

**Topic:**                   **Non-Conforming Use Ordinance – Alternative Setbacks**

**Date Introduced:**   **September 1, 2010**

**Date of Discussion:**   **September 1, 2010**

**Why on the list:** (See attached staff report.) A recent Minnesota Supreme Court ruling has rejected a 20 year old ruling regarding the meaning of “undue hardship” in regard to review of variances. (See attached court case.)

In light of this ruling, many Cities, including Edina, are considering the attached ordinance amendment to allow expansion of nonconforming structures to match existing nonconforming setbacks, rather than grant variances, which has typically been the standard in Edina before this ruling.

**History:**                   The previous ruling of “undue hardship” meant that city’s could determine if the ordinance prevented a “reasonable use” of property. City’s had some discretion to determine if a use requiring a variance was reasonable.

The new ruling holds that a variance cannot be approved unless the ordinance prevents **all** reasonable use of the property. Therefore, if a homeowner wanted to build an addition to their home that did not meet all ordinance requirements, a variance would not be possible, as he/she would already have reasonable use of the property, a single-family home. This is a **major** change in the criteria for granting a variance.

See attached report regarding recent variance history. Over the past three plus years 154 single-family home residential variance requests were made. Nearly half of those were for expansions to homes that had nonconforming setbacks. Expansions to these structures to match the existing nonconforming setback are typically approved.

Additionally, the City of Edina recently amended the ordinance regarding first floor height for new homes after a tear down. This was to address the massing issue. Since then, six variances have been granted to allow a taller first floor elevation than the one-foot that is required. In each instance,

the request was due a ground water or flood plain issue. In those instances it is best to elevate the new home to get it out an area with a high table or flood plain. Therefore, staff would suggest consideration to an amendment to that standard, an increase up to four feet, as variances are no longer an alternative. (Amendment is attached.) Overall building height requirement would still apply.

**Decision Point:** Should the City allow expansion of structures with nonconforming setbacks, and increase the first floor elevation for new homes to avoid areas with high ground water and flood plains?

- Options:**
1. Yes, but only to the existing established nonconforming setback. (See attached ordinance drafted by the City Attorney.) Additionally, allow a taller first floor elevation for a new home, only when avoiding areas with high ground water or a flood plain.
  2. No, expansions only should be allowed to meet required setback, even if the existing structures exceed the requirement.



## PLANNING COMMISSION STAFF REPORT

Originator <b>Kris Aaker</b> Assistant Planner	Meeting Date <b>September 1, 2010</b>	Agenda #
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### Information & Background

In late June of 2010, the Minnesota State Supreme Court issued a ruling regarding variances that limit their application. The ruling affects all cities and municipalities within the State of Minnesota and as a result, the City of Edina's authority to grant variances has been significantly impacted. In the past the city had wider authority in granting variances. The ruling severely hinders the city's ability to allow exceptions to the zoning ordinance and no longer allows the city to have flexibility in granting variances as it did in the past. An applicant had to demonstrate that there were practical difficulties in complying with an ordinance and that the proposed use was reasonable. The Supreme Court ruled that based on the language of State Statute 462.357, a city does not have the authority to grant a variance unless an applicant can show that their property cannot be put to any reasonable use without the benefit of a variance.

On August 5, 2010, the Edina City Council held a joint work session with the Planning Commission and members of the Zoning Board of Appeals to address the State Supreme Court Ruling and how it may affect building projects within the city. Residential and commercial building plan impacts were discussed. It was suggested that a review of variances granted over the last three years be conducted to perhaps identify patterns that would assist in potentially amending city ordinances. Common patterns in variance approvals could help address situations that may become part of a zoning ordinance change. This report primarily focuses on residential variance patterns that have developed over time. The objective is to perhaps consider alternate setback standards based upon common variances granted in the past. Commercial projects and signage would be addressed as separate issues from considering residential alternative setback standards.

### Types of Variances Requested

The City reviews anywhere from 60 – 90+ variance applications per year with some applications requesting multiple variances. The most common variances granted are for single family residential property and are usually requested for front yard, side yard, side yard given height and side street setback. To a lesser extent variances are granted for rear yard setback, water body setback, driveway

width and fence height. Other variances granted include air conditioner location, porch encroachment into a setback area and first floor height. There have been just a few lot coverage variances granted and they were generally in instances to adjust existing nonconforming coverage.

Of the 176 variance requests that were reviewed in the recent past, 14 were for commercial projects, 8 were sign variance requests and the remaining 154 were for residential projects. In reviewing the residential variances that were granted with regard to the most common variances, (front yard, side yard, side yard given height, side street and rear yard), it was found that in most cases nearly half were due to a nonconforming situation. It should be noted that the ordinance addressing front yard setback was recently amended in April of 2010 and is still rather fresh with few permits issued, so it is difficult to track the impact of the amendment. Side yard setback variances were the most commonly requested variances with 19 out of 36 requested to continue/extend an existing nonconforming building wall. In addition, a significant number of side yard setback variances, (9 of 36), that reduced an existing setback were to expand a one car garage to allow a two car garage as required by ordinance. Rear yard variances were most often requested for extensions of/or matching an existing nonconforming situation.

The ordinance requiring additional setback due to building wall height is rather unique to Edina and seems to become problematic at times especially when designing a second story for a home that conforms right at the base side yard setback. It becomes even more of a challenge in instances when the first floor is not currently conforming to the ordinance requirements and an addition is contemplated to expand above. The "added setback for height" ordinance has been in place for many years and prevents a simple addition directly above a first floor at minimum base side yard setbacks.

Other relatively frequent variances that were granted include setbacks from water bodies, driveway width, and first floor height. Water body setback variances include 6 out of the 10 variances granted to expand or match an existing nonconforming setback.

There have been 8 driveway width variances to access rear yards and generally to allow for a two car garage as required by ordinance. A driveway width ordinance is under consideration and would eliminate the need to process variances for driveways.

An alternate setback standard would not address variances that are requested from the maximum first floor height requirement. The ordinance was recently amended to limit new construction to a first floor height no higher than 1 foot above the existing/old first floor height of the home occupying a site. Since amendment, there have been 6 variances granted to allow first floor heights in new homes to be elevated beyond the one foot limit which is a relatively new amendment to the zoning ordinance.

## **Conclusion**

Review of residential variances granted since 2007 reveal that many variances are requested and granted due to a preexisting nonconforming situation that will be matched or continued in a proposed project. An alternate setback standard could eliminate the need for variances in many instances and allow for continued improvement and upgrading of residential properties.

Staff recommends approval of the attached alternative setback ordinance subject to any additions or amendments recommended by the Commission.

2007 - present						
Residential variances approved						
176 total 154 residential						
*Continuation of an existing nonconforming setback condition						
**garage expansion 1-2						
Front yard	Side Yard	Side Street	Height/side yard	Rear yard		
*5.25 ft new home	* 2.5 ft	*8.2 ft	4 ft 1st fl conf	*5.75 ft		
*11.49 ft	**2 ft	3.5 ft	2.5 ft *1st fl	**9.2 ft		
*28.65 ft	**2 ft	2 ft	5 ft 1st fl conf	3 ft pool		
*7 ft	*1.2 ft	21.66 ft SS/FY	3.1 ft 1st fl conf	*9.6 ft		
*2.1 ft	*.3 ft	2 ft	1.1 ft 1st fl conf	*20 ft for 2nd floor		
7.4 ft	4 ft garage to living	6 ft	1.2 ft *1st fl	7.3 ft		
5.65 ft	*.66 ft	10.9 ft SS/FY	1 ft liv above garage	*5.2 ft		
6 ft	*4 ft	*33.1 ft new home	8.25 ft	9.9 ft		
7.5 ft	* 4.04 ft	*5 ft	1 ft *1st fl	*1 ft		
2.5 ft	**2 ft	*4 ft	2.9 *1st fl			
37.7 ft vacant lot/nh	**1.3 ft	*.7 ft	4.5 ft			
*45.5 ft new home	** .8 ft	**10.7 ft	2 ft			
*18 ft	5 ft	*5 ft	3.65 ft			
*12.8 ft	*1.3 ft	*10 ft	3.55 ft			
2 ft	3 ft	*21 ft	1.5 ft			
49.3 ft vacant lot/nh	*2.9 ft	10 ft	1.75 ft			
4.5 ft new home	*5.95 ft	*40.3 ft	3.75 ft *1st fl			
4.78 ft	3.7 ft	*17.8 ft	3.6 *1st fl			
4.7 ft	*2.1 ft	**6.7 ft	1.66 *1st fl			
7.14 ft	1.09 ft	*8.7 ft				
6.3 ft	2.09 ft					
1.4 ft	*.167					
33.2 ft	*.9 ft					
1.2 ft	**3 ft					
*6.22 ft	*2 ft					
24.3 ft	*.79 ft					
*11.75 ft	*1.3 ft					

15.45 ft vacant lot/nh	*3.3 ft			
.2 ft	3.8 ft			
	**1.3 ft			
	*.6 ft			
	**2 ft			
	*.7 ft			
	5.7 ft			
	*3 ft			
	**1.2 ft			
Total: 28	Total: 36	Total: 20	Total: 19	Total: 9
*10	*19	*11	*7	*5
	**9	**2		

2007 - present day				
First Floor height	Porch +80 sq ft	Lot Area	Lot width	
2 ft	208 sq ft	2,300 sq ft	25 ft	
1.5 ft	100 sq ft			
1.4 ft	82 sq ft			
2.5 ft				
4.13 ft Flood Plain				
1 ft				
Total: 6	Total :3	Total: 1	Total: 1	

2007-present day								
*Continuation of an existing nonconforming condition								
Lot coverage	Fence	Water body	Driveway width	Air conditioner location				
219 sq ft	4ft height 4-8	2.8 ft	1.2 ft	1.42 ft side yard variance				
18 sq ft	*2 ft height	7 ft	4.3 ft	3.5 ft				
85 sq ft	2 ft height 6-8	*37.4 ft for deck add	.5 ft					
	2 ft height 6-8	2.42 ft	5 ft					
	2 ft height 6-8	11 ft	.5 ft					
	2 ft height 6-8	*27.5 ft	.5 ft					
	2 ft height 6-8	*5 ft	2 ft					
		*6 ft	1.75 ft					
		*4 ft						
		*26 ft						
Total: 3	Total:7	Total: 10	Total: 8	Total:2				
	*1	*6						

## ORDINANCE 2010 -

**AN ORDINANCE AMENDING THE ZONING ORDINANCE  
CONCERNING NONCONFORMITIES**

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The City Of Edina Ordains:

**Section 1.** Section 850.07 Subd. 20 B is hereby amended as follows:

B. Non-Conforming Buildings.

1. Alterations, Additions and Enlargements.

a. a non-conforming building, other than a single dwelling unit building, shall not be added to or enlarged, in any manner, or subjected to an alteration involving 50 percent or more of the gross floor area of the building, or 50 percent or more of the exterior wall area of the building, unless such non-conforming building, including all additions, alterations and enlargements, shall conform to all of the restrictions of the district in which it is located. The percentage of the gross floor area or exterior wall area subjected to an alteration shall be the aggregate percentage for any consecutive three-year period.

~~b. a non-conforming single dwelling unit building shall not be added to or enlarged in any manner, or subjected to an alteration to convert accessory buildings or portions thereof into living area, unless all such additions, enlargements and alterations shall conform to the setback and height restrictions of the district in which it is located, and unless such non-conforming single dwelling unit building, including all such additions, enlargements and alterations shall conform to the building coverage restriction of the district in which it is located.~~

b. Alternate setbacks. The minimum required setback of a single family detached dwelling or a structure accessory to a single family detached dwelling that has a legally nonconforming setback shall be either the existing setback or the setback as otherwise specified in this Chapter whichever is less.

2. ~~Repairs, Maintenance and Remodeling. Non-conforming buildings may be repaired, maintained and internally remodeled to an extent and in a manner which does not violate the provisions of the preceding subparagraph 1.~~ **Except as provided in Section 850.21, any nonconformity, including the lawful use or occupation of land or premises existing at the time of the adoption of an additional control under this chapter, may be continued, including through repair, replacement, restoration, maintenance, or improvement, but not including expansion, except as specifically provided in this chapter, unless: (A) The nonconformity or occupancy is discontinued for a period of more than one year; or (B) Any nonconforming use is destroyed by fire or other peril to the extent of greater than fifty percent (50%) of its market value, and no building permit has been applied for within one hundred eighty (180) days of when the property is damaged. In this case, the city of Edina may impose reasonable conditions upon a building permit in order to mitigate any newly created impact on adjacent property. Any subsequent use or occupancy of the land or premises shall be a conforming use or occupancy.**
  
3. ~~Restoration. A non-conforming building, or a building all or substantially all of which is used for a non-conforming use, which is destroyed or damaged by fire, wind, earthquake, explosion or other casualty, to the extent that the cost of restoration exceeds one-half of the fair market value of the entire building on the date immediately prior to the date of the casualty, shall not be restored unless the building, and the use, shall conform to all of the restrictions of the district in which it is located. If the cost of restoration is less than one-half of the fair market value of the entire building on the date immediately prior to the date of the casualty, then the building may be restored without so conforming; but if such restoration is not begun within two years from the date of the casualty or is not diligently prosecuted to completion, then the building shall not be restored unless the building, and the use, conforms to all of the restrictions of the district in which it is located. The Assessor, or other person selected by the Manager, shall determine such cost of restoration and such fair market value.~~

**Section 2.** Section 850.12 Subd. 7. H. is hereby amended as follows:

- H. Additions to or rebuilt single-family dwellings and buildings containing two dwelling units. For additions, alterations and changes to, or rebuilds of existing single-family dwellings and buildings containing two dwellings, the first floor elevation may not be more than one foot above the existing first floor elevation. If a split level dwelling is torn down and a new home is built, the new first floor or entry level elevation may not be more than one

foot above the front entry elevation of the home that was torn down. The first floor elevation may be raised up to a maximum of four feet, only if it is necessary to elevate a new home a minimum of two feet above a Federal Emergency Management Agency (FEMA) flood plain elevation or above ground water elevation as determined by a licensed geo-science engineer. The provisions of this paragraph shall apply to all single-family homes and buildings containing two dwelling units including units in the flood plain zoning district. Any deviation from the requirements of this paragraph shall require a variance.

**Section 3.** This ordinance is effective immediately upon its passage and publication.

First Reading:

Second Reading:

Published:

ATTEST:

\_\_\_\_\_  
Debra A. Mangen, City Clerk

\_\_\_\_\_  
James B. Hovland, Mayor

Please publish in the Edina Sun Current on:

Send two affidavits of publication.

Bill to Edina City Clerk

CERTIFICATE OF CITY CLERK

I, the undersigned duly appointed and acting City Clerk for the City of Edina do hereby certify that the attached and foregoing Ordinance was duly adopted by the Edina City Council at its Regular Meeting of \_\_\_\_\_, 2010, and as recorded in the Minutes of said Regular Meeting.

WITNESS my hand and seal of said City this \_\_\_\_\_ day of \_\_\_\_\_, 2010.

\_\_\_\_\_  
City Clerk



## PLANNING STAFF REPORT

Originator <b>Kris Aaker</b> Assistant Planner	Meeting Date <b>September 7, 2010</b>	City Council Work Session
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### Information & Background

In late June of 2010, the Minnesota State Supreme Court issued a ruling regarding variances that limit their application. At their September 1, 2010 meeting the Zoning Ordinance Update Committee met in part to discuss a Nonconforming Use Ordinance addressing alternate setback standards. The Nonconforming Use Ordinance is an option under consideration to address the impact of the State Supreme Court decision. Part of the meeting discussion included the possibility of amending the front yard/side street setback requirement that has been the basis for a number of variance requests. Testimony at the meeting suggested that the ordinance requiring a deeper front yard setback given conditions adjacent to the subject property are unreasonable and unworkable for many properties in Edina.

The zoning ordinance requires that any addition, new home or tear down/rebuild, maintain the average front yard setback of the homes on either side. It also requires that a corner lot match the front yard setbacks of the adjacent homes if both homes have their front yard facing the subject property's front and side streets. There were two issues brought up at the September 1<sup>st</sup> meeting; the effect of matching the average setback on an interior lot and how the "matching" front yard rule impacts corner lots.

It was suggested that staff compile front yard setback requests to get a better picture of the type of requests that are approved by the Zoning Board of Appeals, (a sample of front yard setback variances with findings are attached for reference). It should be noted that the ordinance addressing front yard setback was recently amended in April of 2010 with few permits issued, so it is difficult to gauge the impact of the amendment. The change may have possibly eliminated the need for some of the variances that had been granted in the past. Concerns expressed at the Zoning Ordinance meeting included the opinion that recent front yard setback changes have limited flexibility in house placement and that the changes have negatively impacted opportunities on properties. It was mentioned that the change will be problematic for building on vacant lots still remaining in the undeveloped portions of Parkwood Knolls 26 and 27<sup>th</sup> Additions.

The front yard requirement along both the front and side streets for corner lots if there are homes fronting both streets has not changed as part of the April amendment to the front yard setback ordinance and has been in place for many years. It was through the variance process that special cases have been heard. Review of the attached sample of front yard setback variance approvals and findings in support of them indicate that there are unique and specific circumstances that supported each request. Front yard setback variances have always been one of the more challenging variances to achieve, so the few that have been granted were due to conditions specific to the property. Short of a standard minimum setback requirement from all front and side streets, it would be difficult to craft an ordinance that would address many of the curved and unique shaped lots, street layouts and corner lot situations within the city.

The current draft proposing a Nonconforming Use Ordinance does not specifically address front yard or side street setback requirements. It would however allow a home addition to match an existing nonconforming front yard setback. The Nonconforming Use Ordinance would eliminate some front yard and side street setback variances given existing conditions on the site. The Nonconforming Use Ordinance would not address new construction on a vacant lot or teardown rebuild situation. As stated previously, the front yard setback ordinance was recently amended in April of 2010, with few applications for permits to appreciate the impact of the rule change.

## **Conclusion**

Review of front yard setback variances recently granted reveal that some were requested and granted due to preexisting nonconforming situations that matched or continued a nonconforming front yard setback in a proposed project. A Nonconforming Use Ordinance could eliminate the need for variances in many instances and allow for continued improvement and upgrading of residential properties. The Nonconforming Use ordinance would not apply to a teardown rebuild or new construction on a vacant lot.

## RESOLUTION NO. B-10-25

### RESOLUTION APPROVING A VARIANCE TO Zoning Ordinance No. 850 AT 6509 Shawnee Circle, Edina, MN

BE IT RESOLVED by the Zoning Board of Appeals of the City of Edina, Minnesota, as follows:

#### Section 1. BACKGROUND.

- 1.01 Todd and Melissa Zettler has requested a 15.45-foot front yard setback variance from the city code to/for a Construct a new single family home.
- 1.02 The property is legally described as follows: Lot 1, Block 3, Overholt Hills Georgia Addition, Hennepin County, Minnesota
- 1.03 City Code Section 850.11 requires a 45.45-foot front yard setback variance.
- 1.04 The applicant is proposing a 30-foot setback. This requires a variance of 15.45 feet.
- 1.05 Minnesota Statutes, Section 462.354, Subdivision 12, and City Code Section 850.04 authorizes the Zoning Board of Appeals to grant variances
- 1.06 On July 1, 2010, the Zoning Board of Appeals held a public hearing on this application. The applicant was provided the opportunity to present information. The board considered all of the hearing testimony and the staff report, which are incorporated by reference into this resolution

#### Section 2. STANDARDS

- 2.01 Section 850.04.Subd.1.F. states that the Board shall not grant a petition for a variance unless it finds that the strict enforcement of this Section would cause undue hardship because of circumstances unique to the petitioner's property and that the grant of said variance is in keeping with the spirit and intent of this Section. "Undue hardship" means that (i) the property in question cannot be put to a reasonable use as allowed by this Section; (ii) the plight of the petitioner is due to circumstances unique to the petitioner's property which were not created by the petitioner; and (iii) the variance, if granted, will not alter the essential character of the property or its surroundings. Economic considerations alone shall not constitute an undue hardship if reasonable use for the petitioner's

property exists under the terms of this Section.

### Section 3. FINDINGS

3.01 Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:

- a. The existence of the non-conforming location of the previous home.
- b. The previous home conformed to the ordinances at the time it was constructed with surrounding development and rule changes causing the property to become non-conforming.
- c. The proposed new home will be farther from the front lot line than the previous home that occupied the site.
- d. The home to the east dictating front yard setback was built with a deeper front yard setback affecting the ability to located a home on the subject property.

3.02 The variance would meet the intent of the ordinance since:

- a. The variance would not impact the neighbors and would be similar to previous conditions. The variance would provide a reasonable building pad area that would have no visual encroachment on the streetscape.

### Section 4. ZONING BOARD OF APPEALS ACTION.

4.01 The Zoning Board of Appeals approves the above-described variance, subject to the above findings. Approval is subject to the following conditions:

1. This variance will expire one year from the date of this approval, July 1, 2011, unless the city has issued a building permit for the project covered by this variance or approved a time extension and the addition shall be constructed as per the submitted plan dated May 10, 2010.

Adopted by the Zoning Board of Appeals of the City of Edina, Minnesota, on Thursday, July 1, 2010.

*Michael Schroeder*

Chairperson

ATTEST:

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Jackie Hoogenakker, Secretary Edina Zoning Board of Appeals

ACTION ON THIS RESOLUTION:

Motion for adoption: Hornig

Seconded by: Davidson

Voted in favor of: Hornig, Davidson, Schroeder, Flicek

Voted against: 0

Abstained:

Absent: Scherer

Resolution adopted. July 1, 2010

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Zoning Board of Appeals of the City of Edina, Minnesota, at a duly authorized meeting held on July 1, 2010.

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Jackie Hoogenakker, Planning Secretary



## RESOLUTION NO. B-10-24

### RESOLUTION APPROVING A VARIANCE TO Zoning Ordinance No. 850 AT 6229 Belmore Lane, Edina, MN

BE IT RESOLVED by the Zoning Board of Appeals of the City of Edina, Minnesota, as follows:

#### Section 1. BACKGROUND.

- 1.01 Craig and Sarah Bennett has requested an 11.75-foot front yard setback variance from the city code to/for an addition to the rear of the home.
- 1.02 The property is legally described as follows: Lot 8, and the East 54 feet of Lots 1 and 2 including adjacent ½ of vacated alley, also including West ½ of vacated alley adjoining Lot 3, Block 11, Mendelssohn, Hennepin County, Minnesota
- 1.03 City Code Section 850.11 requires a front yard setback of 49.55-feet.
- 1.04 The applicant is proposing a 37.8-foot setback. This requires a variance of 11.75 feet.
- 1.05 Minnesota Statutes, Section 462.354 Subdivision 12, and City Code Section 850.04 authorizes the Zoning Board of Appeals to grant variances
- 1.06 On July 1, 2010, the Zoning Board of Appeals held a public hearing on this application. The applicant was provided the opportunity to present information. The board considered all of the hearing testimony and the staff report, which are incorporated by reference into this resolution

#### Section 2. STANDARDS

- 2.01 Section 850.04.Subd.1.F. states that the Board shall not grant a petition for a variance unless it finds that the strict enforcement of this Section would cause undue hardship because of circumstances unique to the petitioner's property and that the grant of said variance is in keeping with the spirit and intent of this Section. "Undue hardship" means that (i) the property in question cannot be put to a reasonable use as allowed by this Section; (ii) the plight of the petitioner is due to circumstances unique to the petitioner's property which were not created by the petitioner; and (iii) the variance, if granted, will not alter the essential character of the property or its surroundings. Economic considerations alone shall not constitute an undue hardship if reasonable use for the petitioner's

property exists under the terms of this Section.

### Section 3. FINDINGS

3.01 Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:

- a. There is a unique hardship to the property caused by the average front yard setback of adjacent homes.
- b. The homes along the block were built with deeper front yard setbacks, affecting the opportunity for the subject property to expand.
- c. The setback variance is minor given that it would allow the addition to match the existing non-conforming front yard setback.
- d. It would be reasonable to allow the proposed improvements given the constraints imposed by required setback and it would allow the property to maintain a preexisting condition.
- e. The intent of the ordinance is to preserve the common front yard area and streetscape. The addition will enhance the streetscape and will not negatively impact the common front yard area.

### Section 4. ZONING BOARD OF APPEALS ACTION.

4.01 The Zoning Board of Appeals approves the above-described variance, subject to the above findings. Approval is subject to the following conditions:

1. This variance will expire one year from the date of this approval, July 1, 2010, unless the city has issued a building permit for the project covered by this variance or approved a time extension and is subject to the plans presented dated June 15, 2010.

Adopted by the Zoning Board of Appeals of the City of Edina, Minnesota, on Thursday, July 1, 2010.

*Michael Schroeder*

Chairperson

ATTEST:

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Jackie Hoogenakker, Secretary Edina Zoning Board of Appeals

ACTION ON THIS RESOLUTION:

Motion for adoption: Hornig

Seconded by: Flicek

Voted in favor of: Hornig, Flicek, Schroeder, Davidson

Voted against: 0

Abstained: 0

Absent: Scherer

Resolution adopted July 1, 2010

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Zoning Board of Appeals of the City of Edina, Minnesota, at a duly authorized meeting held on July 1, 2010.

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Jackie Hoogenakker, Planning Secretary





RESOLUTION NO. B-10-13

City of Edina

**RESOLUTION APPROVING A VARIANCE TO Zoning Ordinance No. 850 AT 4243 Scott Terrace, Edina, MN**

BE IT RESOLVED by the Zoning Board of Appeals of the City of Edina, Minnesota, as follows:

Section 1. BACKGROUND.

- 1.01 Betsy Wray has requested a 24.3 foot front yard setback variance from the city code to/for a add living space to the house and build two car tandem garage
- 1.02 The property is legally described as follows: the North Half of Lot 15, MORNINGSIDE, according to the recorded plat thereof, Hennepin County, Minnesota. Subject to any and all easements of record.
- 1.03 City Code Section 850.11.Subd. 6 require a 91-foot front yard setback.
- 1.04 The applicant is proposing a 66.7-foot front yard setback. This requires a variance of 24.3 feet.
- 1.05 Minnesota Statutes, Section 462.354, Subdivision 12, and City Code Section 850.04 authorizes the Zoning Board of Appeals to grant variances
- 1.06 On May 20, 2010, the Zoning Board of Appeals held a public hearing on this application. The applicant was provided the opportunity to present information. The board considered all of the hearing testimony and the staff report, which are incorporated by reference into this resolution

Section 2. STANDARDS

- 2.01 Section 850.04.Subd.1.F. states that the Board shall not grant a petition for a variance unless it finds that the strict enforcement of this Section would cause undue hardship because of circumstances unique to the petitioner's property and that the grant of said variance is in keeping with the spirit and intent of this Section. "Undue hardship" means that (i) the property in question cannot be put to a reasonable use as allowed by this Section; (ii) the plight of the petitioner is due to circumstances unique to the petitioner's property which were not created by the petitioner; and (iii) the variance, if granted, will not alter the essential character of the property or its surroundings. Economic considerations alone shall not constitute an undue hardship if reasonable use for the petitioner's property exists under the terms of this Section.

**City Hall**

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Section 3. FINDINGS

3.01 Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:

1. The house as it exists today is nonconforming regarding required front yard setback.
2. The proposal maintains the bungalow character of the home by keeping the dimensions appropriate not only for the additions to the home but for the neighborhood.
3. The design as proposed preserves the large Sugar Maple and Oak trees.
4. The recent change to the Zoning Ordinance establishing front yard setback.

3.02 The variance would meet the intent of the ordinance since:

1. The Morningside neighborhood is unique with different and varying front yard setbacks.

Section 4. ZONING BOARD OF APPEALS ACTION.

4.01 The Zoning Board of Appeals approves the above-described variance, subject to the above findings. Approval is subject to the following conditions:

1. This variance will expire one year from the date of this approval, May 20, 2011, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

Adopted by the Zoning Board of Appeals of the City of Edina, Minnesota, on Thursday, May 20, 2010.

  
\_\_\_\_\_  
Chairperson

ATTEST:

  
\_\_\_\_\_  
Jackie Hoogenakker, Secretary Edina Zoning Board of Appeals

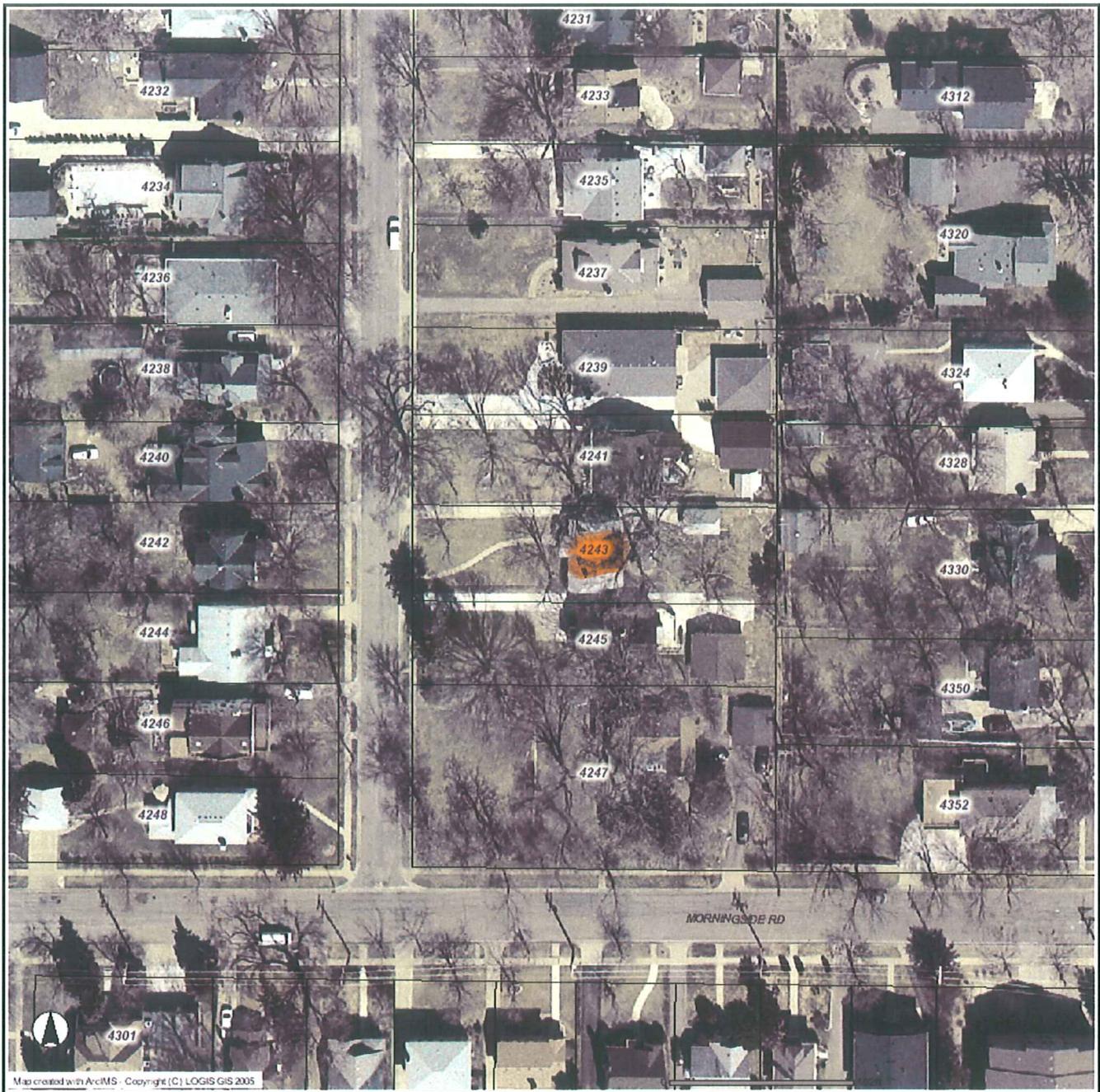
ACTION ON THIS RESOLUTION:

Motion for adoption: Carpenter  
Seconded by: Adiyia  
Voted in favor of: Carpenter, Adiyia, Brown  
Voted against: 0  
Abstained: 0  
Absent: Winder, Birdman  
Resolution adopted. May 20, 2010

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Zoning Board of Appeals of the City of Edina, Minnesota, at a duly authorized meeting held on May 20, 2010.

  
\_\_\_\_\_  
Jackie Hoogenakker, Planning Secretary







RESOLUTION NO. B-10-06

City of Edina

**RESOLUTION APPROVING A VARIANCE TO Edina Zoning Ordinance No. 850 AT 5623 Concord Avenue, Edina, MN**

BE IT RESOLVED by the Zoning Board of Appeals of the City of Edina, Minnesota, as follows:

Section 1. BACKGROUND.

- 1.01 Kimberly Hahneman/Bob Macey has requested a 18.8 foot side/front yard setback variance from the city code to/for a construct a mud room, kitchen and family room on the main level and a guest bedroom on the second floor.
- 1.02 The property is legally described as follows: The South 80.35 feet of the North 353.35 feet of the West 145 feet of the South ¼ of the Southeast Quarter of the Northwest Quarter, Section 19, Township 28, Range 24, Hennepin County, Minnesota
- 1.03 City Code Section 850.11. Subd. 6 require a 35 foot setback.
- 1.04 The applicant is proposing a 17.2 foot setback. This requires a variance of 17.8 feet.
- 1.05 Minnesota Statutes, Section 462.354, Subdivision 12, and City Code Section 850.04 authorizes the Zoning Board of Appeals to grant variances
- 1.06 On April 8, 2010, the Zoning Board of Appeals held a public hearing on this application. The applicant was provided the opportunity to present information. The board considered all of the hearing testimony and the staff report, which are incorporated by reference into this resolution

Section 2. STANDARDS

- 2.01 Section 850.04.Subd.1.F. states that the Board shall not grant a petition for a variance unless it finds that the strict enforcement of this Section would cause undue hardship because of circumstances unique to the petitioner's property and that the grant of said variance is in keeping with the spirit and intent of this Section. "Undue hardship" means that (i) the property in question cannot be put to a reasonable use as allowed by this Section; (ii) the plight of the petitioner is due to circumstances unique to the petitioner's property which were not created by the petitioner; and (iii) the variance, if granted, will not alter the essential

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character of the property or its surroundings. Economic considerations alone shall not constitute an undue hardship if reasonable use for the petitioner's property exists under the terms of this Section.

Section 3. FINDINGS

3.01 Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:

1. The location of the existing home relative to the required setbacks.
2. The limited expansion opportunities given the required setback from Woodland Road.
3. The buildable area of the property allowed by current ordinance prohibits a logical expansion of the existing floor plan and eliminates any opportunity for a mud room adjacent to the garage.

3.02 The variance would meet the intent of the ordinance since:

1. The addition would be farther from the south lot line than the existing side wall of the garage on the subject property.
2. The addition would be a reasonable expansion given required setbacks.
3. The addition would have no impact along Woodland Road or Concord Avenue.
4. The addition would appear seamless and would not be discernable from the current home.

Section 4. ZONING BOARD OF APPEALS ACTION.

4.01 The Zoning Board of Appeals approves the above-described variance, subject to the above findings. Approval is subject to the following conditions:

1. This variance will expire one year from the date of this approval, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

Adopted by the Zoning Board of Appeals of the City of Edina, Minnesota, on Thursday, April 8, 2010.

  
Chairperson

ATTEST:

  
Jackie Hoogenakker, Secretary, Edina Zoning Board of Appeals

ACTION ON THIS RESOLUTION:

Motion for adoption: Davidson

Seconded by: Flicek

Voted in favor of: Davidson, Flicek, Hornig, Fischer

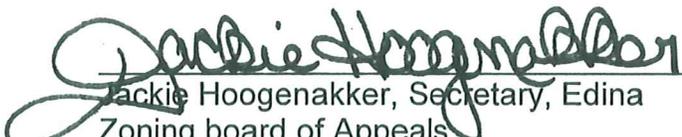
Voted against: 0

Abstained: 0

Absent:

Resolution adopted. April 8, 2010

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Zoning Board of Appeals of the City of Edina, Minnesota, at a duly authorized meeting held on April 8, 2010.

  
Jackie Hoogenakker, Secretary, Edina  
Zoning board of Appeals

# ADVANCE SURVEYING & ENGINEERING CO.

5300 S. Hwy. No. 101 Minnetonka, MN 55345 Phone (952) 474 7964 Fax (952) 401 1375

## SURVEY FOR: M. A. PETERSON DESIGN BUILD

SURVEYED: October 29, 2009

DRAFTED: October 30, 2009

REVISED: December 17, 2009 to show addition and proposed grading.

REVISED: December 23, 2009 to show different addition and proposed grading.

### LEGAL DESCRIPTION:

The South 80.35 feet of the North 353.35 feet of the West 145 feet of the South ¾ of the Southeast Quarter of the Northwest Quarter of Section 19, Township 28, Range 24, Hennepin County, Minnesota.

### LIMITATIONS & NOTES:

1. Showing the length and direction of boundary lines of the above legal description. The scope of our services does not include determining what you own, which is a legal matter. Please check the legal description with your records or consult with competent legal counsel, if necessary, to make sure that it is correct, and that any matters of record, such as easements, that you wish shown on the survey, have been shown.
2. Showing the location of existing improvements we deemed important.
3. Setting new monuments or verifying old monuments to mark the corners of the property.
4. Showing elevations on the site at selected locations to give some indication of the topography of the site. The elevations shown relate only to the benchmark provided on this survey. Use that benchmark and check at least one other feature shown on the map when determining other elevations for use on this site.

### STANDARD SYMBOLS & CONVENTIONS:

"●" Denotes 1/2" ID pipe with plastic plug bearing State License Number 9235, set, unless otherwise noted.

I hereby certify that this plan, specification, report or survey was prepared by me or under my direct supervision and that I am a licensed Professional Engineer and Professional Surveyor under the laws of the State of Minnesota.

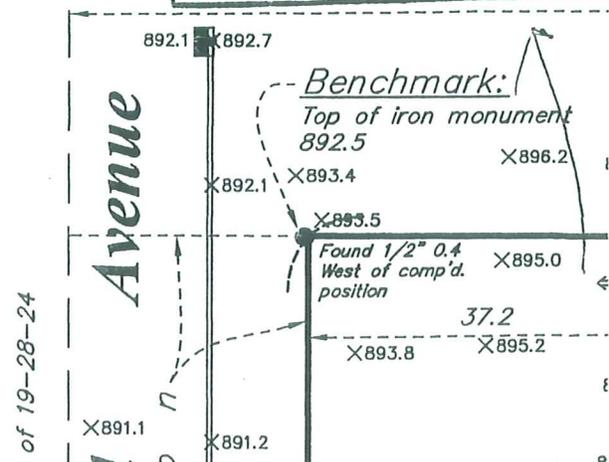
  
 \_\_\_\_\_  
 James H. Parker P.E. & P.S. No. 9235

**Approved Grading and  
 Drainage Plan  
 required prior to  
 altering any grades  
 and/or drainage**

**SILT FENCING IS  
 REQUIRED**

### LEGEND:

-  -882- Denotes existing contour line
-  883.7 Denotes proposed spot elevation
-  884 Denotes proposed contour line







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RESOLUTION NO. B-09-31

City of Edina

**RESOLUTION APPROVING A VARIANCE TO Zoning Ordinance No. 850 AT  
5712 57<sup>th</sup> Street West, Edina, MN**

**BE IT RESOLVED** by the Zoning Board of Appeals of the City of Edina, Minnesota, as follows:

Section 1. BACKGROUND.

- 1.01 Eric Swanson has requested a 6.22 foot front yard setback variance from the city code to/for a garage addition
- 1.02 The property is legally described as follows: Lot 8, Block 2, Brookline 2<sup>nd</sup> Addition, Hennepin County
- 1.03 City Code Section 850.11.Subd. 6 requires maintaining the established average setback of all structures on one side of the street between intersections or not extend out farther than if a line is extended across the subject property from the closest points of the homes on either side.
- 1.04 The applicant is proposing a 29.6 foot setback. This requires a variance of 6.22 feet.
- 1.05 Minnesota Statutes, Section 462.354, Subdivision 12, and City Code Section 850.04 authorizes the Zoning Board of Appeals to grant variances.
- 1.06 On December 17, 2009, the Zoning Board of Appeals held a public hearing on this application. The applicant was provided the opportunity to present information. The board considered all of the hearing testimony and the staff report, which are incorporated by reference into this resolution

Section 2. STANDARDS

- 2.01 Section 850.04.Subd.1.F. states that the Board shall not grant a petition for a variance unless it finds that the strict enforcement of this Section would cause undue hardship because of circumstances unique to the petitioner's property and that the grant of said variance is in keeping with the spirit and intent of this Section. "Undue hardship" means that (i) the property in question cannot be put to a reasonable use as allowed by this Section; (ii) the plight of the petitioner is due to circumstances unique to the petitioner's property which were not created

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by the petitioner; and (iii) the variance, if granted, will not alter the essential character of the property or its surroundings. Economic considerations alone shall not constitute an undue hardship if reasonable use for the petitioner's property exists under the terms of this Section.

### Section 3. FINDINGS

3.01 Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:

1. There is a unique hardship to the property caused by the average front yard setback along the block.
2. The homes along the block were built with deeper front yard setbacks, affecting the opportunity for the subject property to expand.
3. The setback variance is minor given that it would allow the new garage to match the existing nonconforming front yard setback.

3.02 The variance would meet the intent of the ordinance since:

1. It would be reasonable to allow the proposed improvements given the constraints imposed by required setback and it would allow the property to conform to the minimum two car garage requirement.
2. The intent of the ordinance is to preserve the common front yard area and streetscape. The additions will enhance the streetscape and will not negatively impact the common front yard area.

### Section 4. ZONING BOARD OF APPEALS ACTION.

4.01 The Zoning Board of Appeals approves the above-described variance, subject to the above findings. Approval is subject to the following conditions:

1. This variance will expire one year from the date of this approval, December 17, 2010, unless the city has issued a building permit for the project covered by this variance or approved a time extension.
2. Subject to the plans presented dated October 28, 2009.

Adopted by the Zoning Board of Appeals of the City of Edina, Minnesota, on Thursday, December 17, 2009.

  
\_\_\_\_\_  
Chairperson

ATTEST:

  
\_\_\_\_\_  
Jackie Hoogenakker, Secretary Edina Zoning Board of Appeals

ACTION ON THIS RESOLUTION:

Motion for adoption: Forrest

Seconded by: Birdman

Voted in favor of: Forrest, Birdman, Winder, Carpenter Grabiel

Voted against: 0

Abstained: 0

Absent: 0

Resolution adopted. 12/17/2009

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Zoning Board of Appeals of the City of Edina, Minnesota, at a duly authorized meeting held on December 17, 2009.

  
\_\_\_\_\_  
Jackie Hoogenakker, Planning Secretary





**RESOLUTION NO. B-09-24**

City of Edina

**RESOLUTION APPROVING A VARIANCE TO Edina Zoning Ordinance No. 850 AT 5200 60<sup>th</sup> Street West, Edina, MN**

BE IT RESOLVED by the Zoning Board of Appeals of the City of Edina, Minnesota, as follows:

Section 1. BACKGROUND.

- 1.01 Thomas A. O'Connell has requested a 40.3 foot front yard setback variance from the city code to/for a add a small addition to the front of the house to expand the kitchen.
- 1.02 The property is legally described as follows: Lot 12, Block 1, Codes Highview Park
- 1.03 City Code Section 850.11. requires the property to respect the front yard setbacks of both the homes to the west and to the north along both 60<sup>th</sup> Street West and Code Avenue
- 1.04 The applicant is proposing A 29.7 foot front yard setback. This requires a variance of 40.3 feet.
- 1.05 Minnesota Statutes, Section 462.354, Subdivision 12, and City Code Section 850.04 authorizes the Zoning Board of Appeals to grant variances
- 1.06 On November 5, 2009, the Zoning Board of Appeals held a public hearing on this application. The applicant was provided the opportunity to present information. The board considered all of the hearing testimony and the staff report, which are incorporated by reference into this resolution

Section 2. STANDARDS

- 2.01 Section 850.04.Subd.1.F. states that the Board shall not grant a petition for a variance unless it finds that the strict enforcement of this Section would cause undue hardship because of circumstances unique to the petitioner's property and that the grant of said variance is in keeping with the spirit and intent of this Section. "Undue hardship" means that (i) the property in question cannot be put to a reasonable use as allowed by this Section; (ii) the plight of the petitioner is due to circumstances unique to the petitioner's property which were not created by the petitioner; and (iii) the variance, if granted, will not alter the essential character of the property or its surroundings. Economic considerations alone

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shall not constitute an undue hardship if reasonable use for the petitioner's property exists under the terms of this Section.

### Section 3. FINDINGS

3.01 Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:

1. The existence of the nonconforming location of the subject home.
2. The home conformed to the ordinance at the time it was constructed with surrounding development and rule changes causing the property to be nonconforming.
3. The addition will be located at the same nonconforming setback as the existing side wall to Code Avenue but cannot be accomplished without the benefit of a variance.

3.02 The variance would meet the intent of the ordinance since:

1. The variance would not impact the neighbor to the north, would be similar to existing conditions and would not alter spacing to Code Avenue.
2. The variance would provide a small 80 square foot addition in an area of the property that would have no visual encroachment on the streetscape.

### Section 4. ZONING BOARD OF APPEALS ACTION.

4.01 The Zoning Board of Appeals approves the above-described variance, subject to the above findings. Approval is subject to the following conditions:

1. This variance will expire one year from the date of this approval, November 5, 2009, unless the city has issued a building permit for the project covered by this variance or approved a time extension.
2. The addition shall be constructed as per the submitted plan dated September 18, 2009.

Adopted by the Zoning Board of Appeals of the City of Edina, Minnesota, on Thursday, November 5, 2009.

  
\_\_\_\_\_  
Chairperson

ATTEST:

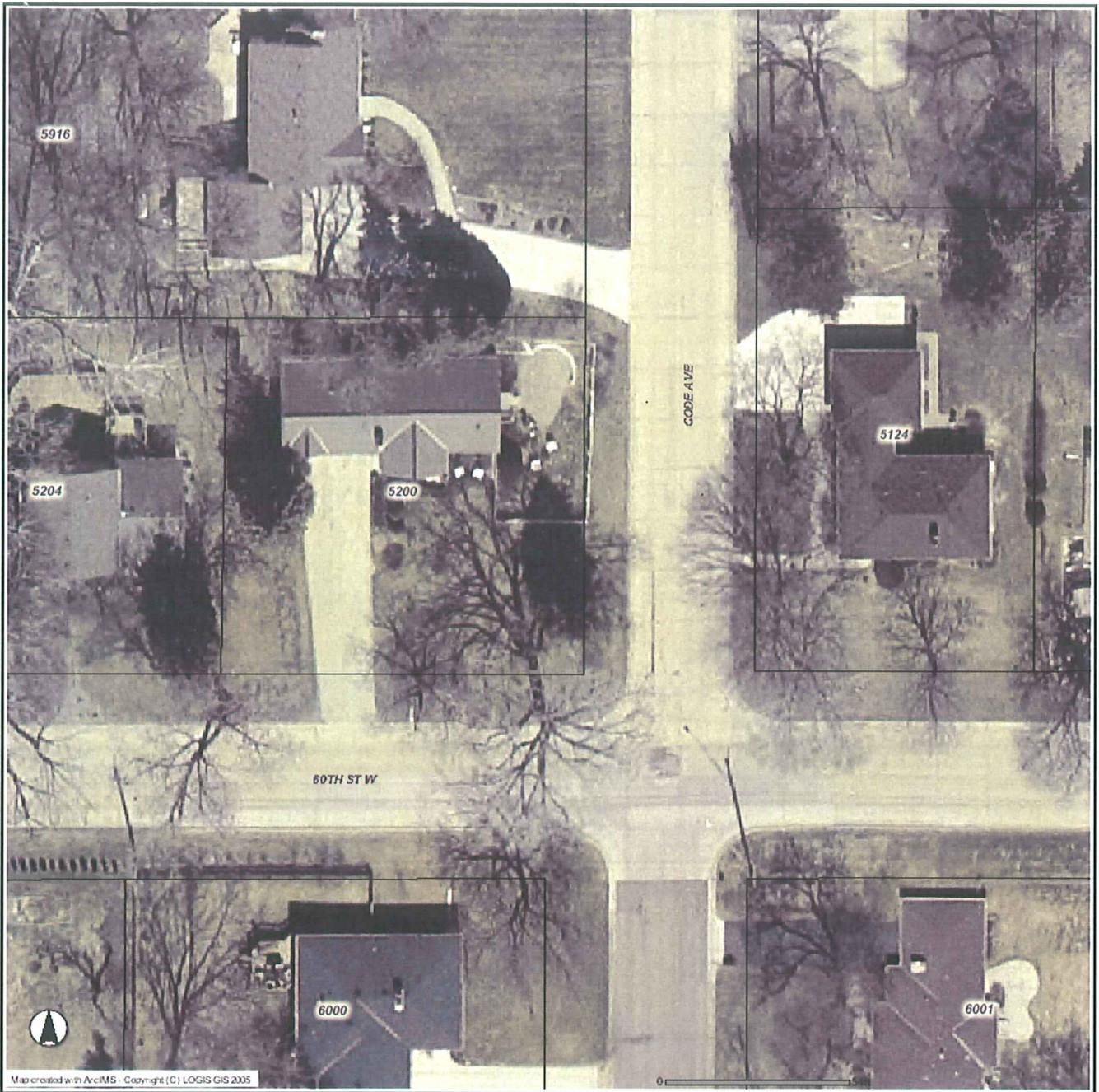
  
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Jackie Hoogenakker, Secretary Edina Zoning Board of Appeals

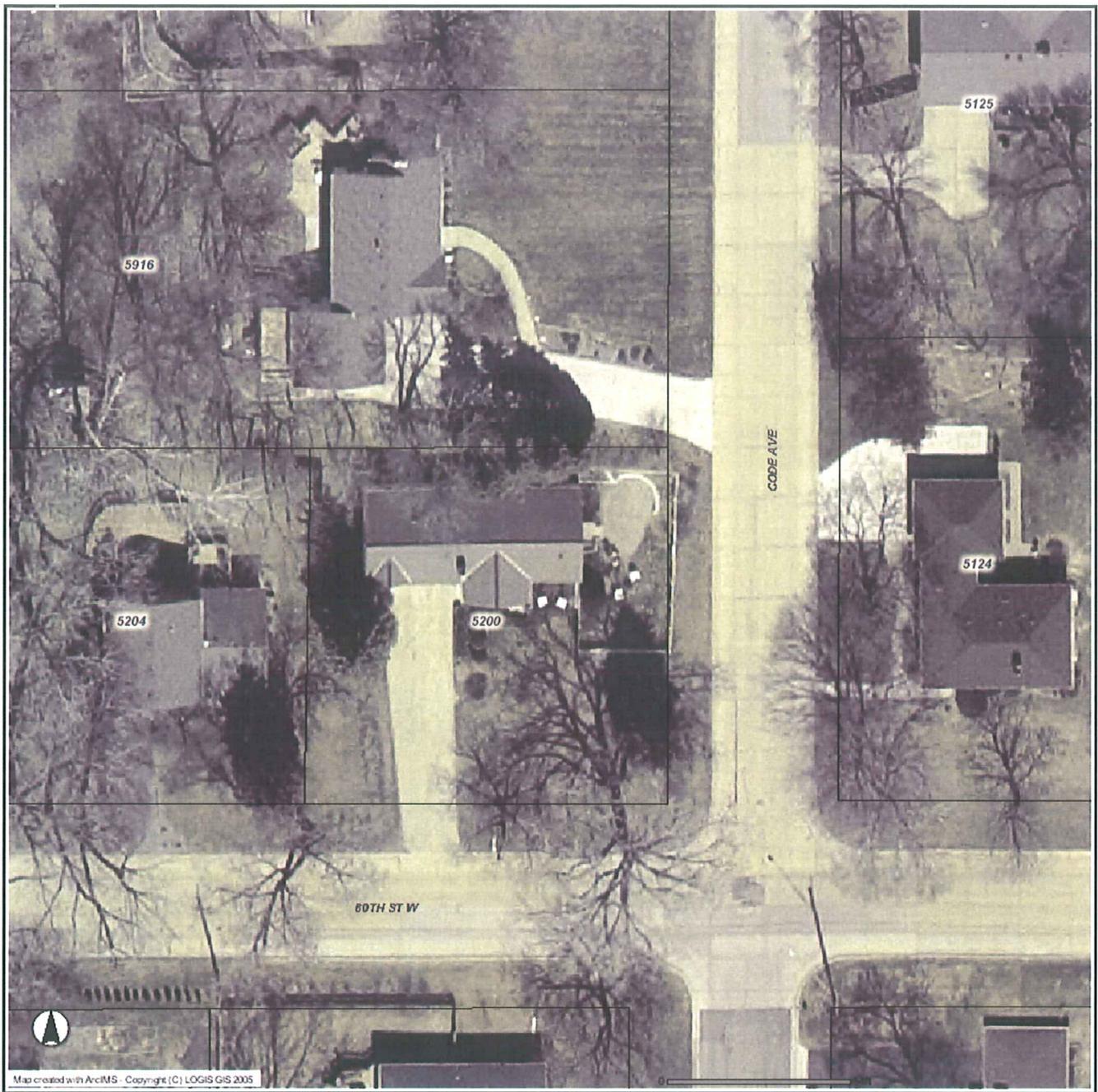
**ACTION ON THIS RESOLUTION:**

Motion for adoption: Scherer  
Seconded by: Davidson  
Voted in favor of: Vasaly  
Voted against: 0  
Abstained: 0  
Absent: Schroeder and Hornig  
Resolution adopted November 5, 2009

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Zoning Board of Appeals of the City of Edina, Minnesota, at a duly authorized meeting held on November 5, 2009.

  
\_\_\_\_\_  
Jackie Hoogenakker, Planning Secretary







**RESOLUTION NO. B-09-13**

City of Edina

**RESOLUTION APPROVING A VARIANCE TO Zoning Ordinance No. 850 AT  
6112 Fox Meadow Lane, Edina, MN**

BE IT RESOLVED by the Zoning Board of Appeals of the City of Edina, Minnesota, as follows:

Section 1. BACKGROUND.

- 1.01 Laura & Mark Masuda has requested a 33.2 foot front yard setback variance from the city code to/for a garage and bedroom addition.
- 1.02 The property is legally described as follows: Lot 2, Block 1, Whiteman Addition, Hennepin County, MN.
- 1.03 City Code Section 850.11.Subd. 7 requires in an established neighborhood the setback is the average of the existing buildings on that side of the block between intersections.
- 1.04 The applicant is proposing 39 foot front yard setback variance. This requires a variance of 33.2 feet.
- 1.05 Minnesota Statutes, Section 462.354, Subdivision 12, and City Code Section 850.04 authorizes the Zoning Board of Appeals to grant variances
- 1.06 On August 20, 2009, the Zoning Board of Appeals held a public hearing on this application. The applicant was provided the opportunity to present information. The board considered all of the hearing testimony and the staff report, which are incorporated by reference into this resolution

Section 2. STANDARDS

- 2.01 Section 850.04.Subd.1.F. states that the Board shall not grant a petition for a variance unless it finds that the strict enforcement of this Section would cause undue hardship because of circumstances unique to the petitioner's property and that the grant of said variance is in keeping with the spirit and intent of this Section. "Undue hardship" means that (i) the property in question cannot be put to a reasonable use as allowed by this Section; (ii) the plight of the petitioner is due to circumstances unique to the petitioner's property which were not created by the petitioner; and (iii) the variance, if granted, will not alter the essential character of the property or its surroundings. Economic considerations alone shall not constitute an undue hardship if reasonable use for the petitioner's property exists under the terms of this Section.

Section 3. FINDINGS

3.01 Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:

1. The location of the existing building relative to the required setbacks.
2. The topography of the lot limits expansion opportunities.
3. The buildable area of the property allowed by current ordinance prohibits a logical expansion of the existing multi-level floor plan.

3.02 The variance would meet the intent of the ordinance since:

1. The addition would maintain the same distance from the home north of the subject property.
2. The addition would be a reasonable expansion given required setbacks.
3. The addition would appear seamless and would not be discernable from the current home.

Section 4. ZONING BOARD OF APPEALS ACTION.

4.01 The Zoning Board of Appeals approves the above-described variance, subject to the above findings. Approval is subject to the following conditions:

1. This variance will expire one year from the date of this approval, August 20, 2010, unless the city has issued a building permit for the project covered by this variance or approved a time extension.
2. The addition must be constructed as per the submitted plan dated August 4, 2009.

Adopted by the Zoning Board of Appeals of the City of Edina, Minnesota, on Thursday, March 6, 2008.



Chairperson

ATTEST:



Jackie Hoogenakker, Secretary Edina Zoning Board of Appeals

ACTION ON THIS RESOLUTION:

Motion for adoption: Forrest

Seconded by: Winder

Voted in favor of: Forrest, Winder, Birdman and Grabel

Voted against: 0

Abstained: 0

Absent: Adiyia

Resolution adopted. August 20, 2009

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Zoning Board of Appeals of the City of Edina, Minnesota, at a duly authorized meeting held on August 20, 2009.



Jackie Hoogenakker, Planning Secretary





**RESOLUTION NO. B-09-04**

**RESOLUTION APPROVING A VARIANCE TO Edina Zoning Ordinance #850 AT  
5700 Wooddale Avenue, Edina, MN**

BE IT RESOLVED by the Zoning Board of Appeals of the City of Edina, Minnesota, as follows:

Section 1. BACKGROUND.

- 1.01 Steven Elie has requested a 10 foot and 21 foot side/front street setback variance from the city code to/for a add a 2<sup>nd</sup>-story and a new attached garage .
- 1.02 The property is legally described as follows: Lot 3, Block 2, Stocke and Hanson's Concord Terrace.
- 1.03 City Code Section 850.11.Subd.7 requires a 35 and 25 foot front/side street Setback.
- 1.04 The applicant is proposing a 14 foot and 25 foot setback . This requires a variance of 10 and 21 feet.
- 1.05 Minnesota Statutes, Section 462.354, Subdivision 12, and City Code Section 850.04 authorizes the Zoning Board of Appeals to grant variances
- 1.06 On May 7, 2009 , the Zoning Board of Appeals held a public hearing on this application. The applicant was provided the opportunity to present information. The board considered all of the hearing testimony and the staff report, which are incorporated by reference into this resolution

Section 2. STANDARDS

- 2.01 Section 850.04.Subd.1.F. states that the Board shall not grant a petition for a variance unless it finds that the strict enforcement of this Section would cause undue hardship because of circumstances unique to the petitioner's property and that the grant of said variance is in keeping with the spirit and intent of this Section. "Undue hardship" means that (i) the property in question cannot be put

to a reasonable use as allowed by this Section; (ii) the plight of the petitioner is due to circumstances unique to the petitioner's property which were not created by the petitioner; and (iii) the variance, if granted, will not alter the essential character of the property or its surroundings. Economic considerations alone shall not constitute an undue hardship if reasonable use for the petitioner's property exists under the terms of this Section.

### Section 3. FINDINGS

3.01 Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:

1. The original home placement and required setbacks.
2. The home was built well within the current required setbacks limiting logical expansion of the existing structure.
3. The addition will encroach into the front yard setback by equal or less amounts than existing portions of the building, with all other portions of the proposed addition conforming to the ordinance requirements.

3.02 The variance would meet the intent of the ordinance since:

1. The variances would allow the additions to match existing conditions or improve upon them and would not compound impact of the nonconforming structure.
2. The variances would maintain the existing nonconforming setbacks that have historically been enjoyed and been in place since the home was constructed and in the case of the new garage, the setbacks will actually improve.
3. The variances would not interfere with sight lines or negatively impact the character along Wooddale Avenue or Woodland Road.

### Section 4. ZONING BOARD OF APPEALS ACTION.

4.01 The Zoning Board of Appeals approves the above-described variance, subject to the above findings. Approval is subject to the following conditions:

1. This variance will expire one year from the date of this approval, May 7, 2010 unless the city has issued a building permit for the project covered by this variance or approved a time extension.

Adopted by the Zoning Board of Appeals of the City of Edina, Minnesota, on Thursday, May 7, 2009.

M. Scherer  
Chairperson

ATTEST:

Jackie Hoogenakker  
Jackie Hoogenakker, Secretary Edina Zoning Board of Appeals

ACTION ON THIS RESOLUTION:

Motion for adoption: Davidson  
Seconded by: Scherer  
Voted in favor of: Davidson, Scherer, Schroeder  
Voted against:   
Abstained:   
Absent: Vasaly, Hornig  
Resolution adopted. May 7, 2009

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Zoning Board of Appeals of the City of Edina, Minnesota, at a duly authorized meeting held on May 7, 2009.

Jackie Hoogenakker  
Jackie Hoogenakker, Planning Secretary





**RESOLUTION NO. B-08-56**

**RESOLUTION APPROVING A VARIANCE TO Edina Zoning Ordinance No. 850  
AT 6020 Kaymar Drive, Edina, MN**

BE IT RESOLVED by the Zoning Board of Appeals of the City of Edina, Minnesota, as follows:

Section 1. BACKGROUND.

- 1.01 Mary and Rick Bredice has requested a 4.78 foot front yard setback variance from the city code to/for a Kitchen Addition.
- 1.02 The property is legally described as follows: Lot 5, Block 3, Valley Park, Hennepin County, MN
- 1.03 City Code Section 850.11.Subd. 6 requires that any addition to a home maintain the average front yard setback along the block between intersections or match the front yard setbacks of the neighbors on either side.

1.04 The applicant is proposing 33 foot front yard setback . This requires a variance of 4.78 feet.

1.05 Minnesota Statutes, Section 462.354, Subdivision 12, and City Code Section 850.04 authorizes the Zoning Board of Appeals to grant variances

1.06 On Thursday, September 18, 2008, the Zoning Board of Appeals held a public hearing on this application. The applicant was provided the opportunity to present information. The board considered all of the hearing testimony and the staff report, which are incorporated by reference into this resolution

## Section 2. STANDARDS

2.01 Section 850.04.Subd.1.F. states that the Board shall not grant a petition for a variance unless it finds that the strict enforcement of this Section would cause undue hardship because of circumstances unique to the petitioner's property and that the grant of said variance is in keeping with the spirit and intent of this Section. "Undue hardship" means that (i) the property in question cannot be put to a reasonable use as allowed by this Section; (ii) the plight of the petitioner is due to circumstances unique to the petitioner's property which were not created by the petitioner; and (iii) the variance, if granted, will not alter the essential character of the property or its surroundings. Economic considerations alone shall not constitute an undue hardship if reasonable use for the petitioner's property exists under the terms of this Section.

## Section 3. FINDINGS

3.01 Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:

1. A functional addition to the existing kitchen cannot be accomplished without a front yard setback variance given the existing floor plan and fireplace chimney location.
2. The addition is a minor point intrusion into the front yard, centered on the house and would have little or no impact on the two adjacent properties.
3. The size, (smaller) and shape of the lot, (rectangular), are not similar or consistent with properties on the north side of the block. The subject property is similar to properties on the south side of Kaymar Drive that provide minimal setback to the street.

3.02 The variance would meet the intent of the ordinance since:

1. The variance would not significantly reduce spacing to the street.
2. The variance would not change the character of the property or the

neighborhood in general.

3. The variance would be consistent with and will actually be farther away from the street than setbacks provided by two other homes within the neighborhood.

Section 4. ZONING BOARD OF APPEALS ACTION.

4.01 The Zoning Board of Appeals approves the above-described variance, subject to the above findings. Approval is subject to the following conditions:

1. This variance will expire one year from the date of this approval, September 18, 2009, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

Adopted by the Zoning Board of Appeals of the City of Edina, Minnesota, on Thursday,  
Sept. 18, 2008.

  
\_\_\_\_\_  
Chairperson

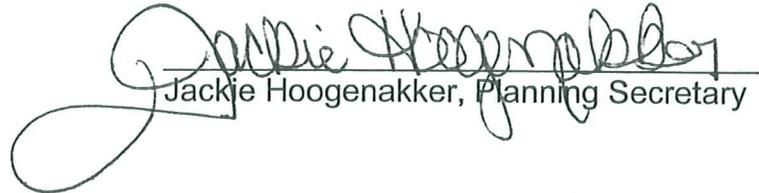
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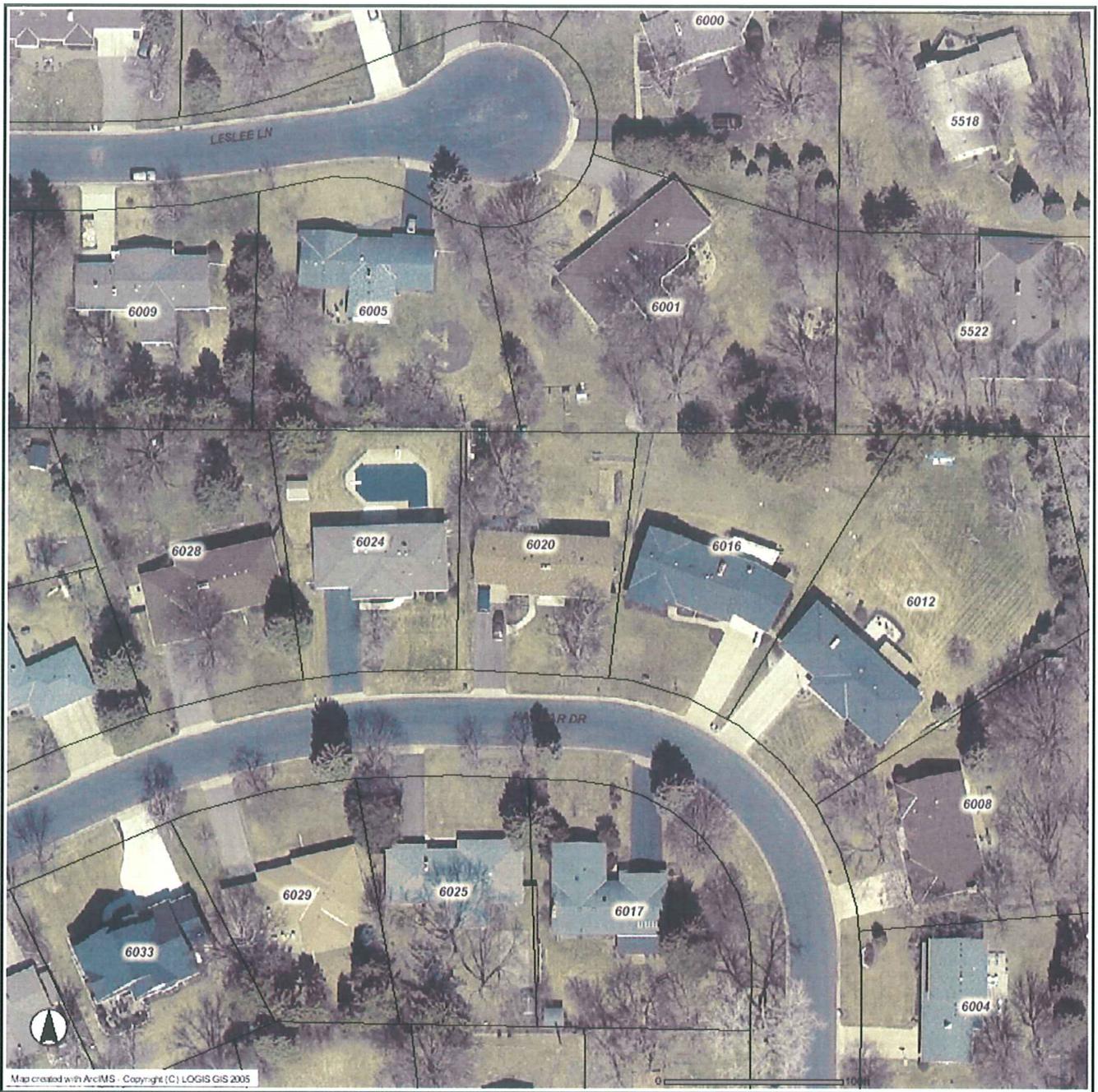
  
\_\_\_\_\_  
Jackie Hoogenakker, Secretary Edina Zoning Board of Appeals

ACTION ON THIS RESOLUTION:

Motion for adoption: Nelson  
Seconded by: Farrest  
Voted in favor of: Nelson, Farrest, Gansbury  
Voted against: 0  
Abstained: 0  
Absent: Winters, Hancy  
Resolution adopted: Sept. 18, 2008

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Zoning Board of Appeals of the City of Edina, Minnesota, at a duly authorized meeting held on Sept 18, 2008.

  
\_\_\_\_\_  
Jackie Hoogenakker, Planning Secretary





RESOLUTION NO. B-08-48

RESOLUTION APPROVING A VARIANCE TO Zoning Ordinance No. 850  
AT 5130 France Avenue South, Edina, MN

BE IT RESOLVED by the Zoning Board of Appeals of the City of Edina, Minnesota, as follows:

Section 1. BACKGROUND.

- 1.01 Steve Dresler has requested a 4.5 foot front yard setback variance from the city code to/for a construct a new home.
- 1.02 The property is legally described as follows: The north 62 feet of the East ½ of Lot 46, except the West 165 feet thereof, Auditor's Subdivision No. 172, Hennepin County, MN
- 1.03 City Code Section 850.11. Subd 7 requires that the new home meets the established average front yard setback.
- 1.04 The applicant is proposing a 40.9 foot setback. This requires a variance of 4.5 feet.
- 1.05 Minnesota Statutes, Section 462.354, Subdivision 12, and City Code Section 850.04 authorizes the Zoning Board of Appeals to grant variances
- 1.06 On October 16, 2008, the Zoning Board of Appeals held a public hearing on this application. The applicant was provided the opportunity to present information. The board considered all of the hearing testimony and the staff report, which are incorporated by reference into this resolution

Section 2. STANDARDS

- 2.01 Section 850.04.Subd.1.F. states that the Board shall not grant a petition for a variance unless it finds that the strict enforcement of this Section would cause undue hardship because of circumstances unique to the petitioner's property and that the grant of said variance is in keeping with the spirit and intent of this

Section. "Undue hardship" means that (i) the property in question cannot be put to a reasonable use as allowed by this Section; (ii) the plight of the petitioner is due to circumstances unique to the petitioner's property which were not created by the petitioner; and (iii) the variance, if granted, will not alter the essential character of the property or its surroundings. Economic considerations alone shall not constitute an undue hardship if reasonable use for the petitioner's property exists under the terms of this Section.

### Section 3. FINDINGS

3.01 Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:

1. The uneven and inconsistent streetscape along the west side of the subject block.
2. The orientation, spacing and grade relationship of the adjacent structure north of the subject property.
3. The limited opportunity to transition between a multi-family building to the north, France Avenue to the east and the single family home located south of the property.

3.02 The variance would meet the intent of the ordinance since:

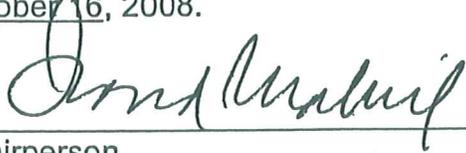
1. The variance would preserve the variation in setback along the block.
2. The variance would not disrupt the goal of maintaining a consistent front yard pattern, because there appears to be no consistency with regard to front yard setback.
3. The variance would maintain the residential character of the property near multi-family and nonresidential uses.

### Section 4. ZONING BOARD OF APPEALS ACTION.

4.01 The Zoning Board of Appeals approves the above-described variance, subject to the above findings. Approval is subject to the following conditions:

1. This variance will expire one year from the date of this approval, October 16, 2008, unless the city has issued a building permit for the project covered by this variance or approved a time extension.
2. The addition shall be constructed as per the submitted plan dated September 2008.

Adopted by the Zoning Board of Appeals of the City of Edina, Minnesota, on Thursday, October 16, 2008.



Chairperson

ATTEST:



Jackie Hoogenakker, Secretary Edina Zoning Board of Appeals

ACTION ON THIS RESOLUTION:

Motion for adoption: **Nelson**  
Seconded by: **Winder**  
Voted in favor of: **Nelson, Winder, Grabiell**  
Voted against: **Ø**  
Abstained: **Ø**  
Absent: **Risser**  
Resolution adopted. **Oct. 16, 2008**

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Zoning Board of Appeals of the City of Edina, Minnesota, at a duly authorized meeting held on **Oct. 16**, 2008.

  
Jackie Hoogenakker, Planning Secretary





**RESOLUTION NO. B-08-37**

**RESOLUTION APPROVING A VARIANCE TO Zoning Ordinance 850 AT  
5020 Oak Bend Lane, Edina, MN**

BE IT RESOLVED by the Zoning Board of Appeals of the City of Edina, Minnesota, as follows:

Section 1. BACKGROUND.

- 1.01 Patricia and George Maas has requested a 49.3 foot front yard setback variance from the city code to/for a construct a new single dwelling
- 1.02 The property is legally described as follows: Lot 6, Block 1, Mirror Oaks, Hennepin County, Minnesota

1.03 City Code Section 850.11.Subd. 7 requires:

Established Average Setback. When more than 25 percent of the frontage on one side of a street between intersections is occupied by buildings having front street setbacks of more or less than 30 feet, the average setback of such existing buildings shall be maintained by all new or relocated buildings or structures or additions thereto on the same side of that street and between said intersections. If a building or structure or addition thereto is to be built or located where there is an established average setback and there are existing buildings on only one side of the built or relocated building or structure or addition thereto, the front street setback of said new or relocated building or structure or addition thereto need be no greater than that of the nearest adjoining principal building. If a building or structure or addition thereto is to be built or relocated where there is an established average setback, and there are existing buildings on both sides of the new or relocated building or structure or addition thereto, the front setback need be no greater than that which would be established by connecting a line parallel with the front lot line connecting the most forward portion of the adjacent principal building on each side.

1.04 The applicant is proposing a 61.4 foot front yard setback . This requires a variance of 49.3 feet.

1.05 Minnesota Statutes, Section 462.354, Subdivision 12, and City Code Section 850.04 authorizes the Zoning Board of Appeals to grant variances

1.06 On July 10, 2008 , the Zoning Board of Appeals held a public hearing on this application. The applicant was provided the opportunity to present information. The board considered all of the hearing testimony and the staff report, which are incorporated by reference into this resolution

Section 2. STANDARDS

2.01 Section 850.04.Subd.1.F. states that the Board shall not grant a petition for a variance unless it finds that the strict enforcement of this Section would cause undue hardship because of circumstances unique to the petitioner's property and that the grant of said variance is in keeping with the spirit and intent of this Section. "Undue hardship" means that (i) the property in question cannot be put to a reasonable use as allowed by this Section; (ii) the plight of the petitioner is due to circumstances unique to the petitioner's property which were not created by the petitioner; and (iii) the variance, if granted, will not alter the essential character of the property or its surroundings. Economic considerations alone shall not constitute an undue hardship if reasonable use for the petitioner's property exists under the terms of this Section.

Section 3. FINDINGS

3.01 Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:

1. The required average front yard setback is inconsistent with the streetscape along the west side of the block.
2. The lack of any reasonable relationship between the subject lot and the adjacent home to the south.
3. The drainage easement along the back one third of the lot affecting how the property can be developed.
4. The setback required from the cul-de-sac portion of the street.

3.02 The variance would meet the intent of the ordinance since:

1. The variance would be similar to existing conditions to the north and along the west side of street.
2. The variance would promote the goal of maintaining a consistent front yard pattern.
3. The variance would maintain and enhance the residential character of the property and the neighborhood.

Section 4. ZONING BOARD OF APPEALS ACTION.

4.01 The Zoning Board of Appeals approves the above-described variance, subject to the above findings. Approval is subject to the following conditions:

1. This variance will expire one year from the date of this approval, July 10, 2008, unless the city has issued a building permit for the project covered by this variance or approved a time extension.

Adopted by the Zoning Board of Appeals of the City of Edina, Minnesota, on Thursday, July 10, 2008.

Michael Schroeder  
Chairperson

ATTEST:

  
Jackie Hoogenakker, Secretary Edina Zoning Board of Appeals

ACTION ON THIS RESOLUTION:

Motion for adoption: Scherer

Seconded by: Vasaly

Voted in favor of: Scherer, Vasaly, Davidson, Hornig and Schroeder

Voted against: 0

Abstained: 0

Absent: 0

Resolution adopted: July 10, 2008

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Zoning Board of Appeals of the City of Edina, Minnesota, at a duly authorized meeting held on July 10, 2008.

  
Jackie Hoogenakker, Planning Secretary



*Apartment Building*



RESOLUTION NO. B-08-24

**RESOLUTION APPROVING A VARIANCE TO 850.07 AT 4121 West 50<sup>th</sup> Street, Edina, MN**

BE IT RESOLVED by the Zoning Board of Appeals of the City of Edina, Minnesota, as follows:

Section 1. BACKGROUND.

- 1.01 Greg T. Oothoudt has requested a 208 square foot variance from the city code to/for a porch addition.
- 1.02 The property is legally described as follows: The westerly 60 feet of Lot 2, and all of Lot 3, Block 1, Stevens' 1st Addition to Minneapolis
- 1.03 City Code Section 850.07, Subd. 6, O. requires to allow porch area beyond the 80 square foot allowed.
- 1.04 The applicant is proposing a 288 square foot porch. This requires a variance of 208 square feet.

- 1.05 Minnesota Statutes, Section 462.354, Subdivision 12, and City Code Section 850.04 authorizes the Zoning Board of Appeals to grant variances
- 1.06 On Thursday, May 15, 2008 , the Zoning Board of Appeals held a public hearing on this application. The applicant was provided the opportunity to present information. The board considered all of the hearing testimony and the staff report, which are incorporated by reference into this resolution

## Section 2. STANDARDS

- 2.01 Section 850.04.Subd.1.F. states that the Board shall not grant a petition for a variance unless it finds that the strict enforcement of this Section would cause undue hardship because of circumstances unique to the petitioner's property and that the grant of said variance is in keeping with the spirit and intent of this Section. "Undue hardship" means that (i) the property in question cannot be put to a reasonable use as allowed by this Section; (ii) the plight of the petitioner is due to circumstances unique to the petitioner's property which were not created by the petitioner; and (iii) the variance, if granted, will not alter the essential character of the property or its surroundings. Economic considerations alone shall not constitute an undue hardship if reasonable use for the petitioner's property exists under the terms of this Section.

## Section 3. FINDINGS

- 3.01 Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:
  1. The existence of the legal nonconforming front yard setback.
  2. The addition will allow for improvement of existing conditions on site without negatively impacting the intent of the zoning ordinance.
- 3.02 The variance would meet the intent of the ordinance since:
  1. Adequate spacing would be maintained from the street. The setbacks are meant to insure comfortable distances between structures and the street. The variance would sustain proper setback while allowing for a reasonable improvement.
  2. The variance would enhance the residential character of the property and neighborhood.

Section 4. ZONING BOARD OF APPEALS ACTION.

4.01 The Zoning Board of Appeals approves the above-described variance, subject to the above findings. Approval is subject to the following conditions:

1. This variance will expire one year from the date of this approval, May 15, 2009, unless the city has issued a building permit for the project covered by this variance or approved a time extension.
2. The addition shall be constructed as per submitted plan on April 18, 2008.

Adopted by the Zoning Board of Appeals of the City of Edina, Minnesota, on May 15, 2008.

Rodney Hardy  
Chairperson

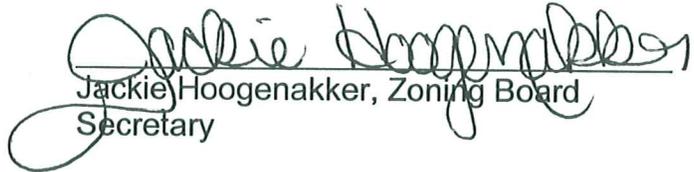
ATTEST:

  
Jackie Hoogenakker, Zoning Board Secretary

ACTION ON THIS RESOLUTION:

Motion for adoption: Winder  
Seconded by: Hardy  
Voted in favor of: Winder, Hardy, Forrest  
Voted against: 0  
Abstained: 0  
Absent: Lonsbury, Nelson  
Resolution adopted. May 15, 2008

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Zoning Board of Appeals of the City of Edina, Minnesota, at a duly authorized meeting held on May 15, 2008.

  
Jackie Hoogenakker, Zoning Board  
Secretary



RESOLUTION NO. B-08-15

**RESOLUTION APPROVING A VARIANCE TO 850.11 AT 5400 Park Place, Edina, MN.**

BE IT RESOLVED by the Zoning Board of Appeals of the City of Edina, Minnesota, as follows:

Section 1. BACKGROUND.

- 1.01 David and JoAnne Alkire has requested a 18 foot front yard setback variance from the city code to/for a addition above the first floor of the home.
- 1.02 The property is legally described as follows: Lot 1, Block 7, South Harriet Park.
- 1.03 City Code Section 850.11. Subd. 7, A. requires a front yard setback of 35.8 feet to match adjacent property setback.
- 1.04 The applicant is proposing a 17.8 foot front yard setback. This requires a variance of 18 feet.
- 1.05 Minnesota Statutes, Section 462.354, Subdivision 12, and City Code Section 850.04 authorizes the Zoning Board of Appeals to grant variances
- 1.06 On April 10, 2008, the Zoning Board of Appeals held a public hearing on this application. The applicant was provided the opportunity to present information. The board considered all of the hearing testimony and the staff report, which are incorporated by reference into this resolution

## Section 2. STANDARDS

2.01 Section 850.04.Subd.1.F. states that the Board shall not grant a petition for a variance unless it finds that the strict enforcement of this Section would cause undue hardship because of circumstances unique to the petitioner's property and that the grant of said variance is in keeping with the spirit and intent of this Section. "Undue hardship" means that (i) the property in question cannot be put to a reasonable use as allowed by this Section; (ii) the plight of the petitioner is due to circumstances unique to the petitioner's property which were not created by the petitioner; and (iii) the variance, if granted, will not alter the essential character of the property or its surroundings. Economic considerations alone shall not constitute an undue hardship if reasonable use for the petitioner's property exists under the terms of this Section.

## Section 3. FINDINGS

3.01 Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:

1. The size, configuration and corner location of the lot. The required setback bisects the home and is a hardship hindering the ability to add on to the home. The front yard setback will not be compromised given the rather small additions proposed to the second floor.
2. The proposed additions will be consistent with the dimensions and look of the existing home and will not alter the footprint.
3. The additions are minimal in scale, however, allow for a tremendous improvement to the interior spaces of the property.

3.02 The variance would meet the intent of the ordinance since:

1. The variance would be similar to existing conditions and would not interrupt the front yard patterned established along Brookview.
2. The variance would not disrupt the goal of maintaining a consistent front setback pattern.
3. The variance would maintain the residential character of the property and the neighborhood.

## Section 4. ZONING BOARD OF APPEALS ACTION.

4.01 The Zoning Board of Appeals approves the above-described variance, subject to the above findings. Approval is subject to the following conditions:

1. This variance will expire one year from the date of this approval, April 10, 2009, unless the city has issued a building permit for the project covered by this variance or approved a time extension.
2. The addition shall be constructed as per the submitted plan dated April 2, 2008.

Adopted by the Zoning Board of Appeals of the City of Edina, Minnesota, on Thursday,  
April 17, 2008.



Chairperson

ATTEST:

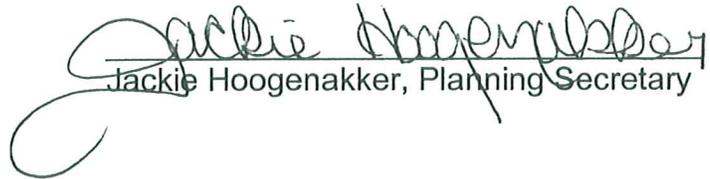


Jackie Hoogenakker, Secretary Edina Zoning Board of Appeals

ACTION ON THIS RESOLUTION:

Motion for adoption: Nandy  
Seconded by: Winder  
Voted in favor of: Nandy, Winder, Russert, Nelson, Anabelle  
Voted against:  $\emptyset$   
Abstained:  $\emptyset$   
Absent:  $\emptyset$   
Resolution adopted. April 17, 2008

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by  
the Zoning Board of Appeals of the City of Edina, Minnesota, at a duly authorized  
meeting held on April 17, 2008.

  
Jackie Hoogenakker, Planning Secretary





**RESOLUTION NO. B-08-13**

**RESOLUTION APPROVING A VARIANCE TO 850.11 AT 6929 Valley View Road – aka 6919 Moccasin Valley Trail, Edina, MN.**

BE IT RESOLVED by the Zoning Board of Appeals of the City of Edina, Minnesota, as follows:

Section 1. BACKGROUND.

- 1.01 Richwood Custom Builders has requested a 45.5 foot front yard setback variance from the city code to/for a new home.
- 1.02 The property is legally described as follows: Lot 2, Moccasin Valley.
- 1.03 City Code Section 850.11. Subd. 7, A. requires a front yard setback of 108 feet to match adjacent property setback.
- 1.04 The applicant is proposing a 62.5 foot front yard setback. This requires a variance of 45.5 feet.
- 1.05 Minnesota Statutes, Section 462.354, Subdivision 12, and City Code Section 850.04 authorizes the Zoning Board of Appeals to grant variances
- 1.06 On April 10, 2008, the Zoning Board of Appeals held a public hearing on this application. The applicant was provided the opportunity to present information. The board considered all of the hearing testimony and the staff report, which are

incorporated by reference into this resolution

## Section 2. STANDARDS

- 2.01 Section 850.04.Subd.1.F. states that the Board shall not grant a petition for a variance unless it finds that the strict enforcement of this Section would cause undue hardship because of circumstances unique to the petitioner's property and that the grant of said variance is in keeping with the spirit and intent of this Section. "Undue hardship" means that (i) the property in question cannot be put to a reasonable use as allowed by this Section; (ii) the plight of the petitioner is due to circumstances unique to the petitioner's property which were not created by the petitioner; and (iii) the variance, if granted, will not alter the essential character of the property or its surroundings. Economic considerations alone shall not constitute an undue hardship if reasonable use for the petitioner's property exists under the terms of this Section.

## Section 3. FINDINGS

- 3.01 Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:

1. The existence of the nonconforming north side wall of the current home location.
2. The home was located closer to the street intersection and north lot line serving as a buffer to the home adjacent to the east.
3. The proposed home location will preserve a legal nonconforming setback.

- 3.02 The variance would meet the intent of the ordinance since:

1. The variance would be similar to existing conditions.
2. The variance would maintain the residential character of the property and the neighborhood.

## Section 4. ZONING BOARD OF APPEALS ACTION.

- 4.01 The Zoning Board of Appeals approves the above-described variance, subject to the above findings. Approval is subject to the following conditions:

1. This variance will expire one year from the date of this approval, April 10, 2009, unless the city has issued a building permit for the project covered by this variance or approved a time extension.
2. The addition shall be constructed as per the submitted plan dated March 19, 2008.

Adopted by the Zoning Board of Appeals of the City of Edina, Minnesota, on Thursday, April 10, 2008.

Kenyon Staunton  
Chairperson

ATTEST:

Jackie Hoogenakker  
Jackie Hoogenakker, Secretary Edina Zoning Board of Appeals

ACTION ON THIS RESOLUTION:

Motion for adoption: Fischer

Seconded by: Hornig

Voted in favor of: Fischer, Hornig, Davidson and Staunton

Voted against: 0

Abstained: 0

Absent: 0

Resolution adopted. April 10, 2008

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Zoning Board of Appeals of the City of Edina, Minnesota, at a duly authorized meeting held on April 10, 2008.

Jackie Hoogenakker  
Jackie Hoogenakker, Secretary





**RESOLUTION NO. B-08-03**

**RESOLUTION APPROVING A VARIANCE TO 850.11 AT 6605 Mohawk Trail, Edina, MN**

BE IT RESOLVED by the Zoning Board of Appeals of the City of Edina, Minnesota, as follows:

Section 1. BACKGROUND.

- 1.01 Paul and Julie Donnay has requested a 25.65 foot front yard setback variance from the city code to/for construction of a new house
- 1.02 The property is legally described as follows: Lot 2, Block 1, Gearen Hill
- 1.03 City Code Section 850.11, Subd. 7. requires that the front setback be no greater than that which would be established by connecting a line parallel with the front lot line connecting the most forward portion of the adjacent principal building on each side.
- 1.04 The applicant is proposing a 50 foot front yard setback. This requires a variance of 25.65 feet.
- 1.05 Minnesota Statutes, Section 462.354, Subdivision 12, and City Code Section 850.04 authorizes the Zoning Board of Appeals to grant variances
- 1.06 On April 17, 2008, the Zoning Board of Appeals held a public hearing on this application. The applicant was provided the opportunity to present information. The board considered all of the hearing testimony and the staff report; which are incorporated by reference into this resolution

## Section 2. STANDARDS

2.01 Section 850.04.Subd.1.F. states that the Board shall not grant a petition for a variance unless it finds that the strict enforcement of this Section would cause undue hardship because of circumstances unique to the petitioner's property and that the grant of said variance is in keeping with the spirit and intent of this Section. "Undue hardship" means that (i) the property in question cannot be put to a reasonable use as allowed by this Section; (ii) the plight of the petitioner is due to circumstances unique to the petitioner's property which were not created by the petitioner; and (iii) the variance, if granted, will not alter the essential character of the property or its surroundings. Economic considerations alone shall not constitute an undue hardship if reasonable use for the petitioner's property exists under the terms of this Section.

## Section 3. FINDINGS

3.01 Strict enforcement would cause undue hardship because of the following circumstances that are unique to this property:

1. The uneven and inconsistent streetscape along the east side of the block.
2. The orientation, spacing, and grade relationship of the two adjacent homes north and south of the subject property.
3. The slopes along the back two thirds of the lot affecting how the property could be graded causing the potential for higher/more retaining walls and tree removal.
4. The variance would be similar to existing conditions across the street.
5. The variance would not disrupt the goal of maintaining a consistent front yard pattern; neither adjacent homes face Mohawk Trail.
6. The variance would maintain the residential character of the property and the neighborhood and reduce impact on the natural slope and existing trees located on the property.

3.02 The variance would meet the intent of the ordinance since:

1. Disturbance in the Conservation Restriction area will be limited to allow a 12 foot wide driveway
2. The addition shall be constructed as per the submitted plan dated April 2, 2008.
3. This variance will expire on April 17, 2009 unless the City has issued a building permit for the project covered by this variance or approved a time extension.

Section 4. ZONING BOARD OF APPEALS ACTION.

4.01 The Zoning Board of Appeals approves the above-described variance, subject to the above findings. Approval is subject to the following conditions:

1. This variance will expire one year from the date of this approval, April 17, 2008 unless the city has issued a building permit for the project covered by this variance or approved a time extension.
2. Approval is subject to the materials submitted on April 17, 2008.

Adopted by the Zoning Board of Appeals of the City of Edina, Minnesota, on Thursday, April 17, 2008.



Chairperson

ATTEST:



Jackie Hoogenakker, Secretary Edina Zoning Board of Appeals

ACTION ON THIS RESOLUTION:

Motion for adoption: *Harvey*  
Seconded by: *Wince*  
Voted in favor of: *Harvey, Nelson, Wince, Gabriel*  
Voted against: *Russe*  
Abstained:   
Absent:   
Resolution adopted. *April 17, 2008*

I hereby certify that the foregoing is a true and correct copy of a resolution adopted by the Zoning Board of Appeals of the City of Edina, Minnesota, at a duly authorized meeting held on *April 17*, 2008.



Jackie Hoogenakker, Planning Secretary

