



## PLANNING COMMISSION STAFF REPORT

Originator <b>Kris Aaker</b> Assistant Planner	Meeting Date <b>January 9, 2013</b>	Agenda # <b>B-13-02</b>
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**Recommended Action:** Deny the variance as requested.

### **Project Description:**

**A 15.96 foot setback variance from Minnehaha Creek for a new home to be built on property located at 5024 Bruce Place for Andrew and Kristen Cragg.**

### **INFORMATION/BACKGROUND**

The subject property, is located at the end of Bruce Place Cul-de-sac and backs up to Minnehaha Creek. The existing home on the property was built in 1940, consists of two story home with an attached two car garage, (see attachments: A.1 – A.14, site location, aerial photos, surveys and building plans). The existing home is nonconforming regarding the required 50 foot setback from Minnehaha Creek. The existing home is located 40.38 feet from the edge of Minnehaha Creek or 9.62 feet closer than allowed by ordinance. At the time the home was built there were different setback requirements in place allowing structures to be closer to water bodies than current city code allows. The zoning ordinance was amended in the early 1990's changing the setback requirement from Minnehaha Creek, (previously a 25 foot setback was allowed), it has since been changed to a 50 foot minimum setback. The change was required so the City of Edina would be consistent with the MN Department of Natural Resource's requirements. The ordinance change caused the current home, as well as many others along the Creek and other water bodies, to become nonconforming. The change doubled the setback previously required from Minnehaha Creek.

The applicant is planning to tear-down the existing nonconforming home and replace it with a new two story home with an attached two car garage. The applicant has indicated that the new home will conform to all of the ordinance requirements with the exception of the required setback from Minnehaha Creek. The new home is proposed to be closer to the creek than the existing home. The

new home is proposed to be 34.04 feet from Minnehaha Creek or 6.34 feet closer to the creek than the existing home.

**SUPPORTING INFORMATION**

**Surrounding Land Uses**

Northerly: Minnehaha Creek  
 Easterly: Single-family homes  
 Southerly: Single-family homes  
 Westerly: Single-family homes

**Existing Site Features**

The subject property is 28,965 square feet in area. The existing home is two stories and was built in 1940.

**Planning**

Guide Plan designation: Single-family detached  
 Zoning: R-1, Single Dwelling Unit District

**Building Design**

The proposal is to rebuild on the property with a two story single dwelling unit with an attached garage. See new home plans attachments: A.7– A14.

**Compliance Table**

	<b>City Standard</b>	<b>Proposed</b>
Front -	Match adjacent homes: 10 feet + height 50 feet from Creek	33.79 feet
Side-		11.73/5.10 feet
Rear -		<b>*34.04 feet</b>
Building Height	2 ½ stories 30 feet to midpoint 35 feet to ridge,	2 stories, feet to midpoint, feet to ridge
Lot coverage	25%	10%

**\* Variance Required**

**Primary Issues**

- Is the proposed development reasonable for this site?

No. Staff believes the proposal is not reasonable:

1. The proposed use is permitted in the R-1, Single Dwelling Unit Zoning District and would comply with all requirements with the exception of setback from Minnehaha Creek. The proposed setback from the Creek is closer than the existing home.
2. The home while appropriate in size and scale for the lot will bring the building mass closer to a natural resource.
3. The improvements will provide for a new home to be closer to Minnehaha Creek than allowed by code and currently provided on site.
4. The new home erodes an already nonconforming setback from a natural resource that should be protected as much as possible.

- **Is the proposed variance justified?**

No. Per the Zoning Ordinance, a variance should not be granted unless it is found that the enforcement of the ordinance would cause practical difficulties in complying with the zoning ordinance and that the use is reasonable. As demonstrated below, staff believes the proposal does meet the variance standards, when applying the three conditions:

Section 850.0.Subd., requires the following findings for approval of a variance:

**Minnesota Statutes and Edina Ordinances require that the following conditions must be satisfied affirmatively. The Proposed Variance will:**

***1) Relieve practical difficulties that prevent a reasonable use from complying with ordinance requirements.***

Reasonable use does not mean that the applicant must show the land cannot be put to any reasonable use without the variance. Rather, the applicant must show that there are practical difficulties in complying with the code and that the proposed use is reasonable. "Practical difficulties" may include functional and aesthetic concerns.

Staff believes the proposed variance is not reasonable. The new home is less conforming to the current city code than the existing home. Staff finds it reasonable to rebuild the home no closer to the creek than the existing home, (would still require a variance, but only to match existing setback).

**2) *There are circumstances that are unique to the property, not common to every similarly zoned property, and that are not self-created?***

No. The required setbacks are meant to protect a natural resource. The proposed setback will be more impacting along the creek than the existing nonconforming setback of the current home. The proposed setback from the creek is a self-imposed condition.

**3) *Will the variance alter the essential character of the neighborhood?***

Yes. The proposed home will be closer to the creek than the existing home.

**Staff Recommendation**

Recommend that the Planning Commission deny the variance.

Denial is based on the following findings:

- 1) With the exception of the variances requested, the proposal would meet the required standards and ordinances for the R-1, Single Dwelling Unit District. It would appear however, that a new home could be designed to match the existing nonconforming setback of the home which would be a more reasonable variance to consider.
  
- 2) The proposal would not meet the required standards for a variance, because:
  - a. The proposed use of the property is not reasonable; as it will increase encroachment into the setback required and currently provided from Minnehaha Creek.
  - b. The practical difficulties in complying with the ordinances are the narrow building pad allowed by current standards and required setback from the Creek. Staff could perhaps support a request to maintain the existing nonconforming setback of the home from the Creek with new construction. Staff cannot support a request or identify difficulties with not matching the existing nonconforming creek setback.

**Deadline for a City decision:**

**February 22, 2013**



# VARIANCE APPLICATION

CASE NUMBER B-13-01 DATE 12-26-12  
FEE PAID \$350<sup>00</sup>

City of Edina Planning Department \* [www.cityofedina.com](http://www.cityofedina.com)  
4801 West Fiftieth Street \* Edina, MN 55424 \* (952) 826-0369 \*  
fax (952) 826-0389

FEE: RES - \$350.00 NON-RES - \$600.00

### APPLICANT:

NAME: Kristin + Andrew Cragg (Signature required on back page)  
ADDRESS: 5024 Bruce Place PHONE: 612.281.8144  
EMAIL: kacragg@yahoo.com

### PROPERTY OWNER:

NAME: Kristin + Andrew Cragg (Signature required on back page)  
ADDRESS: 5024 Bruce Place PHONE: 612.281.8144

### LEGAL DESCRIPTION OF PROPERTY (written and electronic form):

\*\*You must provide a full legal description. If more space is needed, please use a separate sheet.  
Note: The County may not accept the resolution approving your project if the legal description does not match their records. This may delay your project.

PROPERTY ADDRESS: 5024 Bruce Place

PRESENT ZONING: \_\_\_\_\_ P.I.D.# 18-028-24-42-0015

### EXPLANATION OF REQUEST:

Rear yard set back variance  
(Use reverse side or additional pages if necessary)

ARCHITECT: NAME: Ashley Mitlyng PHONE: 952.935.9469  
EMAIL: Ashley@KuhlDesignBuild.com

SURVEYOR: NAME: Tom Hodorff PHONE: 952.884.5341  
EMAIL: tom@hsjsurveyors.com

PLANNING DEPARTMENT  
DEC 27 2012  
CITY OF EDINA

Minnesota Statutes and Edina Ordinances require that the following conditions must be satisfied affirmatively. Please fully explain your answers using additional sheets of paper as necessary.

The Proposed Variance will:

YES

NO

Relieve practical difficulties in complying with the zoning ordinance and that the use is reasonable

Correct extraordinary circumstances applicable to this property but not applicable to other property in the vicinity or zoning district

Be in harmony with the general purposes and intent of the zoning ordinance

Not alter the essential Character of a neighborhood

See attached

PLANNING DEPARTMENT  
DEC 27 2012  
CITY OF EDINA

To: City of Edina Planning Commission

From: Andrew and Kristen Cragg  
5024 Bruce Avenue  
Edina, MN 55424

RE: Variance Request

We have been residents of Edina for 20 years and have raised 5 children in this amazing community. Our previous homes were located on Code Avenue and Edina Boulevard.

Our current home was purchased in 2003 with the intent to restore it. During that process we came to the realization that we had several major structural issues due to poor construction quality of two old additions as well as severe damage from ice dams and carpenter ants. We sought the opinions and guidance of four separate builders and three architects. All returned with the news that our home would require such significant repair that we should seriously consider a complete teardown of the structure.

We decided that we love Edina, the neighborhood and especially our neighbors. Building here and investing further in the community is our first choice.

Once we started the design process we quickly became aware of how unique our lot is. We found that we would need to seek a rear yard setback variance even if we were to build the exact same home we have now. Our lot is irregularly shaped within a cul-de-sac, thus building within the current setbacks – both to the front and rear – led to significant, yet not insurmountable, design challenges.

We sought feedback from our neighbors to see what was important to them as well. Views and sight lines to creek? Scale and access? Exterior design? What didn't they like about other construction in the neighborhood? We incorporated that information as we met with our architects to come up with a plan that would suit not only our lot, but respect our neighbor's current views and rear yard access.

If you were to visit our site, you would see that the placement of our new home would not adversely affect any of our neighbor's views. They have seen the plans and are in support\* of our project.

*\* Please view attached letters*

Our goal is not to build a giant, too-tall, I-can't-believe-we-have-to-live-by-that house. Our goal is to build a high quality home that is befitting of the landscape as well as the scale and architectural style of our neighborhood\*.

*\* Please view attached elevations of all four sides*

We believe that we have taken great care in the process of designing a home that will fit in nicely to our site, will have greater accessibility and will be much more energy efficient. While we are aware that constructing a new home will increase our taxes to the City, we choose to live in Edina for a reason and we are happy to make that additional investment in this incredible community.

Thank you,

Andrew and Kristen Cragg

PLANNING COMMISSION  
DEC 27 2012  
CITY OF EDINA

**Minnesota Statutes and Edina Ordinances require that the following conditions must be satisfied affirmatively. Please fully explain your answers using additional sheets of paper as necessary.**

**The Proposed Variance will:**

**Relieve practical difficulties in complying with the zoning ordinance and that the use is reasonable: Yes**

The practical difficulty, in this case, is the unique lot shape and Minnehaha Creek in the rear. As you can see from **Exhibit 1**, a large portion of our lot is within the Minnehaha Creek flood plane and is unsuitable for construction. Due to the flood plane there is very few options available for the placement of our home. The placement chosen has the least impact on all surrounding homes. Reasonable, as defined by city code, is consistent with surrounding properties, see **exhibit 2**, and we are not hindering the sight lines to the creek for the rear neighbors. To build a home that is in keeping with the neighborhood we ask the rear yard setback be granted.

**Correct extraordinary circumstances applicable to this property but not applicable to other property in the vicinity or zoning district: Yes**

As you can see from **Exhibit 3**, this property is very unique in shape due to the bend in the creek. Most all other lots allow the homeowner to shift the location of the structure far enough to the rear of the lot to accommodate an adequate width of structure. Our property is also unique because our lot is the only lot that will allow emergency vehicles, lawn equipment, or tree removal equipment. We have deliberately maintained a large side yard set back to ensure the use of our property in the event there would be a need for access to the adjoining properties.

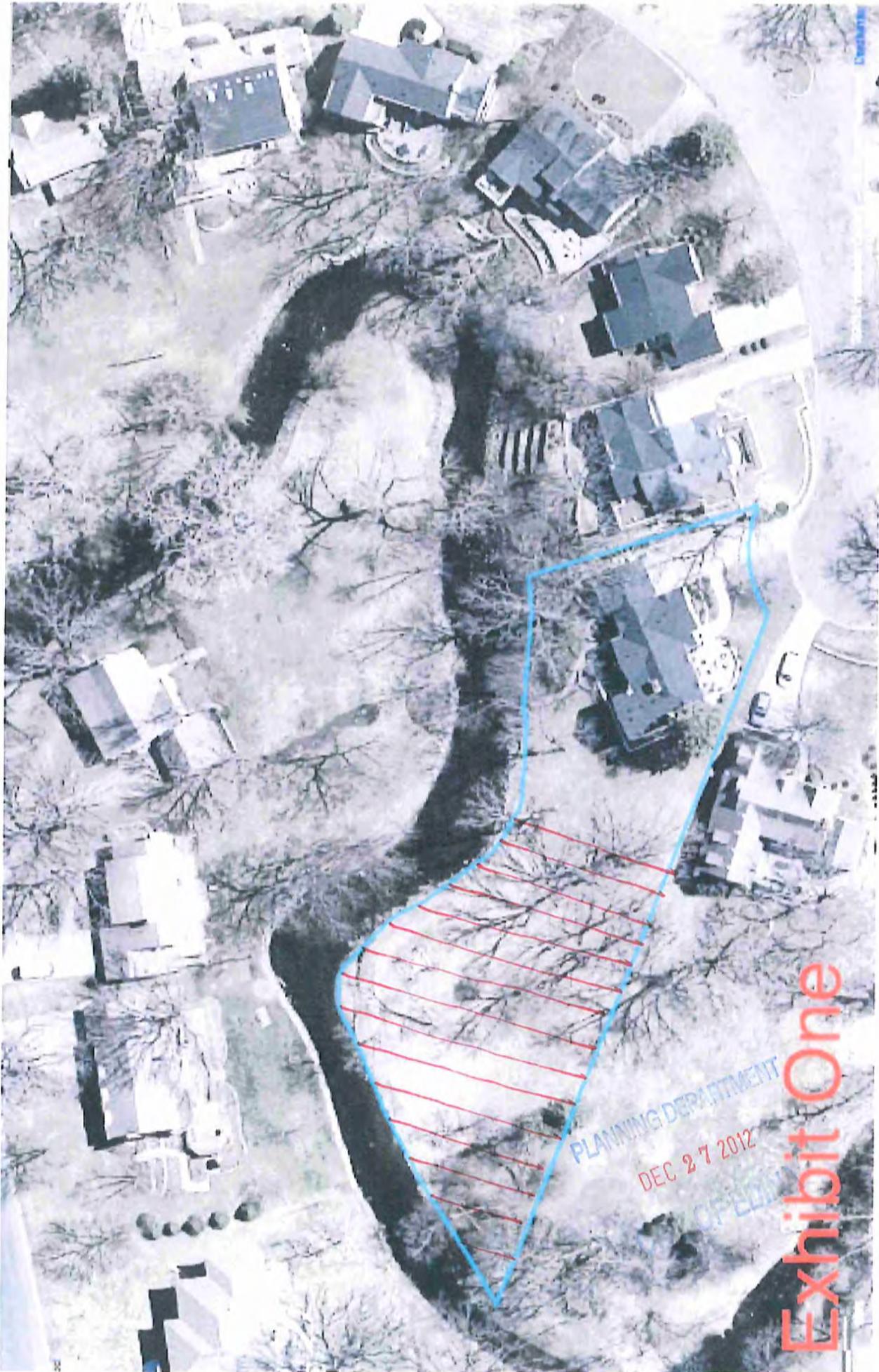
**Be in harmony with the general purposes and intent of the zoning ordinance: Yes**

We believe the spirit of this ordinance is to ensure structures are not built too close to bodies of water, so everyone on these bodies can equally enjoy the view. As you can see from **Exhibit 2** structure 1 and structure 2 are both closer to the Creek than what we are asking in our variance request. Due to the unique qualities of our lot and the adjoining lots, we have taken great care to make sure there will be no intrusion on the rear or the lots adjoining ours.

**Not alter the essential character of the neighborhood: Yes**

We have been working closely with Kuhl Design Build to design and construct our home. Kuhl Design Build has worked in Edina for many years and is the only residential Design Build firm that has won the Edina Historic Preservation Award. You can see from the site plan, survey and elevations, Kuhl has paid a close attention to massing, height and scale, to design a home that fits beautifully into our neighborhood. It is of utmost importance to us that our neighbor's site lines, sunlight exposure or values were not compromised. We intentionally designed a house that will not only fit into the neighborhood, but will increase the values of our neighbor's property as well be a tax benefit to the City.

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Exhibit One

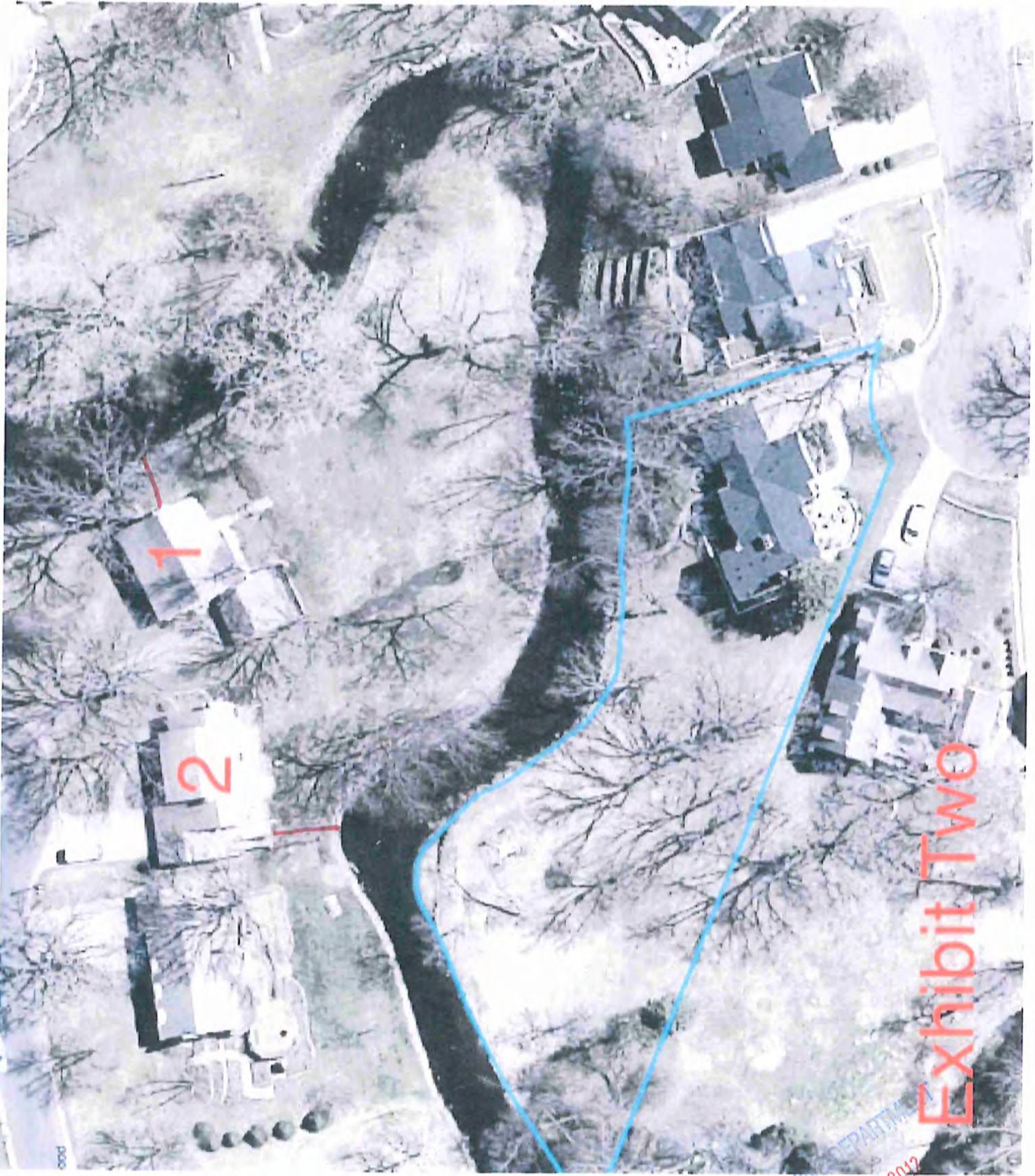


Exhibit Two

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CITY OF EDINA



No Access

Exhibit Three

MAY 9 2012

Map Hybrid Aerial More

BRUCE PI

PLANN



To: City of Edina Planning Commission

From: Andrew and Kristen Cragg  
5024 Bruce Avenue  
Edina, MN 55424

RE: Variance Request

We are requesting a 15.96 foot variance from the 50' rear yard setback requirement. As you can see from the calculations below our current home and deck are already 16.57 feet (including deck) within the 50 foot setback.

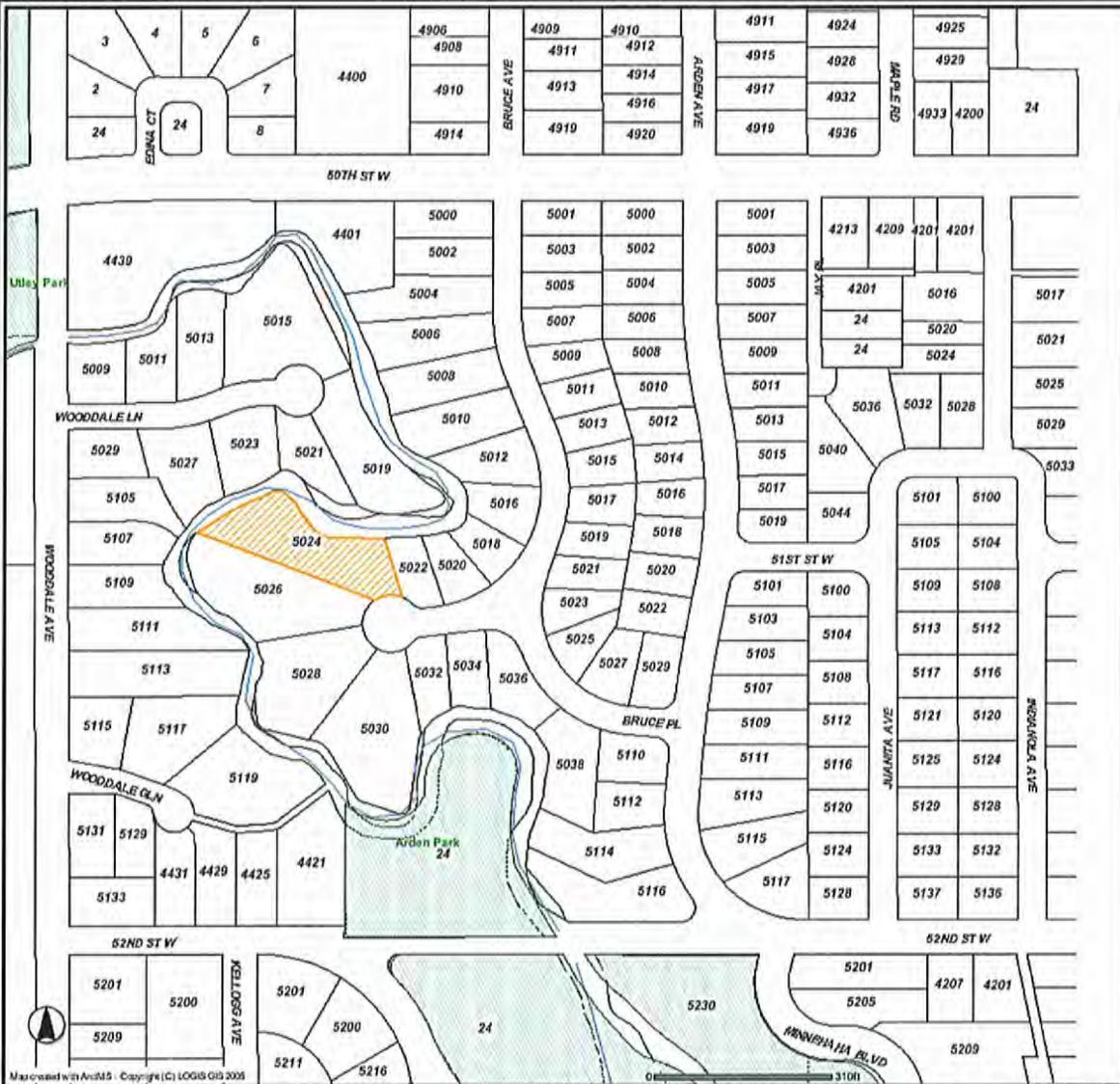
Existing:

28,965 Sq/ft	Site area (.665 acres)
2261 sq/ft	Existing house footprint
2695 sq/ft	Existing house footprint w/deck
3820 Sq/ft	Buildable area of Lot (based on 871' high water mark and city setbacks)
9.62 feet	House distance within the 50' set back
16.57 feet	House w/deck within 50' set back
304 sq/ft	House square footage of non-compliant area
614 sq/ft	Total square footage of non-compliant area (house and deck)

Proposed:

28,965 Sq/ft	Site area (.665 acres)
2891 Sq/ft	Proposed house foot print
3820sq/ft	Buildable area of Lot (based on 871' high water mark and city setbacks)
15.96 feet	House distance within the 50' set back
699 sq/ft	House square footage of non-compliant area

# LOCATION MAP



- Legend**
-  Highlighted Feature
  -  Surrounding House Number Labels
  -  House Number Labels
  -  Street Name Labels
  -  City Limits
  -  Creeks
  -  Lake Names
  -  Parks
  -  Parcels

**B-13-02**  
Setback Variance From Creek



**PID: 1802824420015**

**5024 Bruce Ave**  
**Edina, MN 55424**



A.1



A.2



A.3



*A. A*



A.5





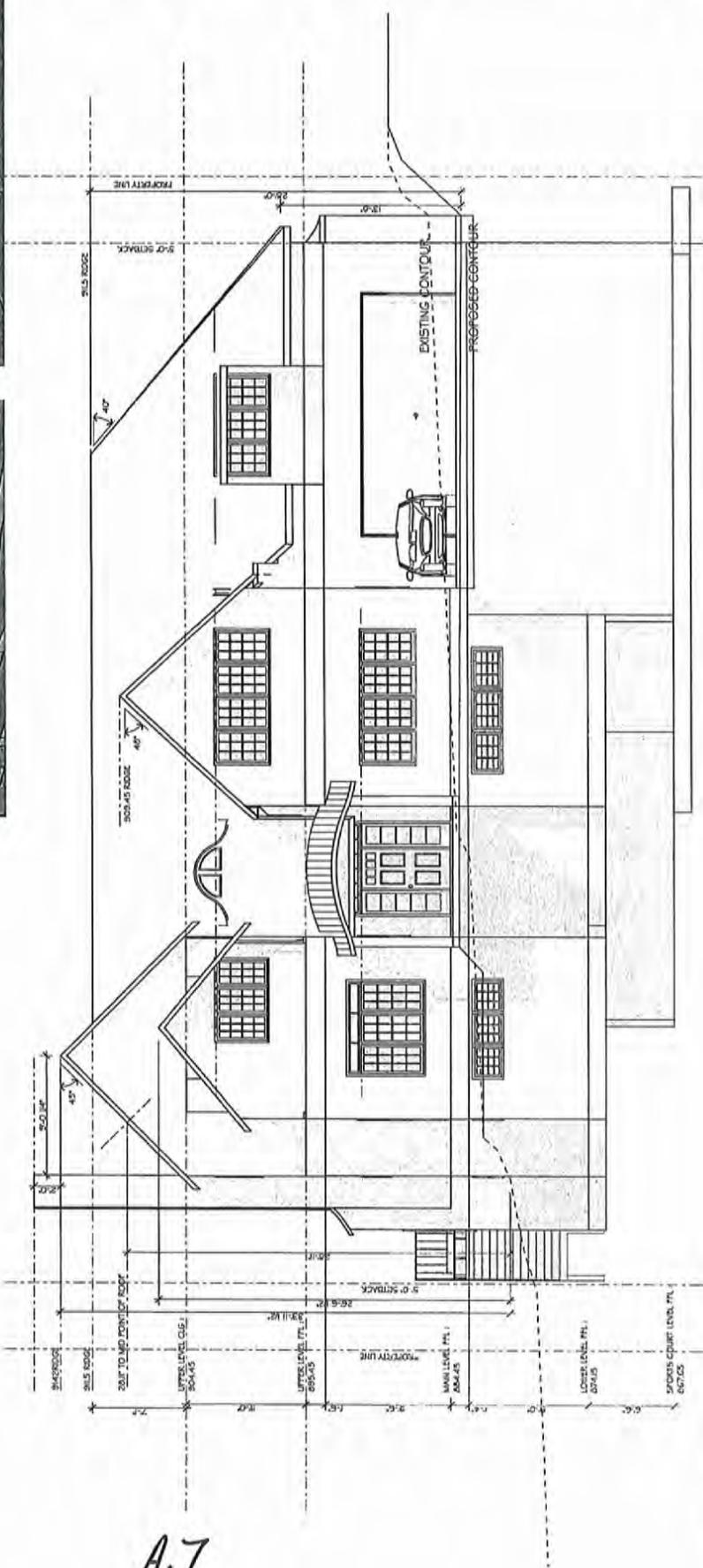
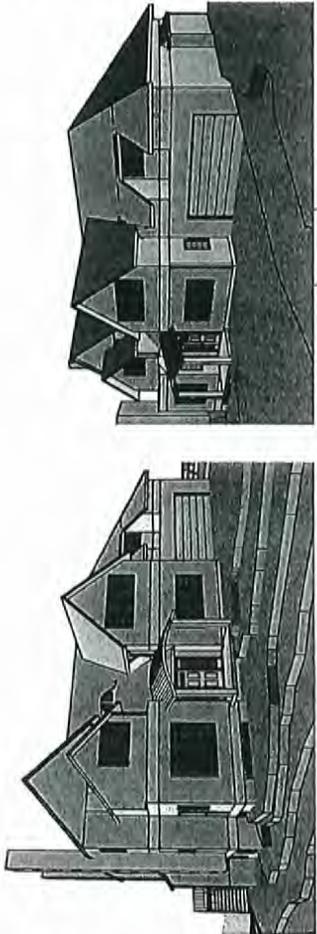
a renovation to the home of  
**KRISTEN & ANDY CRAGG**

**KUHL  
DESIGN  
BUILD**

**COPYRIGHT KUHL DESIGN BUILD**  
If another contractor will be using the plans for construction, a letter is necessary for the home owner to sign and submit to the local building department. Please return a copy of standard copyright license agreement, a copy of Design Build, and sign KUHL Design Build with me under seal. Please return a copy of KUHL Design Build Copyright. Without written permission of KUHL Design Build, these conditions are voided. The designs may be used in any other way.



1 NOV 2012  
SET BY PRE VANDRIVE



A.7

13 SOUTH ELEVATION  
7 SCALE 1/4" = 1'-0"



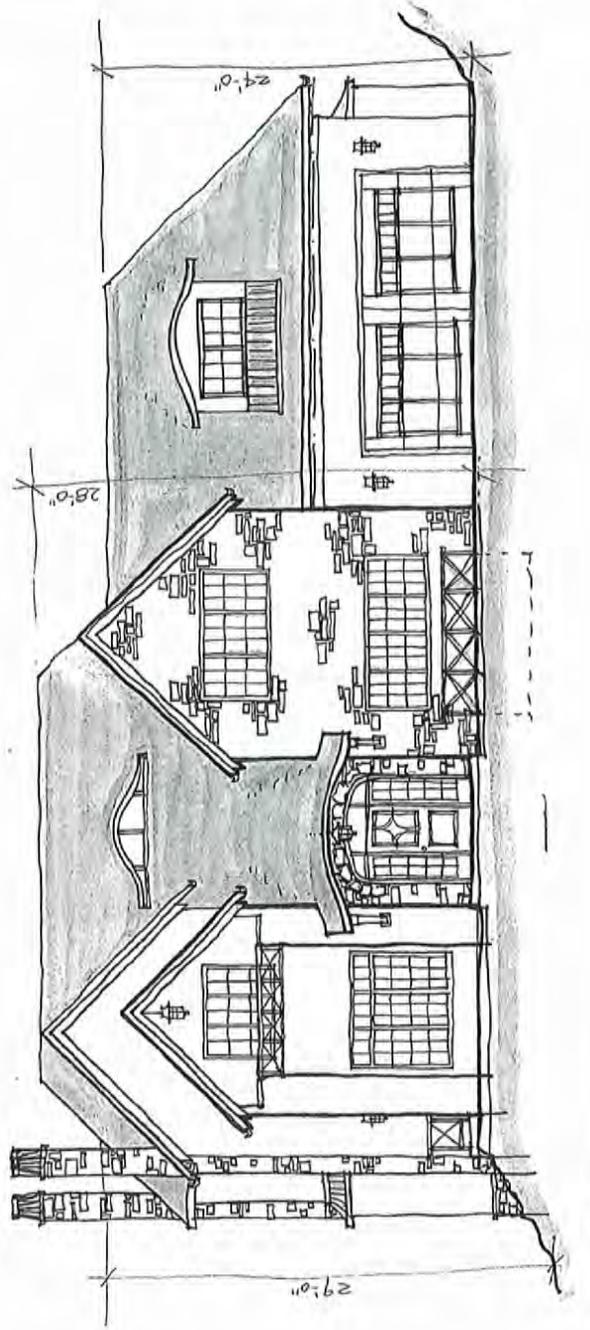




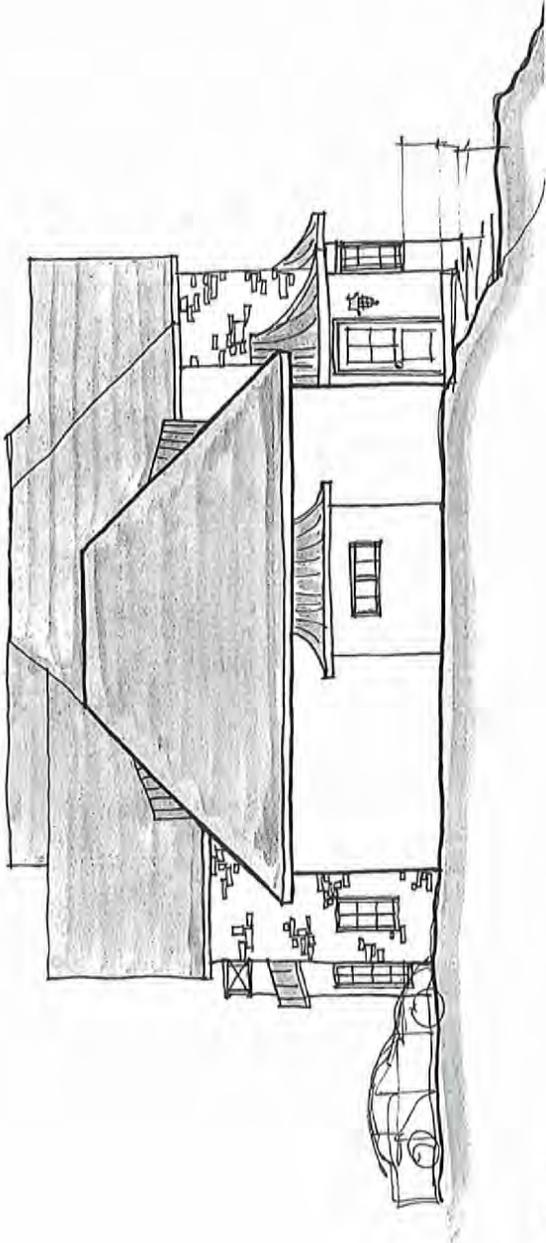
12.17.12  
Variance Meeting

a new residence for  
**KRISTEN & ANDY CRAAG**  
5024 BRUCE AVE  
EDINA, MN 55424

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If another contractor will be using the plans for construction, it will first be necessary for the home owner to (i) pay all design fees due to Kuhl Design Build, and (ii) sign Kuhl Design Build standard copyright license agreement, a copy of which will be made available. When those conditions are satisfied, the designs may be used without infringement of Kuhl Design Build's Copyright.



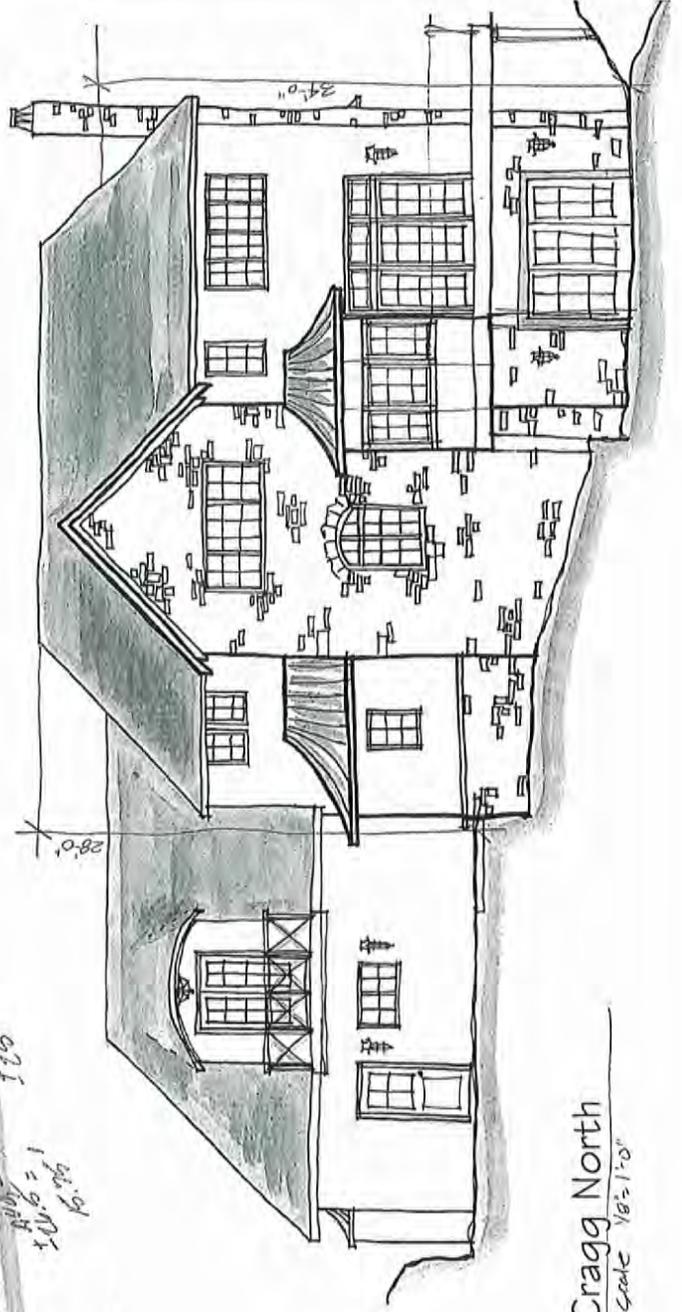
Cragg South  
Scale 1/8" = 1'-0"



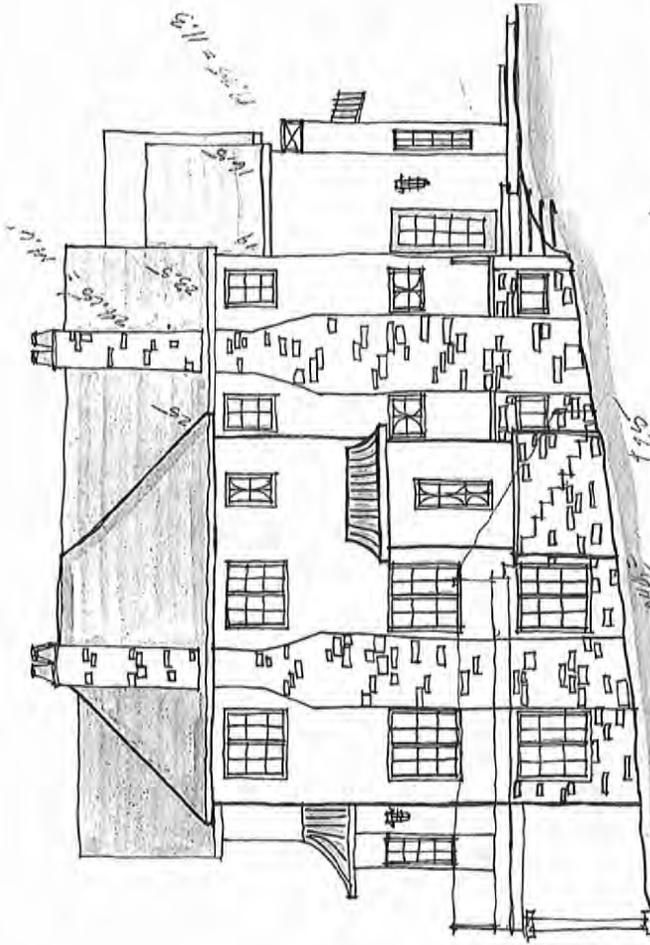
Cragg East  
Scale 1/8" = 1'-0"

a new residence for  
KRISTEN & ANDY CRAGG  
5024 BRUCE AVE  
EDINA, MN 55424

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Cragg North  
Scale 1/8" = 1'-0"



Cragg West  
Scale 1/8" = 1'-0"

A.12



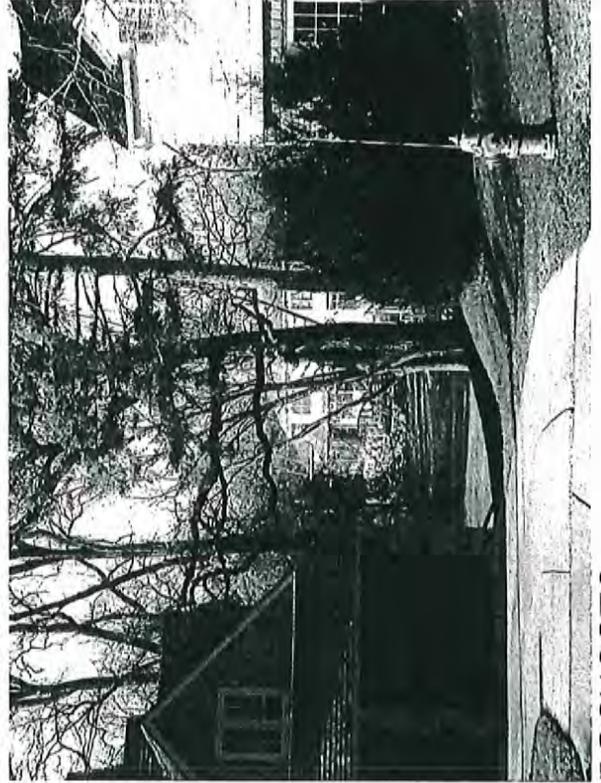
Entry - 2055



Fire Hydrant - 2078



DSCN2055



DSCN2078



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a new residence for  
**KRISTEN & ANDY CRAGG**  
5024 BRUCE AVE  
EDINA, MN 55424

12.20.12  
Variance Meeting

**1**

a new residence for  
**KRISTEN & ANDY CRAGG**  
5024 BRUCE AVE  
EDINA, MN 55424

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DSCN2069



DSCN2068



Backyard - 2069



Backyard - 2068

A. 14

a new residence for  
**KRISTEN & ANDY CRAGG**  
5024 BRUCE AVE  
EDINA, MN 55424

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DSCN2087



Neighbors Backyard - 2087



DSCN2089



South Neighbors - 2089