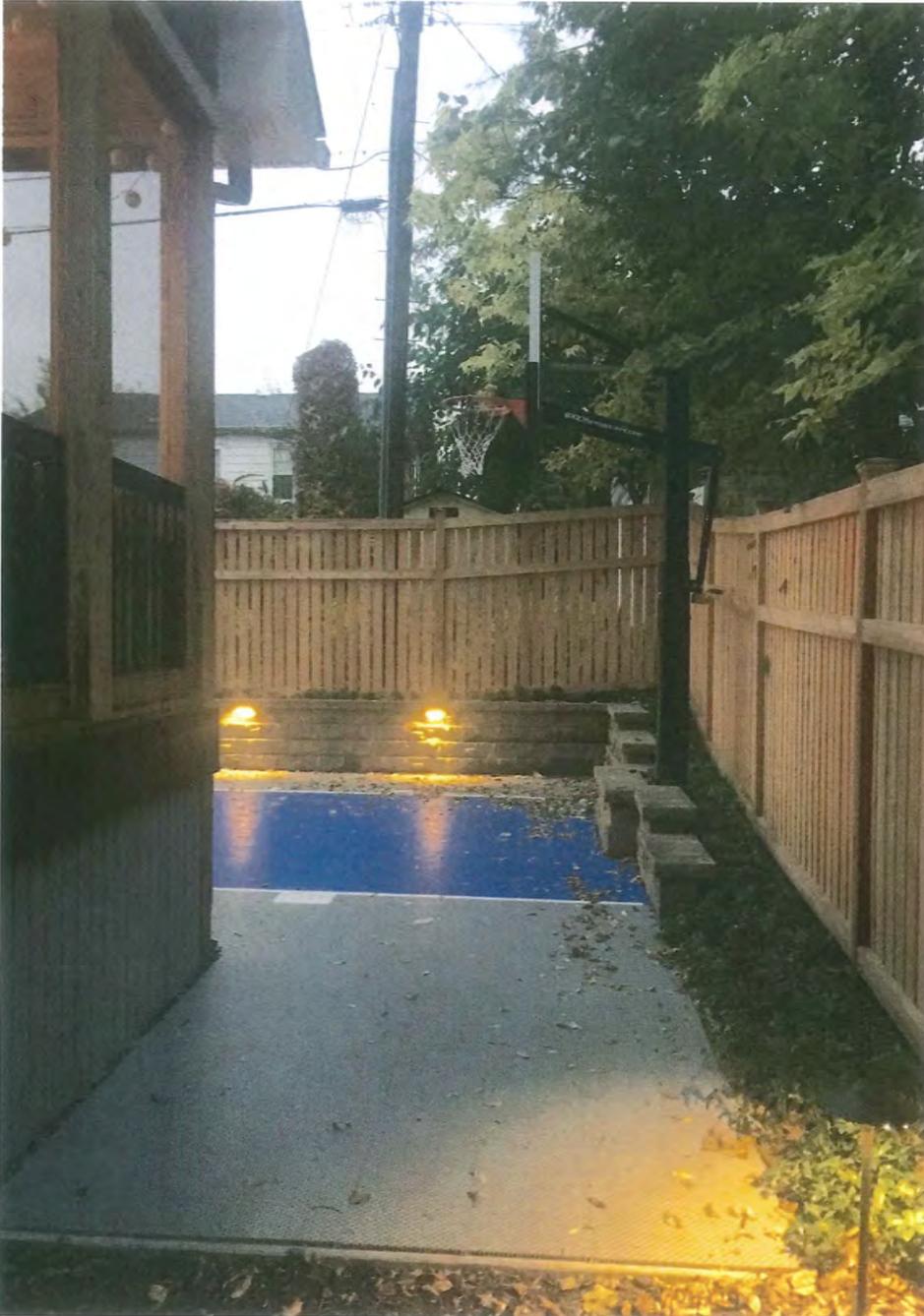
I understand that in order to comply with a city set-back ordinance that four to five feet of cement would need to be cut out and removed from the south end of the sport court area on Tom's property. In addition, a basketball hoop support base would also need to be moved away from the south property line. I have reviewed the area where the violation has been cited and I have no objection to the area remaining in its current state. If you have any questions I can be reached at the contact information below.

Signed,



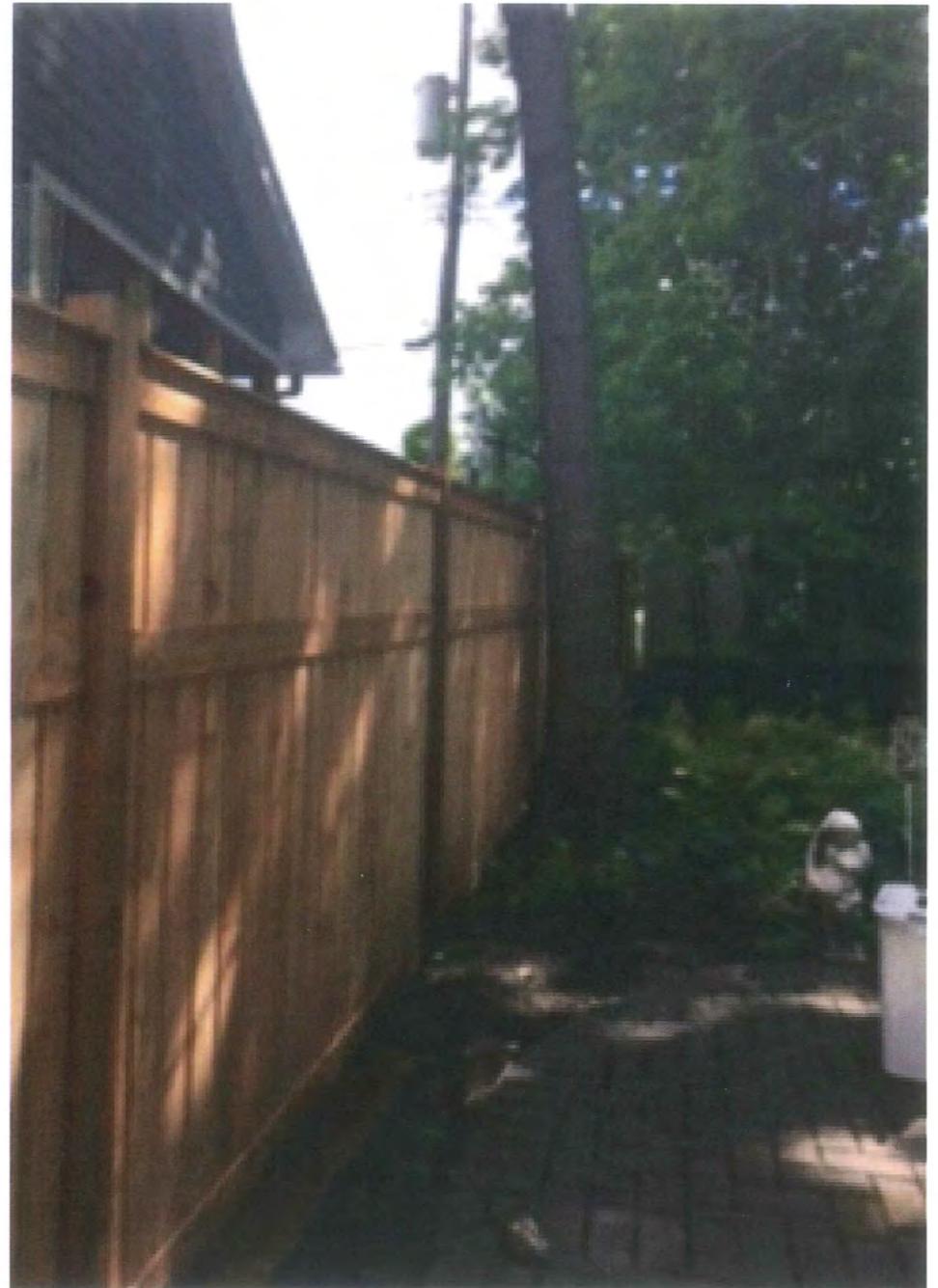
Mr. Richard C. Shannon
rcshannoniv@yahoo.com
612.716.4730

CC: Tom Jasper, 3821 Washburn Avenue South, Minneapolis, MN 55410



View of basketball hoop
and sport-court from from
the southwest corner just
inside of the fence

View from the
Neighbor to the
south backyard



View from the
Southwest corner
of the property line
(neighbor to the South)

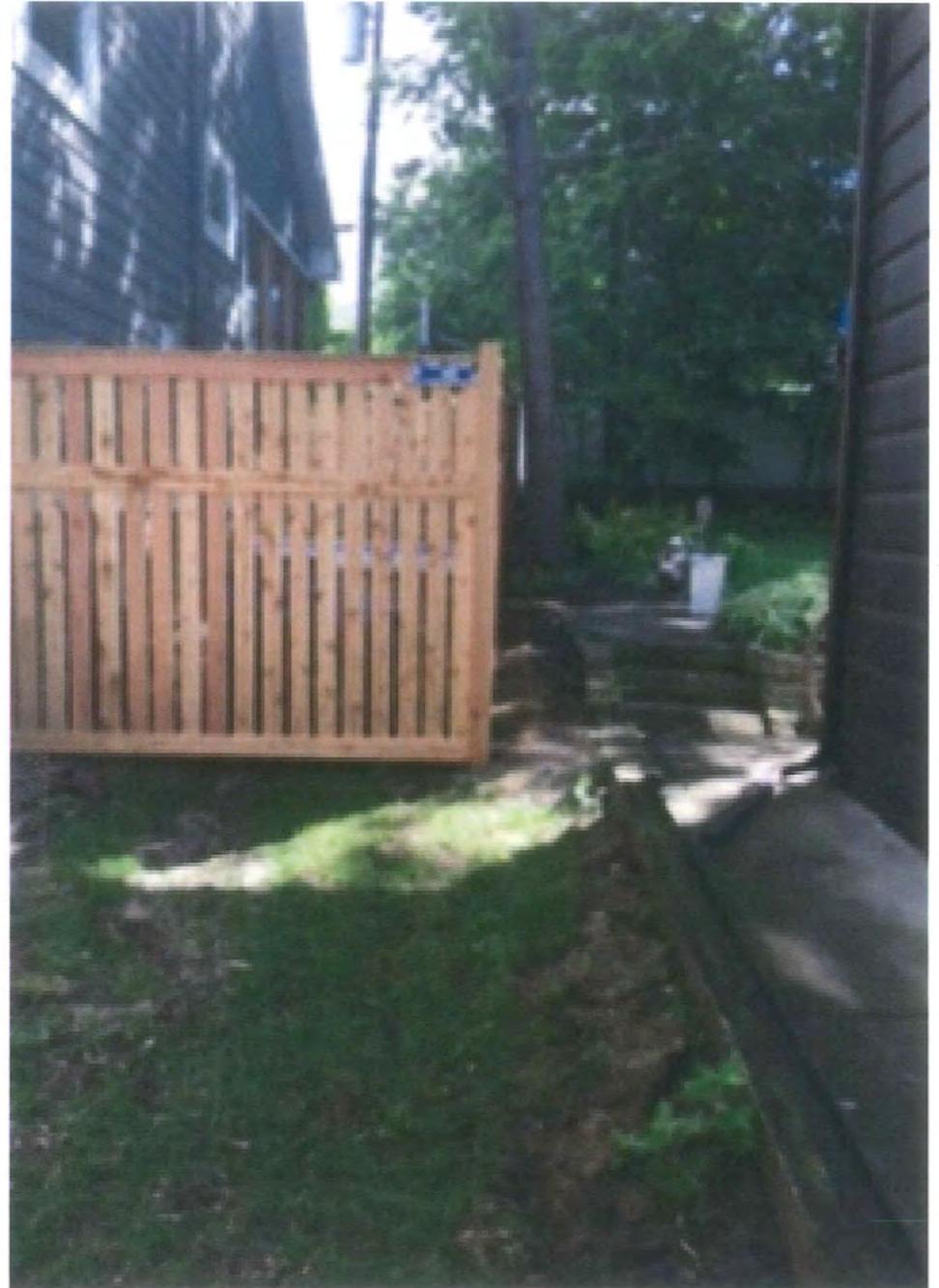
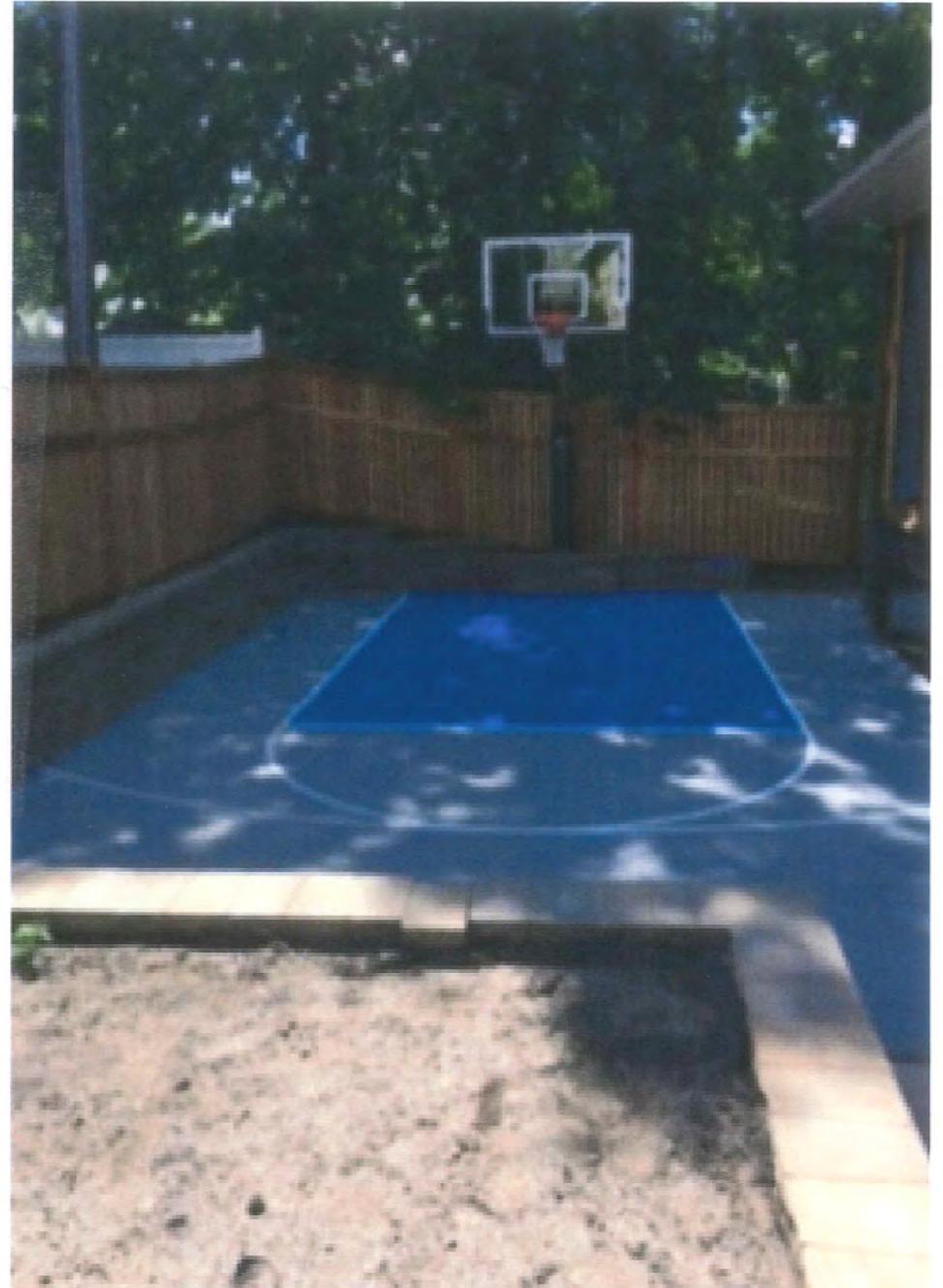


Exhibit 5 d

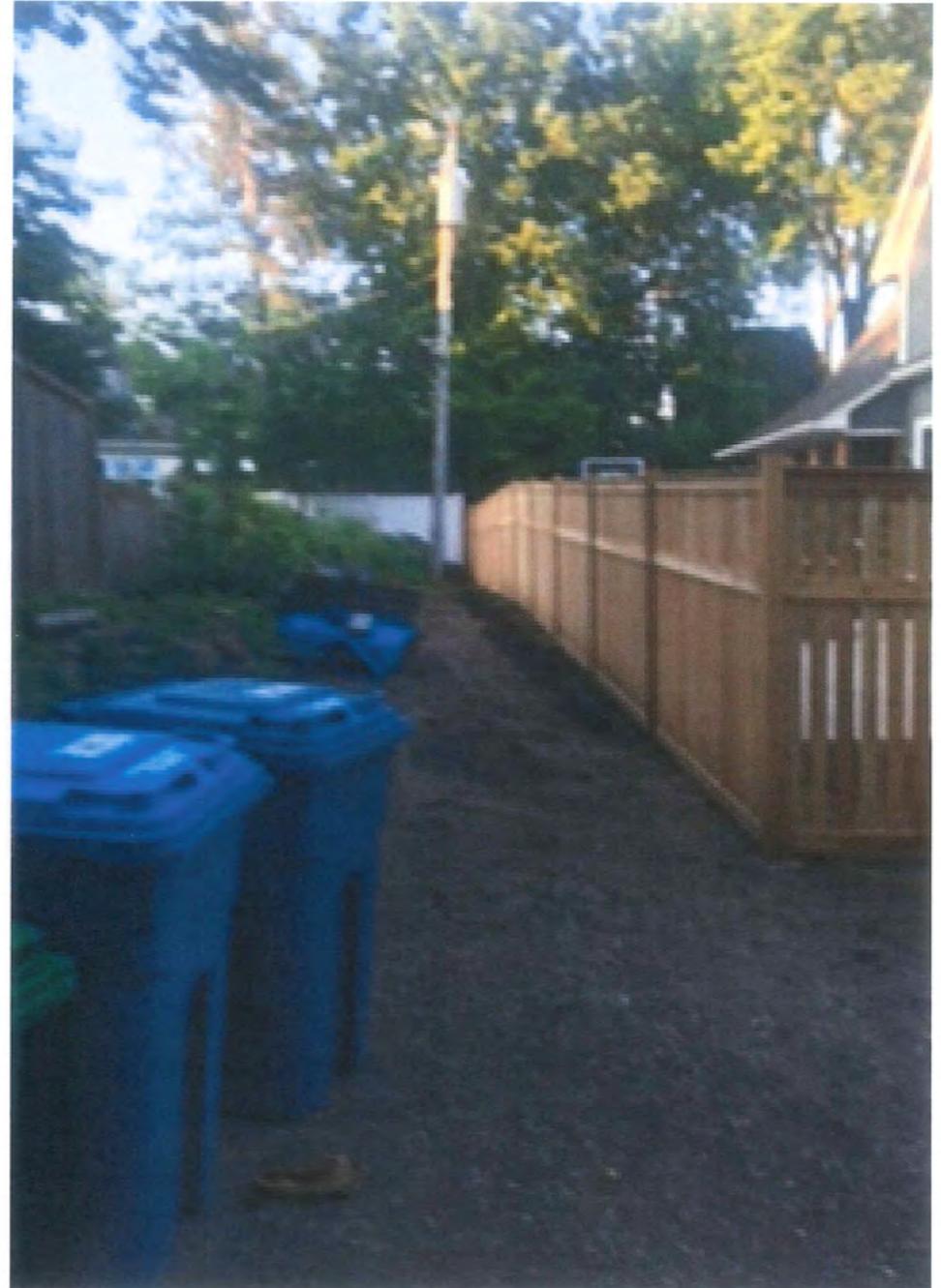
View from the
Washburn Ave
sidewalk



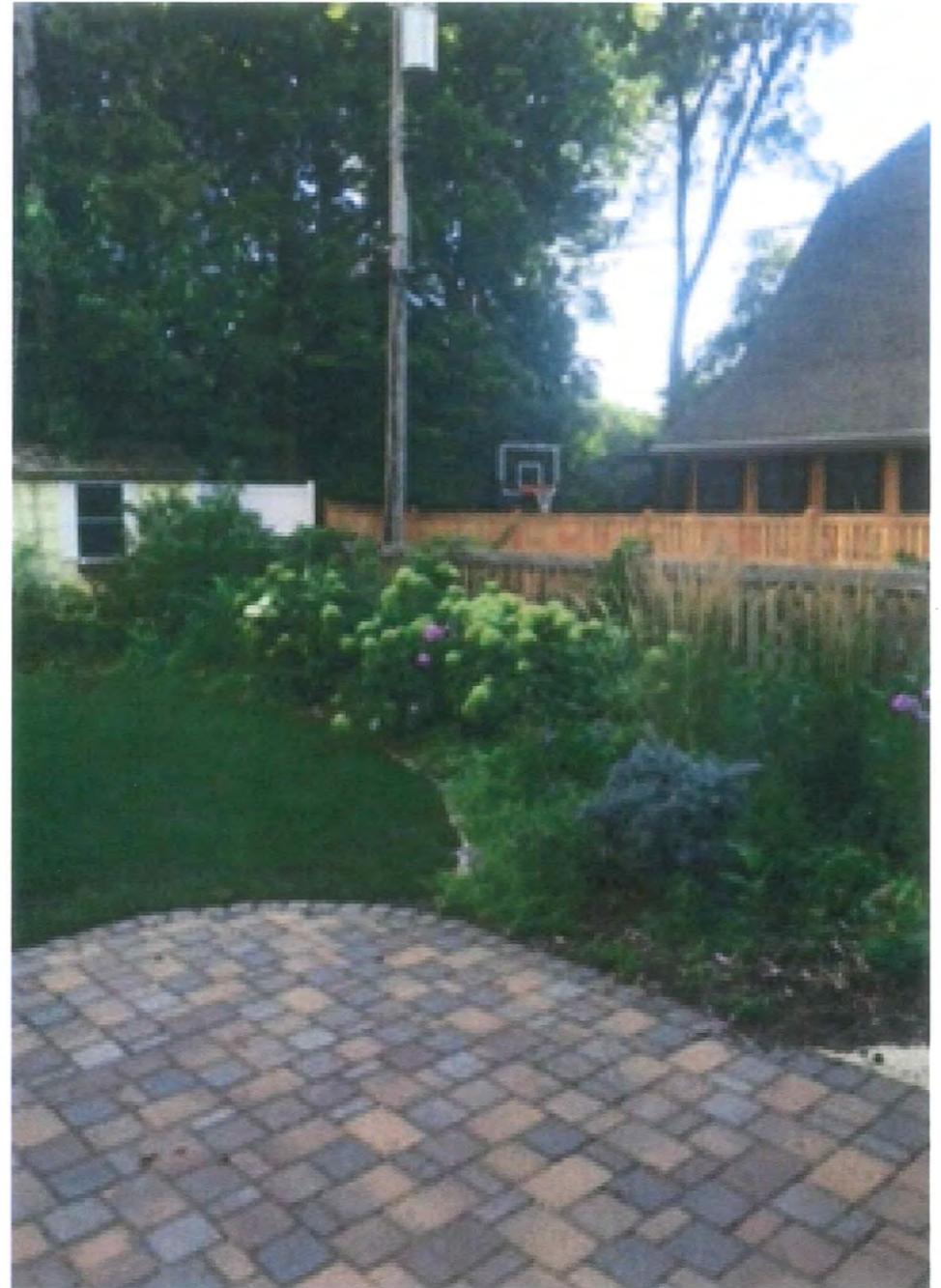
View from the
garden area facing
south



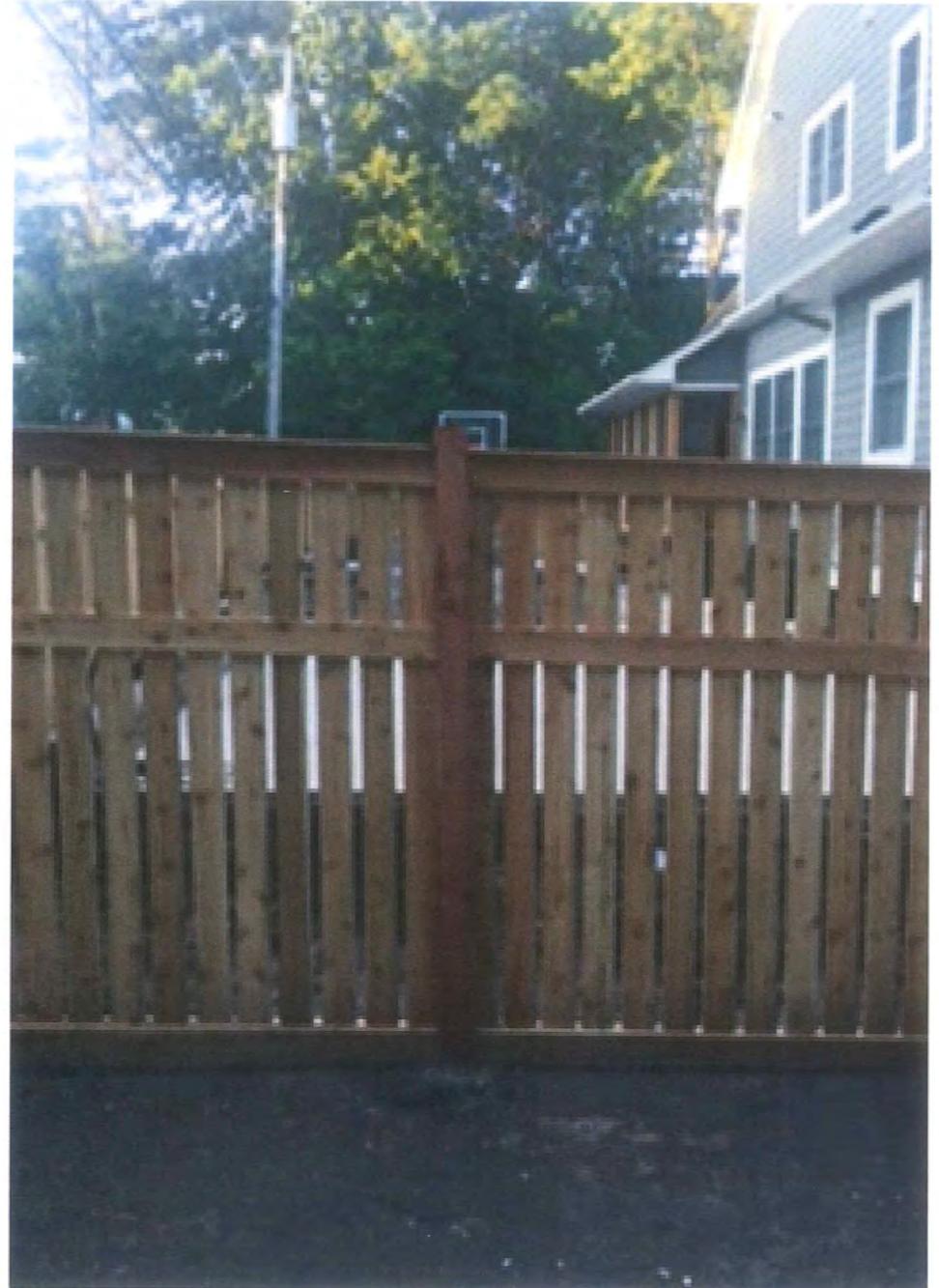
View from the
northeast alley /
easement



View from the
backyard of the
neighbor to the
east



View from the
garage of the
neighbor to the
north



Subject: FW: Information from Tom Jasper

(1x2)

From: Ryan Johnson [mailto:rcjohnsoncc@gmail.com]
Sent: Tuesday, October 11, 2016 10:33 PM
To: Jasper, Thomas F
Cc: Walter; Steve Birch; Christy Prediger
Subject: Re: Information from Tom Jasper

Tom,
I'll make sure you get it in the morning.

Ryan Johnson

Sent from my iPhone

On Oct 11, 2016, at 10:23 PM, Jasper, Thomas F <tjasper@tcfbank.com> wrote:

Walter -

My contact at the city needs to file his report on Friday. He asked me to send him my final request submission no later than Wednesday night. I was hoping that I would be able to incorporate the neighborhood group support letter in my submission. Might it be possible to get the letter tomorrow (Wednesday October 12th)?

Thanks for your help.

Tom

Tom Jasper
952.475.6476

On Oct 5, 2016, at 11:12 AM, Walter <walterpitt@hotmail.com> wrote:

Tom,
Ryan and I spoke in depth and he is doing our write up, which he will send to me, then I to you. I actually spoke to him last night and he changed operating systems on his computer, so we had a delay which should be resolved asap. We will be putting a letter together for you in support of your variance and forwarding it to you and the city

What is the question you neighbor had? I see that you are now only asking for one variance instead of two. How did that come about?

Walt

Exhibit 6
(2x2)

On Oct 5, 2016, at 10:57 AM, Jasper, Thomas F <tjasper@tcfbank.com> wrote:

Gentlemen –

I wanted to inform you that the notification letters have been sent out to my neighbors. I was forwarded one question from one of my neighbors and have responded to it. In addition, there has been an extension to the 10/27 hearing for my variance request (originally scheduled for 10/13)

Is there any additional information that I can provide you? Do you have any questions or concerns?

I would greatly appreciate any support you can provide me as it relates to this item

Thank you

Tom

TO: ANDREW FRENZ, CPED, CITY OF MINNEAPOLIS

FROM: LINDEN HILLS NEIGHBORHOOD COUNCIL ZONING AND HOUSING COMMITTEE

RE: VARIANCE REQUEST FOR: Thomas Jasper 3821 Washburn (For recreational equipment.)

The Zoning and Housing Committee of the Linden Hills Neighborhood Council would like to offer our support for the variance request of Tom Jasper. Mr. Jasper came before the committee on September 19th and presented a thorough breakdown of his situation. He provided us with a summation of what the plans for his property are, diagrams outlining the scope of work, the steps he had taken thus far in his project, and what his variance request was. After reviewing this information and a long discussion with Mr. Jasper, it is this commissions desire to support his request.

In our review of Mr. Jasper's situation there were several important factors that led to our support. The first and most important factor is always safety for both the homeowner and the community. In the case of Mr. Jasper there does not appear to be any areas of concern in regards to safety. His project involves a basketball court and due to the location of the court there does not appear to be any part of his project that would prevent access to his home or raise any other safety issues.

Our next point of emphasis is the impact of the project on neighbors and their opinion of it. In this case Mr. Jasper approached each of his immediate neighbors about his project and received their written support for it. This committee views this as extremely important and the fact that Mr. Jasper's neighbors support his plan provides us with a strong piece of mind that his project will not be detrimental to others.

The final step that Mr. Jasper took and leads us to support his request is that he did communicate with the city prior to finalizing any of his plans. From Mr. Jasper's description of events and the emails he provided us, it appears that he made his best effort to comply with all city regulations prior to beginning any work on his property. Mr. Jasper also spent a significant amount of time discussing with the committee his options and looking for other ways to accomplish his project given his existing conditions that would not require a variance. It is our opinion that given the current circumstances that Mr. Jasper's request is the most reasonable option.

The basketball post's narrow profile does not impede access to any services through the set back and since it is placed on an open sport court, there would be no other obstructions in this or the extended area.

In closing, the LHINC Housing and Zoning Committee requests that you please strongly consider approving Mr. Jasper's variance request. Our commission feels that Mr. Jasper has presented a valid argument and that his project does not negatively impact either the safety of his property or have a detrimental impact on his neighbors. Thank you for your time.

Best,

RYAN JOHNSON LHINC BOARD AND Z&H COMMITTEE MEMBER

WALTER PITT LHINC ZONING & HOUSING COMMITTEE CHAIR

Frenz, Andrew

From: aaronmona@aol.com
Sent: Saturday, October 01, 2016 3:05 PM
To: Frenz, Andrew
Subject: 3821 Washburn Ave. S. variance request

Follow Up Flag: Follow up
Flag Status: Completed

I am writing to oppose the variance request. My house partially abuts 3821 through the alley. Mr. Jasper has shown a clear pattern of disregarding property boundaries and the impact of his house improvements on his neighbors.

The City holds an alley easement behind both of our properties. The alley dead-ends behind my house and is unused behind his house and my next door neighbor at 3820 Vincent Ave. S. Jasper first removed a large number of trees in the alley easement without consulting the neighbors or getting permission from the city. That includes trees in 3820 Vincent's half of the unused alley.

Next he put a slit trench for (I think) an underground electric line in the alley. I had to tell his contractor to not put it in my half of the alley.

Next his contractor piled construction debris on top of a retaining wall on my property and I had to ask them to remove it.

Next he regraded the alley behind his house and 3820 Vincent without consulting the neighbors or the city. In the process he demolished a short flight of steps used by 3820 Vincent to access the alley. His contractor struck a stone retaining wall on my property and knocked some of the stones askew.

Then he paved most of his back yard. I and other neighbors believe he has exceeded the permitted percentage of impervious space. What we do know is that the runoff from his newly paved back yard flooded the basement of his neighbor to the north, 3815 Washburn Ave. S., causing black mold in that house.

He erected a fence between his back yard and the alley. We believe he has encroached one foot into the alley.

In summary, Jasper has established a pattern of arrogantly acting unilaterally and only asking for permission when someone challenges him. He pushes all the zoning rules to the limit. He does not deserve to receive any variances.

Aaron and Mona Isaacs
3816 Vincent Avenue S.
Minneapolis, MN 55410

Frenz, Andrew

From: Penny Ainsworth <penny.ainsworth@yahoo.com>
Sent: Monday, October 10, 2016 9:25 AM
To: Frenz, Andrew
Subject: Fw: 3821 Washburn Ave. So. -REQUEST FOR VARIANCE- 10/13/16 Hearing

Follow Up Flag: Follow up
Flag Status: Completed

Dear Mr. Frenz,

I am writing to address the request for variance to the zoning code at the above property. Please see the below:

Facts:

I do not see any unusual circumstances at this address to make it difficult for the property owner and/or the landscaper to comply with the zoning code/laws ie. ask for a variance.

Nor do I see any hardships the local zoning codes present to make it difficult for the homeowner to comply to these rules.

Questions/Comments:

This is an **80 ft. x 115 ft. city lot**. If a landscaper cannot come up with a design to comply to the codes when you have that amount of space to work with - perhaps the homeowner should find a new landscaper? One less suburban?

I am curious to know why this request for variance is taking place *after* the landscaping has been/what looks to be *completed*?? Isn't it protocol to ask for a variance *before* construction begins??

Sincerely,
Penny Ainsworth

Frenz, Andrew

From: Ken Dahl <kendahl.hastings@gmail.com>
Sent: Wednesday, October 12, 2016 11:54 AM
To: Frenz, Andrew
Cc: Dahler, Ken
Subject: Variance Request for 3821 Washburn Avenue South

Follow Up Flag: Follow up
Flag Status: Completed

My understanding is that a homeowner needs to show that a "hardship" exists to justify a variance. I do not believe there is a hardship in this case. First, and most importantly in my opinion, the lot is twice the size of neighboring lots on Washburn and Vincent Avenues S. Most lots are 40 or 45 feet wide, while 3821 Washburn is 80 feet wide. There is plenty of room to build a sport court that complies with the setback and other zoning requirements at issue. If this was a smaller lot, I might be sympathetic to the request.

Secondly, this is not the first issue associated with this property. (For example, there is a drainage concern that was created by the builder.) Little sympathy for our interests has been shown to expect support for a variance request now.

Finally, homeowners on our block have encroached onto the alley right-of-way, and the owners of 3821 Washburn may have done so with their fence, too. It's time that this practice of benign acquiescence by the City end and enforcement of the Zoning Code begin.

This variance request is not an issue of supporting or opposing a backyard basketball hoop. It's a question of enforcing the Zoning Code that is intended to benefit (protect?) all homeowners.

Thank you for considering my views.

Kenneth Dahl
3804 Vincent Avenue South
Minneapolis, Minnesota 55410

612-920-5332

Sent from my iPad