



**To:** Mayor and City Council

**Agenda Item #:** VI. B.

**From:** Kris Aaker  
Assistant Planner

**Action**

**Discussion**

**Date:**

**Information**

**Subject:** Variance appeal, B-12-12, 5801 Crescent Terrace, Resolution No. 2013-20  
Applicant: Nicole Sunberg, Appellant: Kevin Gilligan.

### **Action Requested:**

Approve a 9.75 foot front yard setback variance in replacement of a 25.85 foot front yard setback variance as agreed upon by the applicant Nicole Sunberg and appellant Kevin Gilligan with variance conditions as stated below and in the attached resolution to build a new home on property located at 5801 Crescent Terrace.

### **Information / Background:**

On December 12, 2012, the Planning Commission approved a 25.85 foot front yard setback variance, by a 7 to 1 vote, to build a new home at 5801 Crescent Terrace. The variance granted would place the new home at the same 51.9 foot nonconforming front yard setback as the existing home on site that was built in 1953. On December 17, 2012, the Edina City Clerk received a notice of appeal from Kevin Gilligan, 5804 Crescent Terrace, requesting that the City Council review the Planning Commission's approval of case # B-12-12, 5801 Crescent Terrace for a 25.85 foot front yard setback variance. On February 13, 2013, the Edina City Clerk received a notice of conditional settlement of the variance appeal indicating that the appellant will withdraw the pending appeal of the December 12, 2012, decision of the Planning Commission, granting a 25.85 foot front yard setback variance, provided the Edina City Council approves and ratifies all of the following terms and conditions of the proposed reduced variance as agreed upon by the applicant Nicole Sunberg and the appellant Kevin Gilligan. The reduced variance conditions are as follows:

- 1) The front street setback variance to be granted shall be reduced to 9.75 feet.
- 2) The home and garage to be constructed on the property shall be built within the boundaries specified on the applicant's approved revised plans date stamped by the city on February 11, 2013.
- 3) The garage to be constructed on the property shall not exceed a single story in height.
- 4) The plans shall not contain, nor shall applicant permit the construction or installation of, any large driveway turnaround depicted on the original site plans that the applicant submitted to the city in connection with the original variance application.



**RESOLUTION NO. 2013-20**  
**APPROVING A FRONT YARD SETBACK VARIANCE**  
**AT 5801 CRESCENT TERRACE**

BE IT RESOLVED by the City Council of the City of Edina, Minnesota, as follows:

Section 1. BACKGROUND.

- 1.01.1 On December 12, 2012, the Planning Commission approved a 25.85 foot front yard setback variance, by a 7 to 1 vote, to build a new home at 5801 Crescent Terrace. The variance granted would place the new home at the same 51.9 foot nonconforming front yard setback as the existing home on site that was built in 1953. On December 17, 2012, the Edina City Clerk received a notice of appeal from Kevin Gilligan, 5804 Crescent Terrace, requesting that the City Council review the Planning Commission's approval of case # B-12-12, 5801 Crescent Terrace for a 25.85 foot front yard setback variance. On February 13, 2013, the Edina City Clerk received a notice of conditional settlement of the variance appeal indicating that the appellant will withdraw the pending appeal of the December 12, 2012, decision of the Planning Commission, granting a 25.85 foot front yard setback variance, provided the Edina City Council approves and ratifies terms and conditions of the proposed reduced variance as agreed upon by the applicant Nicole Sunberg and the appellant Kevin Gilligan listed as conditions to variance approval. The variance requested has been reduced to 9.75 feet to allow a front yard setback of 67.5 feet for a new home to be built on the property.
- 1.02 The following described tract of land is requested for variance:
- That part of Lot 26 lying Northerly of a line running from a westerly line of said lot a distance of 60 feet Northerly from the Southwest corner thereof to a point in the Easterly of said lot a distance of 46.9 ft. Northerly from the Southeast corner thereof, ROLLING GREEN, Hennepin County, Minnesota.
- 1.03 City Code Section 850.11, requires if there are existing dwelling units on abutting lots on both sides of the lot. The front street setback shall be the average of the front street setbacks of the dwelling units on the two abutting lots.
- 1.04 The applicant is proposing a 67.5 foot front yard setback. This requires a variance of 9.75 feet.
- 1.05 On December 12, 2012, the Planning Commission recommended approval of a 25.85 foot front yard setback variance on a Vote of 7-1. The Planning Commission's decision was appealed to the City Council on December 17, 2012, with the applicant and the appellant agreeing

Section 2. FINDINGS

- 2.01 Approval is based on the following findings:
- 1) The proposal would meet the required standards for a variance, because:

**CITY OF EDINA**

- a. The proposed use of the property is reasonable; as the proposed home will uphold the established front setback pattern already existing on the block.
  - b. The practical difficulties in complying with the ordinance include the triangular shape of the lot and resulting amount of front yard that must be maintained given the required setback and the imposition of a deeper front yard setback given that the lot has always had a home located closer to the street than neighboring properties.
- 2) With the exception of the variance requested, the proposal would meet the required standards and ordinances for the R-1, Single Dwelling Unit District.
  - 3) The proposed use of the property is reasonable; as it is consistent with the Comprehensive Guide Plan.
  - 4) The proposal is in harmony with the intent of the ordinance since it will allow replacement of a home that had occupied the lot in the past and was originally located closer to the street.

Section 3. APPROVAL

NOW THEREFORE, it is hereby resolved by the City Council of the City of Edina, approves the Variance for the property located at 5801 Crescent Terrace , Edina, MN.

Approval is subject to the following Conditions:

- 1) The front street setback variance to be granted shall be reduced to 9.75 feet.
- 2) The home and garage to be constructed on the property shall be built within the boundaries specified on the applicant's approved revised plans date stamped by the city on February 11, 2013.
- 3) The garage to be constructed on the property shall not exceed a single story in height.
- 4) The plans shall not contain, nor shall applicant permit the construction or installation of, any large driveway turnaround depicted on the original site plans that the applicant submitted to the city in connection with the original variance application.

Adopted this 19<sup>th</sup> day of February, 2013.

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

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

STATE OF MINNESOTA            )  
COUNTY OF HENNEPIN        )SS  
CITY OF EDINA                    )

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 Resolution was duly adopted by the Edina City Council at its Regular Meeting of February 13, 2013, and as recorded in the Minutes of said Regular Meeting.

WITNESS my hand and seal of said City this \_\_\_\_ day of \_\_\_\_\_, 2013.

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

## **5801 Crescent Terrace Variance Request Revised Narrative**

Subsequent to the Planning Commission approval for the 25.85' front yard setback variance at 5801 Crescent Terrace, an appeal was filed by Kevin Gilligan, a neighbor to the North of the subject site. In an effort to address Kevin's and a group of three other nearby neighbor's concerns about our proposed variance request, we met with their attorney, Marcus Mollison of Lindquist and Vennum and the Gilligan's on January 16. In that meeting, we submitted a revised site plan to them that reduced the front yard setback variance request and significantly reoriented our project on the site to mitigate the other concerns they expressed.

Through a series of discussions before and after our revised proposal on the 16<sup>th</sup> of January, we ultimately came to an agreement with the nearby neighbors represented by Mr. Mollison. The agreement reduced our front yard setback variance request to 9.75' and provided a set of parameters on the project based on our revised site plan and proposed house elevations.

Ultimately, we're grateful that the changes and concessions we've made to the proposed project were agreeable with the nearby neighbors represented by Mr. Mollison. And with that, we have submitted documents (proposed site plan and exterior elevations) indicating the reduced front yard setback variance request of 9.75' as well project details that conform to the resolution submitted to the City of Edina by the nearby neighbors represented by Mr. Mollison. Our hope is that by working with the neighbors to satisfy their concerns, we'll be able to proceed with the revised project.

February 11, 2013  
Edina City Clerk  
Attn: Debra Mangen  
4801 W 50<sup>th</sup> Street  
Edina MN 55424

**NOTICE OF CONDITIONAL SETTLEMENT OF VARIANCE APPEAL**

Ladies & Gentlemen:

The undersigned appellant (“Appellant”), on behalf of the adjacent and surrounding neighbors of 5801 Crescent Terrace (“Property”), hereby gives notice that Appellant has arrived at a conditional settlement with applicant Nicole Sunberg (“Applicant”) regarding the variance sought for the property located at 5801 Crescent Terrace (“Property”).

Appellant will withdraw its pending appeal of the December 12, 2012 decision of the Edina Planning Commission, granting a setback variance on the Property of more than 25 feet, provided the Edina City Council approves and ratifies all of the following terms and conditions of the reduced variance at the February 19, 2013 Council meeting (collectively, the “Reduced Variance Conditions”):

- (i) the front street setback variance to be granted to Appellant shall be reduced to 9.75 feet;
- (ii) the home and garage to be constructed on the Property shall be built entirely within the boundaries specified on Applicant’s approved revised plans submitted to the City (“City”) by the Applicant (“Plans”);
- (iii) the garage to be constructed on the Property shall not exceed a single story in height; and

- (iv) the Plans shall not contain, nor shall Applicant permit the construction or installation of, any large driveway turnaround at or near the street, similar to that certain turnaround depicted on the original site plans that Applicant submitted to the City in connection with its original variance application.

The Conditions are necessary to ensure compliance with the purpose and intent of the Edina City Code and to protect adjacent properties, and may be imposed pursuant to Section 850.04, Subd. 2(I) of the Edina City Code.

Respectfully submitted,

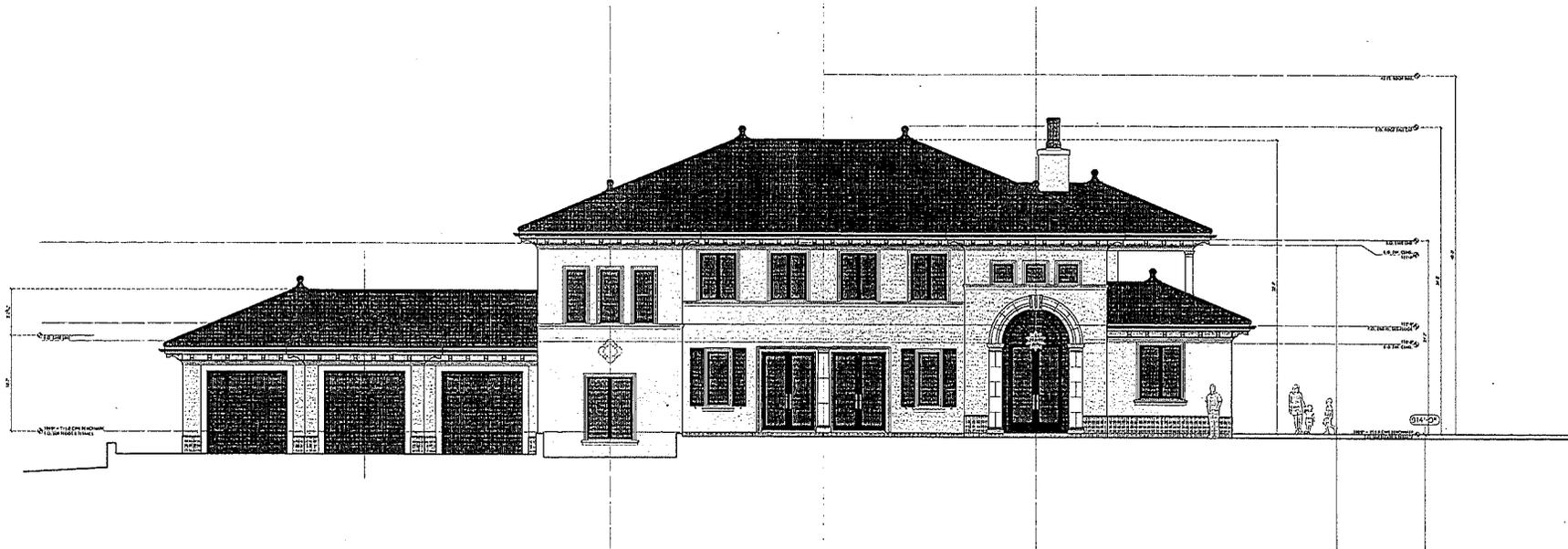


Name: Kevin Gilligan

Address: 5804 Crescent Terrace

Telephone: (952) 922-6892





FEB 11 2012

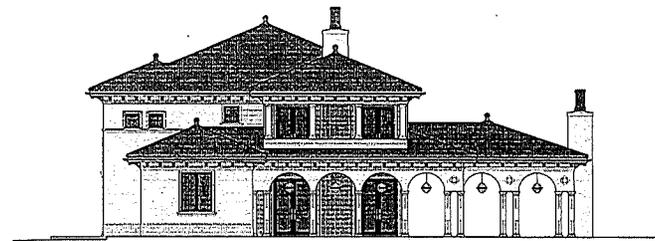
SWANARCHITECTURE  
Date: For February 19, 2013

PROPOSED FRONT EXTERIOR ELEVATION

Il Nostro Sogno  
5801 Crescent Terrace  
DRAWING A2



1 North Exterior Elevation  
SCALE: 1/4" = 1'-0"



2 West Exterior Elevation  
SCALE: 1/4" = 1'-0"



3 South Exterior Elevation  
SCALE: 1/4" = 1'-0"



4 East Exterior Elevation  
SCALE: 1/4" = 1'-0"

FEB 17 2012

SWANARCHITECTURE  
Date: For February 19, 2013

PROPOSED EXTERIOR ELEVATIONS

Il Nostro Sogno  
5801 Crescent Terrace  
DRAWING A1

# REPORT / RECOMMENDATION



**To:** Mayor and City Council

**Agenda Item #:** VI. A.

**From:** Kris Aaker  
Assistant City Planner

**Action**

**Discussion**

**Date:** February 5, 2013

**Information**

**Subject:** Public Hearing for Variance appeal, B-12-12, 5801 Crescent Terrace, Applicant:  
Nicole Sunberg, Appellant: Kevin Gilligan.

## Action Requested:

Continue the Public Hearing to the February 19, 2013, meeting of the Edina City Council. Please see attached request by the applicant and the appellant. The applicant is requesting the continuance in an effort to respond to nearby neighbors with a resolution to the concerns they expressed.

## Kris Aaker

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**From:** Nate Wissink <nate@elevationhomes.com>  
**Sent:** Tuesday, January 29, 2013 2:28 PM  
**To:** Kris Aaker  
**Subject:** 5801 Crescent Terrace Continuance

Kris,

On behalf of my client Nicole Sunberg, we request that the appeal to the front yard setback variance be continued from the February 5<sup>th</sup> City Council meeting until the February 19<sup>th</sup> City Council meeting. We are requesting the continuance in an effort to respond to the nearby neighbors with a resolution to the concerns they expressed.

Please let me know me know if this request will be implemented. Thanks.

Nate Wissink | Project Director | Streeter & Associates, Inc. | Direct 952.346.2488 |

## Kris Aaker

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**From:** Sarah M. Zach <szach@lindquist.com>  
**Sent:** Tuesday, January 29, 2013 10:07 AM  
**To:** Kris Aaker  
**Cc:** Cary Teague; Marcus Mollison; Deb Mangen; Scott Neal; Nate Wissink (nate@elevationhomes.com)  
**Subject:** RE: Consent to Defer 5801 Crescent Terrace Variance Appeal Hearing to 2/19/13

Thank you, Kris.

**LINDQUIST**  
LINDQUIST+VENNUM

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Sarah M. Zach | Associate, Real Estate | 612.371.6239 | [szach@lindquist.com](mailto:szach@lindquist.com) | [Biography](#)  
Lindquist & Vennum LLP | 4200 IDS Center, 80 S 8<sup>th</sup> Street, Minneapolis, MN 55402  
Legal Administrative Assistant: Marilyn Olson | 612.752.1074 | [molson@lindquist.com](mailto:molson@lindquist.com)

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**From:** Kris Aaker [<mailto:KAaker@EdinaMN.gov>]  
**Sent:** Tuesday, January 29, 2013 9:52 AM  
**To:** Sarah M. Zach  
**Cc:** Cary Teague; Marcus Mollison; Deb Mangen; Scott Neal; Nate Wissink ([nate@elevationhomes.com](mailto:nate@elevationhomes.com))  
**Subject:** RE: Consent to Defer 5801 Crescent Terrace Variance Appeal Hearing to 2/19/13

Dear Sarah,

Thank you for your e-mail. I am in receipt of this consent. The consent herein and the change of the hearing date to the February 19, 2013, Edina City Council Meeting will in no way affect the rights of or operate as a waiver of any appeal rights by the appealing party.

Sincerely,  
Kris Aaker



**Kris Aaker, Assistant City Planner**

952-826-0461 | Fax 952-826-0389

[KAaker@EdinaMN.gov](mailto:KAaker@EdinaMN.gov) | [www.EdinaMN.gov/Planning](http://www.EdinaMN.gov/Planning)

...For Living, Learning, Raising Families & Doing Business

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**From:** Sarah M. Zach [<mailto:szach@lindquist.com>]  
**Sent:** Tuesday, January 29, 2013 9:36 AM  
**To:** Kris Aaker  
**Cc:** Cary Teague; Marcus Mollison  
**Subject:** Consent to Defer 5801 Crescent Terrace Variance Appeal Hearing to 2/19/13

Kris,

Thank you again for your call this morning.

On behalf of appealing party Kevin Gilligan, we consent to the deferral, from February 5, 2013 to February 19, 2013, of the Edina City Council's hearing of the appeal of the Edina Planning Commission's approval of the 5801 Crescent Terrace variance.

Please confirm in writing by responding to this email: (1) your receipt of this consent; and (2) that the consent herein and the change of the hearing date will in no way affect the rights of, or operate as a waiver of any appeal rights, by the appealing party.

Please contact me with any questions.

Thank you,  
Sarah



Sarah M. Zach | Associate, Real Estate | 612.371.6239 | [szach@lindquist.com](mailto:szach@lindquist.com) | [Biography](#)  
Lindquist & Vennum LLP | 4200 IDS Center, 80 S 8<sup>th</sup> Street, Minneapolis, MN 55402  
Legal Administrative Assistant: Marilyn Olson | 612.752.1074 | [molson@lindquist.com](mailto:molson@lindquist.com)

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## Kris Aaker

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**From:** Nate Wissink <nate@elevationhomes.com>  
**Sent:** Monday, January 28, 2013 1:13 PM  
**To:** Kris Aaker  
**Subject:** Extension

Kris,

Just letting you know that we would like to extend our hearing date two more weeks for 5801 Crescent Terrace. Please confirm this is ok to do.

Thanks.

Nate Wissink | Project Director | Streeter & Associates, Inc. and Elevation Homes | Direct 952.346.2488 | Fax 952.449.4987 | email: [nate@elevationhomes.com](mailto:nate@elevationhomes.com) | [www@elevationhomes.com](http://www@elevationhomes.com)

## Kris Aaker

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**From:** Sarah M. Zach <szach@lindquist.com>  
**Sent:** Friday, January 11, 2013 9:56 AM  
**To:** Kris Aaker  
**Cc:** Cary Teague; Jackie Hoogenakker; Scott Neal; Nate Wissink (nate@elevationhomes.com); 'Nicolemarie83@me.com'; Deb Mangen; James Hovland; Marcus Mollison  
**Subject:** RE: Request for Confirmation: 5801 Crescent Terrace Appeal

Kris,

Thank you for the confirmation.

Sarah



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Sarah M. Zach | Associate, Real Estate | 612.371.6239 | [szach@lindquist.com](mailto:szach@lindquist.com) | [Biography](#)  
Lindquist & Vennum PLLP | 4200 IDS Center, 80 S 8<sup>th</sup> Street, Minneapolis, MN 55402  
Legal Administrative Assistant: Marilyn Olson | 612.752.1074 | [molson@lindquist.com](mailto:molson@lindquist.com)

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**From:** Kris Aaker [<mailto:KAaker@EdinaMN.gov>]  
**Sent:** Friday, January 11, 2013 9:55 AM  
**To:** Sarah M. Zach  
**Cc:** Cary Teague; Jackie Hoogenakker; Scott Neal; Nate Wissink ([nate@elevationhomes.com](mailto:nate@elevationhomes.com)); 'Nicolemarie83@me.com'; Deb Mangen; James Hovland  
**Subject:** RE: Request for Confirmation: 5801 Crescent Terrace Appeal

Dear Sarah Zach,

This e-mail confirms that the hearing date of February 5, 2013, will in no way affect the appeal rights of, or operates as a waiver of any appeal rights, by the appealing party regarding the above referenced matter.

Sincerely,

Kris Aaker



**Kris Aaker, Assistant City Planner**

952-826-0461 | Fax 952-826-0389

[KAaker@EdinaMN.gov](mailto:KAaker@EdinaMN.gov) | [www.EdinaMN.gov/Planning](http://www.EdinaMN.gov/Planning)

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**From:** Sarah M. Zach [<mailto:szach@lindquist.com>]  
**Sent:** Friday, January 11, 2013 9:45 AM  
**To:** Kris Aaker  
**Cc:** Marcus Mollison  
**Subject:** Request for Confirmation: 5801 Crescent Terrace Appeal

Kris,

In follow up to my voicemail, we are writing on behalf of the Rolling Green neighbors, and specifically appealing party Kevin Gilligan, in response to the notice of changed date to hear the appeal of the Edina Planning Commission's approval

of the 5801 Crescent Terrace variance. It is our understanding that the Edina City Council plans to hear the appeal on February 5, 2013, rather than January 22, 2013.

Please confirm in writing by responding to this email that the change of the appeal hearing date in no way affects the appeal rights of, or operates as a waiver of any appeal rights by, the appealing party.

Please contact me with any questions.

Thank you,  
Sarah Zach

**LINDQUIST**  
LINDQUIST+VENNUM

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**Sarah M. Zach** | Associate, Real Estate | 612.371.6239 | [szach@lindquist.com](mailto:szach@lindquist.com) | [Biography](#)  
**Lindquist & Venum PLLP** | 4200 IDS Center, 80 S 8<sup>th</sup> Street, Minneapolis, MN 55402

**Legal Administrative Assistant:** Marilyn Olson | 612.752.1074 | [molson@lindquist.com](mailto:molson@lindquist.com)

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STREETER  
& ASSOCIATES  
Architectural  
Builders

January 4, 2013

Phil & Pam Broat  
4820 Rolling Green Parkway  
Edina, MN 55436

RE: 5801 Crescent Terrace Variance Application Feedback

Dear Phil & Pam,

On behalf of our clients, Jeff and Nicole Sunberg, as well as the council for the Moen Estate property, Jay Simons of Messerli Kramer for US Bank, we're writing you to request your feedback regarding your opposition to the front yard setback variance request for the property at 5801 Crescent Terrace.

In an effort to understand your concerns about the project, we would appreciate you letting us know any specific feedback you have that would be helpful in making the proposed project better. For example, one comment we received from a neighbor is that he had concerns with the proposed driveway turnaround interfacing with the street. As a result, we're considering alternatives to the turnaround aspect of the driveway. With the above in mind, we welcome your feedback about any other specific items you have concerns about with the proposed project.

In an effort to address these items before the City Council hearing, we would appreciate the opportunity to talk or meet with you to review by January 15th. I can be reached by phone at 612-250-0829 or [NWissink@StreeterHomes.com](mailto:NWissink@StreeterHomes.com).

We look forward to hearing from you regarding your thoughts.

With appreciation,



Nate Wissink, Project Director  
Streeter & Associates, Inc.

December 14, 2012  
Edina City Clerk  
Attn: Debra Mangen  
4801 W 50<sup>th</sup> Street  
Edina MN 55424

### NOTICE OF APPEAL

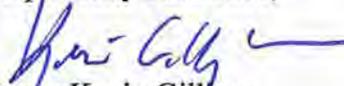
Ladies & Gentlemen:

The undersigned, on behalf of the adjacent and surrounding neighbors of 5801 Crescent Terrace, as authorized by Section 850.04, Subd. 2(G) of the Edina City Code, appeals the December 12, 2012 decision of the Edina Zoning Board ("Board") approving the 25.8 foot front yard setback variance sought by Nicole Sunberg for the property located at 5801 Crescent Terrace.

The decision of the Board is erroneous because the requirements for granting a variance set forth in Section 850.04, Subd. 2(F) of the Edina City Code have not been met.

Accordingly, the undersigned hereby appeals the Board's decision to the Edina City Council.

Respectfully submitted,



Name: Kevin Gilligan  
Address: 5804 Crescent Terrace  
Telephone: (952) 922-6892





January 10, 2013

Nicole Sunberg  
4821 Townes Road  
Edina, MN. 55424  
RE: Extension of the 60-day rule

Dear Ms, Sunberg,

This letter is to inform you that the City of Edina will be taking longer than 60 days to review your application. State law requires that the city act on your application within 60 days of receiving and finding that an application is complete. The city may take an additional 60 days after notifying the applicant. The additional time would be to ensure adequate review of your application by the city and to meet public hearing requirements for an appeal. The City Council is scheduled to hold their public hearing on February 5, 2013. A Copy of the meeting agenda and staff report will be mailed to you the Friday before the meeting.

If you have any questions, please contact Kris Aaker, at 952-826-0461, or at e-mail, [Kaaker@edinamn.gov](mailto:Kaaker@edinamn.gov).

Sincerely,

Kris Aaker  
Assistant Planner

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**CITY OF EDINA**

4801 West 50th Street • Edina, Minnesota 55424  
[www.EdinaMN.gov](http://www.EdinaMN.gov) • 952-927-8861 • Fax 952-826-0389

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B. Variance. Nicole Sundberg. 5801 Crescent Terrace, Edina, MN

Planner Presentation

Planner Aaker informed the Commission the subject property is located south Of Crescent Terrace consisting of a one story rambler with an attached 2 car garage that was built in 1953. The applicant is planning to tear-down the existing home and replace it with a two story Mediterranean style home with an attached 4 car garage. The new home will conform to all of the ordinance requirements with the exception of the required front yard setback from Crescent Terrace. The ordinance requires that any new home or addition to an existing home maintain the average front yard setback of the adjacent homes on either side. The home adjacent to the west located at 33 Crescent Terrace is 82.3 feet from their front lot line. The adjacent home to the south located at 4904 Rolling Green Parkway provides a front yard setback of 73.2 feet. The required average front yard setback of the adjacent two homes establishing the front yard setback for the proposed home is 77.75 feet. The existing home is nonconforming and is located

P.O.  
12/12

51.9 from Crescent Terrace right-of-way. The new home is proposed to match the nonconforming 51.9 foot front yard setback of the existing home.

The lot is large, triangular in shape with much of the lot area part of the front yard. The purpose of the average front yard setback requirement is to maintain adequate spacing from the street and maintain continuity along a developed street scape. This rule is most important when the lots are narrow and set in a traditional lot and block pattern. The Rolling Green neighborhood is made up of angled streets and large estate lots and is not at all like a traditional street with rectangular lots within rectangular blocks. The character of the neighborhood includes large homes that are proportionate to the ample lot areas which are oriented towards views, topography and street presence. The proposed home has been designed to conform with all of the other zoning requirements including height setback and coverage.

Planner Aaker concluded that staff recommends that the Planning Commission approve the variance based on the following findings:

1. With the exception of the variance requested, the proposal would meet the required standards and ordinances for the R-1 Single Dwelling Unit District.
2. The proposal would meet the required standards for a variance, because:
  - a. The proposed use of the property is reasonable; as the proposed home will uphold the established front setback pattern already existing on the block.
  - b. The proposed use of the property is reasonable; as the proposed home will uphold the established front setback pattern already existing on the block.
  - c. The practical difficulties in complying with the ordinance include the triangular shape of the lot and resulting amount of front yard that must be maintained given the required setback and the imposition of a deeper front yard setback given that the lot has always had a home located closer to the street than the neighboring properties.

Approval of the variance is also subject to the following conditions:

- 1) Subject to staff approval, the site must be developed and maintained in substantial conformance in terms of house location, mass and over-all height with the following plans, unless modified by the conditions below:

Survey date stamped: November 29, 2012

Building plans/ elevations date stamped: November 28, 2012.

**Appearing for the Applicant**

Nicole and Jeff Sundberg, applicants and Nate Wissink, Streeter & Assoc.

## **Applicant Presentation**

Nate Wissink addressed the Commission and with the aid of graphics noted for the Commission the reasoning behind the proposed house location. Wissink indicated that their goal was to promote the best location for the new house for the following reasons:

1. By maintaining the front street setback established by the existing house greater opportunity was provided to achieve a larger rear yard area. This house placement is also less injurious to the property to the south by providing a deeper setback from the common property line.
2. When taking the adjacent houses into consideration it was found that the adjacent houses have buildable lot areas of 48%. The subject lot has a buildable area of 30% which creates practical difficulties in building placement.

Continuing, Wissink presented photos of existing houses in the neighborhood pointing out the diversity of those houses ranging from ramblers to two story homes and the rolling topography of the area. Concluding, Wissink reported that he had spoken with a number of neighbors about the proposal.

Chair Grabiell opened the public hearing and asked if anyone would like to speak to the issue.

## **Public Comment**

The following spoke in opposition to the requested variance:

Marcus Mollison, Lindquist & Venum was present representing the following residents: Baker – 4904 Rolling Green Parkway, Edina, MN; Broat – 4820 Rolling Green Parkway, Edina, MN; Gilligan – 5804 Crescent Terrace, Edina, MN; Ramsay - 33 Crescent Terrace, Edina, MN; Gravier – 4909 Bywood West, Edina, MN

Suzanne Knelman – 4812 Rolling Green Parkway, Edina, MN  
Phil Broat – 4820 Rolling Green Parkway, Edina, MN  
Donna Ramsay – 33 Crescent Terrace, Edina, MN  
Patty Gilligan – 5804 Crescent Terrace, Edina, MN

Comments focused on the size of the proposed house including its style and height as a two-story home vs. the present one-story ranch style home. Change in streetscape and the potential loss of views would also negatively impact surrounding properties.

Chair Grabiell asked if anyone else would like to speak to the issue; being none, Commissioner Potts moved to close the public hearing. Commissioner Staunton seconded the motion. All voted aye; motion carried.

## Discussion

In response to comments from neighbors Mr. Wissink introduced Andrea Swan, architect for the project. Swan reported she was careful with the design of the new house adding much thought went into the placement of the house and its design elements. Swan acknowledged the house as proposed is two story; however, the "height" is centered in the middle. The areas of the house that abuts the two neighboring properties are one-story. Continuing, Wissink clarified that the actual building height is 32.9-feet and the house to the south is two feet lower. Wissink also noted that to promote privacy additional landscaping would be added to the existing landscaping between the subject property and the Ramsay property.

Chair Grabiell asked Planner Aaker to respond to a comment from a resident that asked if Planning Staff visited the subject site before writing the staff report. Planner Aaker responded in the affirmative; staff visits the site.

Commissioner Fischer referred to the front yard setback of a house on Bywood West and questioned if the front yard setbacks in this neighborhood varies every few houses. Planner Aaker responded that in this neighborhood front yard setbacks vary adding that the City ordinance regulating front yard setbacks in "established" neighborhoods is the same throughout the City. Continuing, Aaker explained that in an "established" neighborhood the front yard setback is now determined by averaging the homes on either side. Aaker reiterated in Rolling Green front yard setbacks vary and are a "mixed bag". Fischer commented that it's been his experience that corner lots have the tendency to require variances for additions or redevelopment. Aaker agreed with that statement.

Commissioner Platteter asked Planner Aaker if staff calculated the building height of the adjacent houses. Planner Aaker responded she did not calculate the height of the adjacent homes.

Commissioner Staunton said he understands how staff formulated the required setback for the new home at 77.75-feet by averaging the setbacks of the houses on either side; noting this leaves a "building area" of roughly 12,000 plus square feet. Continuing, Staunton asked Planner Aaker if she knows the lot coverage for the adjacent lots. Aaker responded that in this neighborhood (including the subject lot) lot coverage isn't an issue due to the size of the lots, adding she did not calculate lot coverage for the adjoining lots. Aaker concluded to clarify lot coverage requirements that lot coverage doesn't include driveways, sidewalks, swimming pools and the required pool decking, etc.

## Motion

Commissioner Potts said he appreciates all comments from neighbors and given the nature of this street and the size and shape of the lot he appreciates the design submitted. Potts said in his opinion the house as presented maintains the character of the neighborhood, adding he agrees with staff's observations.

**Commissioner Potts moved variance approval based on staff findings and subject to staff conditions. Commissioner Fischer seconded the motion.**

Commissioner Schroeder asked Planner Teague to review the variance requirements for practical difficulties.

Planner Teague responded that a variance will relieve practical difficulties that prevent reasonable use from complying with ordinance requirements. Continuing, Teague said reasonable use does not mean that the applicant must show that the land can't be put to any reasonable use; rather they must show there are practical difficulties in complying with the Code. Teague said "practical difficulties" may include functional and aesthetic concerns. Concluding, Teague stated in looking at what's reasonable for this site and given the practical difficulties from the curve in the road and the setback imposed by the adjacent homes staff felt that moving the proposed house farther forward on the lot would reduce impact to the home to the south and that the proposed house maintained the character of Rolling Green.

Commissioner Staunton stated he supports the variance request as presented adding he was persuaded by the location of the old house. Staunton commented that much of the objection to the new house appears to be with its mass. Staunton concluded he understands the concerns of neighbors; however, believes "breathing room" is maintained.

Commissioner Forrest said her initial reaction was to support the variance acknowledging the shape of the lot is unique. After further consideration Forrest noted that the buildable area on this lot is generous and in her opinion it's not unreasonable for the neighbors to want to see the neighborhood character protected through City ordinances. Forrest reiterated there appears to be enough space to work with to lessen the impact of the new house. Forrest also noted that this design appears to contain additional impervious surface, adding that changes the character of the lot too.

Commissioner Fischer observed that the house to the south has a lesser setback than the proposed house and enjoys that setback. He noted many residents living in the City's smaller lot neighborhoods would say "wow" to someone having a building area of 12 thousand + square feet; however, this isn't most neighborhoods or most Edina lots

this is Rolling Green where the majority of lots are large in comparison. Fischer added the lot configuration and the curve and layout of the road in his opinion were not self-created. He said the house that's there today isn't a small house, it's a one-story house; however, its presence is noticeable when driving this block. Fischer said in the scope of what's happening in Rolling Green in his opinion the character of Rolling Green wouldn't be negatively impacted because of this request. He acknowledged at the end of the day this will be a change but this change shouldn't alter the character of the Rolling Green neighborhood.

Chair Grabiell stated in his opinion it could be considered unreasonable to build a house without a 'back yard", adding having a back yard is reasonable. He also noted with regard to the neighborhood that the aerial indicates a number of the homes have swimming pools and other outdoor amenities.

Commissioner Staunton questioned if this lot is being penalized because of its triangular shape and curve in road. He noted if the lot was more "squared" off there may not be a variance issue. He noted the proposed house appears to be squared to the corner.

**Chair Grabiell called for the vote: Ayes; Schroeder, Platteter, Potts, Carpenter, Staunton, Fischer. Grabiell. Nays; Forrest. Motion carried.**



## PLANNING COMMISSION STAFF REPORT

Originator <b>Kris Aaker</b> Assistant Planner	Meeting Date <b>December 12, 2012</b>	Agenda # <b>B-12-12</b>
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**Recommended Action:** Approve the variance as requested.

### **Project Description:**

**A 25.85 foot front yard setback variance request to tear down an existing home and rebuild a new home in it's place at the same nonconforming 51.9 front yard setback from Crescent Terrace as the existing home located at 5801 Crescent Terrace for applicant Nicole Sunberg.**

### **INFORMATION/BACKGROUND**

The subject property is located south of Crescent Terrace consisting of a one story rambler with an attached 2 car garage that was built in 1953. The applicant is planning to tear-down the existing home and replace it with a two story Mediterranean style home with an attached 4 car garage. The new home will conform to all of the ordinance requirements with the exception of the required front yard setback from Crescent Terrace. The ordinance requires that any new home or addition to an existing home maintain the average front yard setback of the adjacent homes on either side. The home adjacent to the west located at 33 Crescent Terrace is 82.3 feet from their front lot line. The adjacent home to the south located at 4904 Rolling Green Parkway provides a front yard setback of 73.2 feet. The required average front yard setback of the adjacent two homes establishing the front yard setback for the proposed home is 77.75 feet. The existing home is nonconforming and is located 51.9 from Crescent Terrace right-of-way. The new home is proposed to match the nonconforming 51.9 foot front yard setback of the existing home. See attachments: A.1 – A. 13, site location, aerial photos, site plans, survey, building elevations and photos.

The lot is large, triangular in shape with much of the lot area part of the front yard. The purpose of the average front yard setback requirement is to

maintain adequate spacing from the street and maintain continuity along a developed street scape. This rule is most important when the lots are narrow and set in a traditional lot and block pattern. The Rolling Green neighborhood is made up of angled streets and large estate lots and is not at all like a traditional street with rectangular lots within rectangular blocks. The character of the neighborhood includes large homes that are proportionate to the ample lot areas which are oriented towards views, topography and street presence. The proposed home has been designed to conform with all of the other zoning requirements including height setback and coverage.

## SUPPORTING INFORMATION

### Surrounding Land Uses

Northerly: Single-dwelling homes.  
 Easterly: Single-dwelling homes  
 Southerly: Single-dwelling homes  
 Westerly: Single-dwelling homes

### Existing Site Features

The subject property is 42,083 square feet in area. The existing home is a one story rambler and was built in 1953.

### 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 – A.8.

### Compliance Table

	City Standard	Proposed
Front -	Average adjacent homes:	<b>*51.9 feet</b>
Side-	10 feet + height	12.3 feet/25 feet
Rear -	25 feet	40 feet
Building Height	2 ½ stories/40 feet	2 stories/40 feet,
Lot coverage	25%	18.2%

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**\* Variance Required**

**Primary Issues**

- **Is the proposed development reasonable for this site?**

Yes. Staff believes the proposal is reasonable for four reasons:

1. The proposed use is permitted in the R-1, Single Dwelling Unit Zoning District and complies with all requirements with the exception of setback from Crescent Terrace.
2. The home is appropriate in size and scale for the nearly one acre lot. The improvements will enhance the property and not detract from the neighborhood. The most impacted neighbor to the west is approximately 66 feet from the side wall of the proposed home. The home to the south is approximately 75 feet from the proposed home.
3. The improvements will provide a reasonable use of the triangular shaped lot and allow for a new home to be built at the same distance from Crescent Terrace as the existing home.
4. The new home simply matches an existing nonconforming 51.9 foot front yard setback that has been in place since 1953. The required average front yard setback reduces the buildable area of the lot by 6,958 square feet.

- **Is the proposed variance justified?**

Yes. 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 reasonable. The new home will match the existing nonconforming setback of the existing home on the property which has been located on the property since 1953, pre-dating the new home to the south that was located farther back from Rolling Green at 73.2 feet from the front lot line. The practical difficulties in complying with the ordinances are created by the required front yard setback that is dictated by adjacent properties which are located farther back on their respective lots, one of which was built after the subject home.

The lots are large, with generous spacing between structures. The purpose behind the ordinance is to maintain an established front yard sight line and street scape. The ordinance is meant to prevent a continual erosion of the established front yard setback back pattern in an existing neighborhood by holding all new construction to the existing neighborhood standard and to avoid new structure build-out beyond existing conditions. Duplicating the front yard setback of the existing home will not compromise the intent of the ordinance. The new home will maintain the existing pattern of setback on the block and will be no closer to the street.

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

Yes. The unique circumstances are that the existing lot is subjected to an average front yard setback that is deeper than the location of the existing home. The required setback reduces the buildable area dramatically, pushes a new home farther back on the lot and impacts the ability to provide a reasonable rear yard on such a large lot.

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

No. The proposed home will be consistent with the location of the existing home and will not change the streetscape along Crescent Terrace. The character of the neighborhood consists of estate lots with homes located on properties based on topography, views and lot shape, unlike the traditional lot and block situation where homes are generally lined up with one another. The applicant is asking to preserve a setback pattern along

the block that has included the nonconforming setback of the subject property.

### **Staff Recommendation**

Recommend that the Planning Commission approve the variances.

Approval is based on the following findings:

- 1) With the exception of the variance requested, the proposal would meet the required standards and ordinances for the R-1, Single Dwelling Unit District.
  
- 2) The proposal would meet the required standards for a variance, because:
  - a. The proposed use of the property is reasonable; as the proposed home will uphold the established front setback pattern already existing on the block.
  - b. The practical difficulties in complying with the ordinance include the triangular shape of the lot and resulting amount of front yard that must be maintained given the required setback and the imposition of a deeper front yard setback given that the lot has always had a home located closer to the street than neighboring properties.

Approval of the variance is subject to the following conditions:

- 1) Subject to staff approval, the site must be developed and maintained in substantial conformance in terms of house location, mass and over-all height with the following plans, unless modified by the conditions below:

Survey date stamped: November 29, 2012

Building plans/ elevations date stamped: November 28, 2012.

### **Deadline for a City decision:**

January 27, 2012



# VARIANCE APPLICATION

CASE NUMBER B-12-12 DATE 11/28/2012  
FEE PAID

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: NICOLE SUNBERG (Signature required on back page)  
ADDRESS: 4821 TOWNES ROAD, EDINA 55424 PHONE: 612-770-3477  
EMAIL: NICOLEMARIE83@ME.COM

## PROPERTY OWNER:

NAME: WD MOEN & US BANK TRUSTEES (CAROL FEDORCHAK, US BANK REPRESENTATIVE) (Signature required on back page)  
ADDRESS: PO BOX 64142, ST. PAUL, MN 55164 PHONE: CAROL FEDORCHAK 651-466-8536

LEGAL DESCRIPTION OF PROPERTY (written and electronic form): SEE ATTACHED

\*\*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: 5801 CRESCENT TERRACE

PRESENT ZONING: R-1 P.I.D.# 29-117-21-13-0029

EXPLANATION OF REQUEST: SEE ATTACHED DESCRIPTION - REQUESTING A

FRONT YARD SETBACK VARIANCE TO COINCIDE WITH EXISTING HOME.

(Use reverse side or additional pages if necessary)

ARCHITECT: NAME: ANDREA SWAN  
SWAN ARCHITECTURE PHONE: 612-743-9650

EMAIL: ANDREA@SWANARCHITECTURE.COM

SURVEYOR: NAME: WOODY BROWN  
W. BROWN LAND SURVEYING PHONE: 952-854-4055  
EMAIL: wblandsurvey@aol.com

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:

SEE ATTACHED VARIANCE REQUEST

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

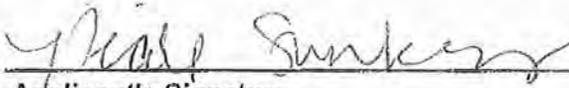
Be in harmony with the general purposes and intent of the zoning ordinance

Not alter the essential Character of a neighborhood

**APPLICANT'S STATEMENT**

This application should be processed in my name, and I am the party whom the City should contact about this application. By signing this application, I certify that all fees, charges, utility bills, taxes, special assessments and other debts or obligations due to the City by me or for this property have been paid. I further certify that I am in compliance with all ordinance requirements and conditions regarding other City approvals that have been granted to me for any matter.

I have completed all of the applicable filing requirements and, to the best of my knowledge, the documents and information I have submitted are true and correct.



11/28/12

Applicant's Signature

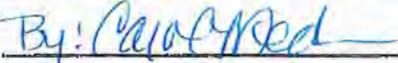
Date

**OWNER'S STATEMENT**

I am the fee title owner of the above described property, and I agree to this application.

(If a corporation or partnership is the fee title holder, attach a resolution authorizing this application on behalf of the board of directors or partnership.)

U.S. Bank National Association as Trustee of the Warren D. Moeck Trust

By: 

11-28-12

Owner's Signature *Its: Vice President*

Date

*Note. Both signatures are required (if the owner is different than the applicant) before we can process the application, otherwise it is considered incomplete.*



**U.S. BANK NATIONAL ASSOCIATION  
ASSISTANT SECRETARY CERTIFICATE**

I, Melissa S. Larson, an Assistant Secretary of U.S. Bank National Association, hereby certify that the following is a true and exact extract from the Bylaws of U.S. Bank National Association, a national banking association organized under the laws of the United States.

**ARTICLE VI.  
CONVEYANCES, CONTRACTS, ETC.**

All transfers and conveyances of real estate, mortgages, and transfers, endorsements or assignments of stock, bonds, notes, debentures or other negotiable instruments, securities or personal property shall be signed by any elected or appointed officer.

All checks, drafts, certificates of deposit and all funds of the Association held in its own or in a fiduciary capacity may be paid out by an order, draft or check bearing the manual or facsimile signature of any elected or appointed officer of the Association.

All mortgage satisfactions, releases, all types of loan agreements, all routine transactional documents of the Association, and all other instruments not specifically provided for, whether to be executed in a fiduciary capacity or otherwise, may be signed on behalf of the Association by any elected or appointed officer thereof.

The Secretary or any Assistant Secretary of the Association or other proper officer may execute and certify that required action or authority has been given or has taken place by resolution of the Board under this Bylaw without the necessity of further action by the Board.

I further certify that Carol L. Fedorchak, Vice President, is a duly appointed and qualified officer of the Association authorized to act under Article VI of the Bylaws of the Association and that such authority is in full force and effect as of the date hereof and has not been modified, amended or revoked.

IN WITNESS WHEREOF, I have set my hand this 28<sup>th</sup> day of November, 2012.

(No corporate seal)

  
\_\_\_\_\_  
Melissa S. Larson, Assistant Secretary



Doc No A9696945

Certified filed and/or recorded on  
9/28/11 10:09 AM

Office of the County Recorder  
Hennepin County, Minnesota

Michael H. Cunniff, County Recorder  
Jill L. Alverson, County Auditor and Treasurer

C.V. filed \_\_\_\_\_ C.V. not req. X

No delinquent taxes

Transfer Entered

9/28/2011 10:09:00 AM

Hennepin County, Minnesota  
Jill L. Alverson  
County Auditor and Treasurer

Deputy 52

Pkg ID 738896

**Doc Name: Quit Claim Deed**

Document Recording Fee \$46.00

State Deed Tax (.0033 rate) \$1.65

Conservation Fee \$5.00

Environmental (SDT) Response Fund \$0.05

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**Document Total** \$52.70

QUIT CLAIM DEED

Minnesota Uniform Conveyancing Blanks

Individual(s) to Individual(s)

Form 10.3.1 (2010)

DEED TAX DUE: \$ 1.70

DATE: September 20, 2011  
(month/day/year)

FOR VALUABLE CONSIDERATION, Warren D. Moen, a single person  
(insert name and marital status of each Grantor) ("Grantor"),

hereby conveys and quitclaims to Warren D. Moen and U.S. Bank National Association as co-trustees of the Warren D. Moen  
(insert name of each Grantee) Trust under Agreement dated September 1, 2011 ("Grantee"), real property  
in Hennepin County, Minnesota, legally described as follows:

All that part of Lot 26, "Rolling Green, Hennepin County, Minn." lying Northwesterly of a straight line commencing from a point on the Westerly line of said Lot, 60 feet distant from the Southwesterly corner of said Lot and extending in a Northeasterly direction to a point on the Northeasterly line of said Lot, which point is 46.9 feet measured along said Northeasterly line from the Southeasterly corner of said Lot 26.

29-117-21-13-0029  
FO

The sale price of other consideration given for this property was \$500.00 or less.

Check here if all or part of the described real property is Registered (Torrens)

together with all hereditaments and appurtenances belonging thereto.

Check applicable box:

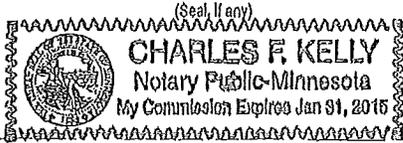
- The Seller certifies that the Seller does not know of any wells on the described real property.
- A well disclosure certificate accompanies this document or has been electronically filed. (If electronically filed, insert WDC number: \_\_\_\_\_.)
- I am familiar with the property described in this instrument and I certify that the status and number of wells on the described real property have not changed since the last previously filed well disclosure certificate.

Grantor  
Warren D. Moen  
(Signature) Warren D. Moen  
  
(Signature)

State of Minnesota, County of Hennepin

This instrument was acknowledged before me on September 20, 2011, by Warren D. Moen, a single person.  
*(month/day/year)*

\_\_\_\_\_  
*(insert name and marital status of each Grantor)*



Charles Kelly  
*(Signature of Notarial Officer)*  
 Title (and Rank): Notary Public

My commission expires: January 31, 2015  
*(month/day/year)*

THIS INSTRUMENT WAS DRAFTED BY:  
*(insert name and address)*  
 Charles F. Kelly  
 Kelly Law Firm, Ltd.  
 3902 West 50th Street  
 Suite C  
 Edina, Minnesota 55424

TAX STATEMENTS FOR THE REAL PROPERTY DESCRIBED IN THIS INSTRUMENT SHOULD BE SENT TO:  
*(insert name and address of Grantee to whom tax statements should be sent)*  
 Warren D. Moen  
 5801 Crescent Terrace  
 Edina, MN 55436-1318

CERTIFICATE OF DEATH

STATE FILE NUMBER 2012-MN-010074

DECEDENT WARREN DALE MOEN  
NAME PRIOR TO FIRST MARRIAGE  
ALSO KNOWN AS  
SOCIAL SECURITY NUMBER ██████████  
SEX MALE  
BORN JUNE 18, 1926  
PLACE OF BIRTH MCVILLE NORTH DAKOTA

DATE OF DEATH MARCH 30, 2012  
PLACE OF DEATH EDINA HENNEPIN MINNESOTA

MARITAL STATUS WIDOWED (AND NOT REMARRIED)  
SPOUSE  
RESIDENCE EDINA HENNEPIN MINNESOTA  
PARENT GUNDA HOYE  
PARENT ALBERT MOEN  
FUNERAL HOME WASHBURN-MC REAVY EDINA CHAPEL  
DISPOSITION ASH BURIAL

CAUSE OF DEATH IMMEDIATE UNDERLYING ADVANCED ADENOCARCINOMA OF UNKNOWN PRIMARY

OTHER CONTRIBUTING CONDITIONS  
MANNER NATURAL  
MEDICAL EXAMINER, CORONER OR PHYSICIAN MARK A WILKOWSKE, M.D.  
3800 PARK NICOLLET BLVD, SAINT LOUIS PARK, MINNESOTA, 55426

THIS RECORD HAS NOT BEEN AMENDED

THIS IS A TRUE AND CORRECT RECORD OF DEATH REGISTERED IN THE MINNESOTA OFFICE OF THE STATE REGISTRAR.

MR&C Certificate ID  
7618530



000843827  
27A-000843827

FILED: APRIL 03, 2012

*Steve Elkins*

STEVE ELKINS  
STATE REGISTRAR

ISSUED: APRIL 23, 2012

HENNEPIN COUNTY SERVICE CENTER-GC

THIS CERTIFICATION IS VALID ONLY WHEN REPRODUCED ON WATERMARKED SECURITY PAPER  
WITH A RAISED BORDER AND RAISED STATE SEAL OF MINNESOTA.



## Metes and Bounds

---

The following is the County Auditor's description of this tax parcel. It may not be the legal description on the most recent conveyance document recording ownership. Please refer to the legal description of this property on the public record when preparing legal documents for recording

PID: 29-117-21-13-0029

Municipality: EDINA

Addition Name: ROLLING GREEN

Lot: 026

Block:

**THAT PART OF LOT 26 LYING NLY OF A LINE RUNNING FROM A PT IN WLY LINE OF SAID LOT DIS 60 FT NLY FROM SW COR THEREOF TO A PT IN ELY LINE OF SAID LOT DIS 46 9/10 FT NLY FROM SE COR THEREOF**

---

Print this window

Close this window

**5801 Crescent Terrace  
Variance Request**

**Explanation of Request:**

5801 Crescent Terrace is a functionally challenged 1953 rambler in the heart of the Rolling Green neighborhood (Rolling Green is noted for stately homes on picturesque lots with ample yard space and varying topography). The existing rambler is an anomaly for the neighborhood, which is filled with classic architectural homes as well as many newly constructed homes, most of which are architecturally designed and substantive in nature. Like some other dated homes without architectural or historical merit in the neighborhood, the existing rambler structure is slated for removal and the property set up for redevelopment of a new single family home in character with the other homes in the neighborhood. However, the 5801 Crescent Terrace property has development challenges. Specifically, the property's triangular shape and City of Edina's Building Code front yard setback calculations inhibit the ability to practically develop the property with any meaningful back yard.

*In an effort to overcome the development challenges with 5801 Crescent Terrace's triangular property shape and adjacent homes front yard setbacks that directly inhibit the developable area of 5801 Crescent Terrace (and therefore its potential for a reasonable back yard), we're requesting a variance to change the required front yard setback from 77.75 feet to 51.9 feet, which is 5801 Crescent Terrace's existing front yard setback.*

5801 Crescent Terrace has a unique set of property characteristics that make the property unduly difficult to re-develop without a variance and maintain a reasonable back yard. Given the triangular shape of the lot, the City of Edina Building Code provides the following setbacks for development on the property:

Side yards of property: 10' for living space (5' for garage space).

Front yard of property: Average of the two adjacent homes front yard setbacks. Given the position of the two adjacent homes, this equates to a front yard setback of 77.75' for 5801 Crescent Terrace, or more than 25' further back from the property line than the existing rambler's front yard setback.

Rear yard of property: given the triangle shape of the lot and the backyard being the interior portion of the triangle, the rear yard setback is positioned at the 30' line.

See **Diagram 1** indicating the setbacks required by the City of Edina code for development on the property and the resulting developable footprint of the property. Please note the existing rambler house footprint on the site and how it relates to the buildable area on the property. Also note that in placing a new house in the developable area would result in virtually no back yard since the new house would be highly concentrated into the interior rear corner of the property.

*From a numbers perspective, without a variance for a front yard setback to mimic the existing rambler front yard setback, the overall developable area of the property is 12,601 square feet or 30% of the total area of the property. By comparison, the three directly contiguous properties average 48% of their total area developable. Consequently, the triangular shape of the lot and the front yard setback calculation required by Code result in no reasonable back yard for the property. See the data below indicating the development percentage of lots of adjacent homes and how 5801 Crescent Terrace compares.*

**Developable Area of Contiguous Properties:**

**Subject Property: 5801 Crescent Terrace**

42,083 Square Foot Property

Buildable Area: 12,601 Square Feet

Buildable Area as a Percentage of Lot Square Footage: 30%

**Buildable Area as a Percentage of Lot Square Footage With Front Yard Setback Variance: 46%**

**4904 Rolling Green Parkway (Property to the South):**

37,216 Square Foot Property

Buildable Area: 20,517 Square Feet

***Buildable Area as a Percentage of Lot Square Footage: 55%***

**33 Crescent Terrace (Property to the West):**

56,483 Square Foot Property

Buildable Area: 21,884 Square Feet

***Buildable Area as a Percentage of Lot Square Footage: 39%***

**4909 Bywood (Property to the Southwest):**

61,023 Square Foot Property

Buildable Area: 31,467 Square Feet

***Buildable Area as a Percentage of Lot Square Footage: 52%***

Two other important items to note as part of these calculations:

1. In the case of the comparable properties (but not with 5801 Crescent Terrace), due to their rectangular shape, the zoning code provides a 25' rear yard setback along the back property line. In order to calculate the "developable area" of these sites, the 25' rear yard area (for the width of the lot) is removed from the developable area of each of the sites, which in turn lowers the overall percentage of developable area on each site. Since 5801 Crescent Terrace is a triangle and the setback from the back property line is calculated differently (again See Diagram 1), there is very little area for the rear yard subtracted from developable area of the property, making 5801's percentage of developable area unequitably higher due to the shape. Even with this disadvantage not showing up in the calculations above, its developable area (and therefore back yard potential) is significantly below the contiguous properties.

2. When looking at all three of the comparables distance from the back of the house to their respective rear property lines, the shortest distance is 52.1'. In other words, the tightest point of the back yards to the rear property line is over 50'. Without a variance, the 5801 Crescent Terrace would not come close to having a yard with a 50' distance to the property line.

While developing 5801 Crescent Terrace exhibits practical difficulties in complying with the zoning ordinance as noted above, we also believe it doesn't promote the best integration onto the site or in relation to the other properties. By building a new home on the interior rear portion of the lot that is developable without a variance, a new structure would be closer to the adjacent properties and provide less privacy at the property line for adjacent neighbors and the new house. In looking at the character of the neighborhood, where large lots offer spacious, rolling buffers between properties and overall rear yard space for privacy, by developing a new structure under the front yard setback code, it would be out of character with the neighborhood. Additionally, the spirit of the ordinance and neighborhood pattern isn't like some of the other areas of Edina where a "lot 1, block 1" legal description and consistency in how each house lines up with the adjacent home is important. Rather, the character of the neighborhood and development pattern is more oriented toward views, topography, yard space, and an estate feel.

As noted in the request above, in an effort to overcome the practical difficulty posed by the triangular lot shape and adjacent home front yard setbacks that directly influence the developable area of 5801 Crescent Terrace (and resulting lack of back yard space), we're requesting the front yard setback of the new house be consistent with the front yard setback of the existing 1953 rambler home at 5801 Crescent Terrace, which is 51.9 feet. By doing this, the developable area of the site changes from 30% to 46%, which is more in line with the contiguous homes. In turn, this more appropriately allows the site to be developed for privacy for the neighbors by providing a greater amount of buffer at the property line in the interior of the rear yard of the property. And the applicant can have a reasonable space for a back yard.

See **Diagram 2** showing the developable footprint associated with moving the front yard setback to 51.9' feet, with the existing rambler house footprint still outlined on the diagram.

As part of the overall variance request, we've been working diligently with Andrea Swan of Swan Architecture and Travis Van Liere, a landscape architect, to come up with an initial architectural concept of a home for the property along with how it would potentially be sited with the 51.9 ft. front yard setback associated with the variance. Please note that the drawings to date are conceptual and will likely change to some degree but the overall intent of mass, scale, height, and location of the house on the site is represented. See the following visual exhibits to the variance request: **House Elevations, Site Plan and Survey**. Stylistically, the applicant would like to build an architecturally designed Mediterranean style home with an ornate landscaped yard and pool. While still conceptual in nature, by siting the house as shown, the designers are working to capture the full essence of the property: providing detailed architecture on each face of the home as you transition all the way around the curved front yard of the property (over 400' of street frontage) while scaling the garage down on West side (for subtle transition from the neighbor to the West). Architecturally, the style of the home, mass, height, and scale are consistent with other homes in the neighborhood and would continue to build on the timeless legacy of the neighborhood. Also note that with the house placement, there is no detriment to the neighboring properties. Rather, we would work with the neighboring properties to preserve privacy through the landscaping while providing beautiful street presence with the new home.



*5145 Location*

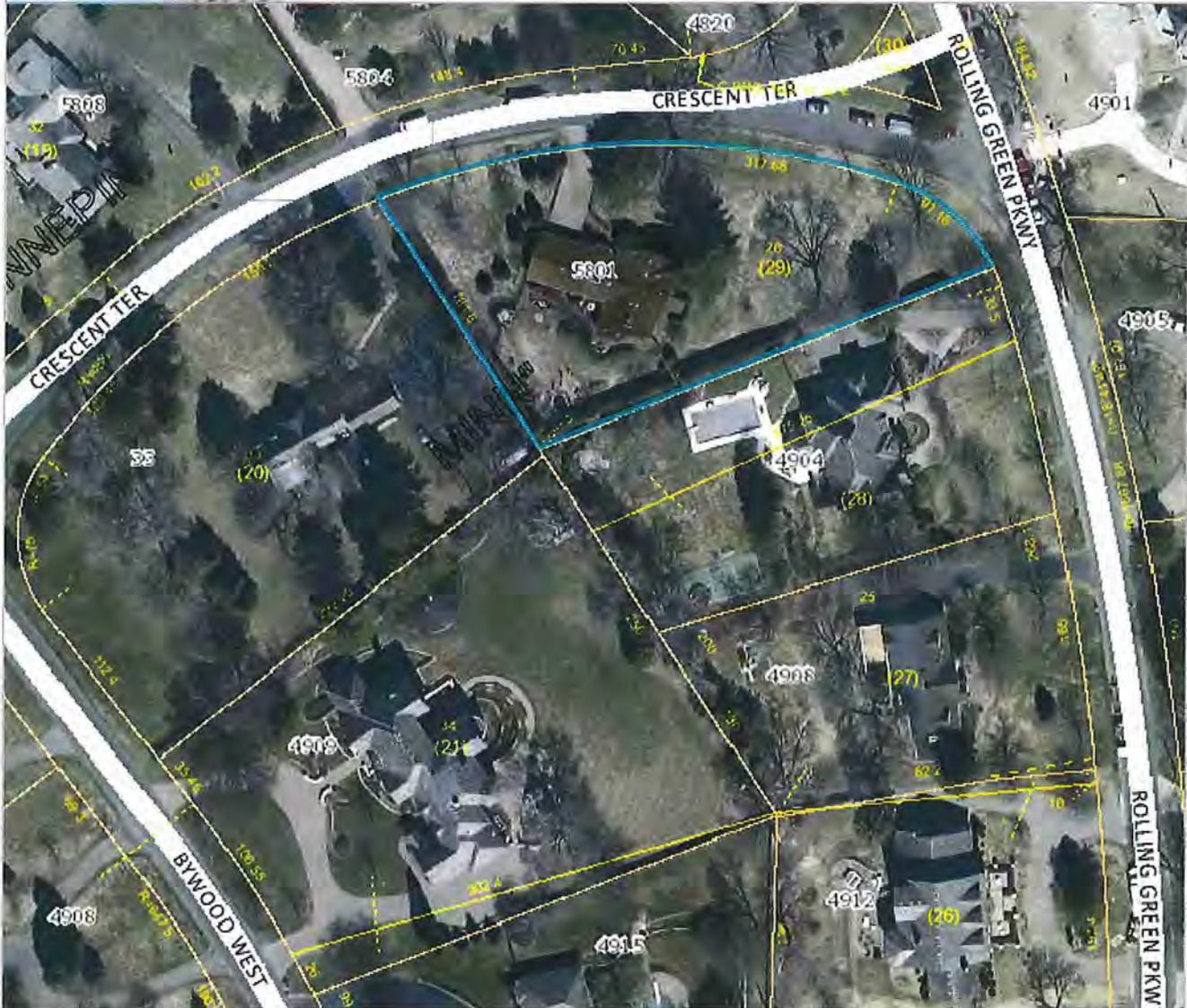
*A.1*



A. Z



# Property Map



**Parcel ID:** 29-117-21-13-0029

**Owner Name:** W D Moen & Us Bank Trustees

**Parcel Address:** 5801 Crescent Ter  
Edina, MN 55436

**Property Type:** Residential

**Home-stead:** Homestead

**Parcel Area:** 0.91 acres  
39,471 sq ft

**A-T-B:** Abstract

**Market Total:** \$1,033,300

**Tax Total:** \$15,509.14  
(Payable: 2012)

**Sale Price:**

**Sale Date:**

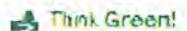
**Sale Code:**

Map Scale: 1" = 100 ft.  
Print Date: 11/28/2012



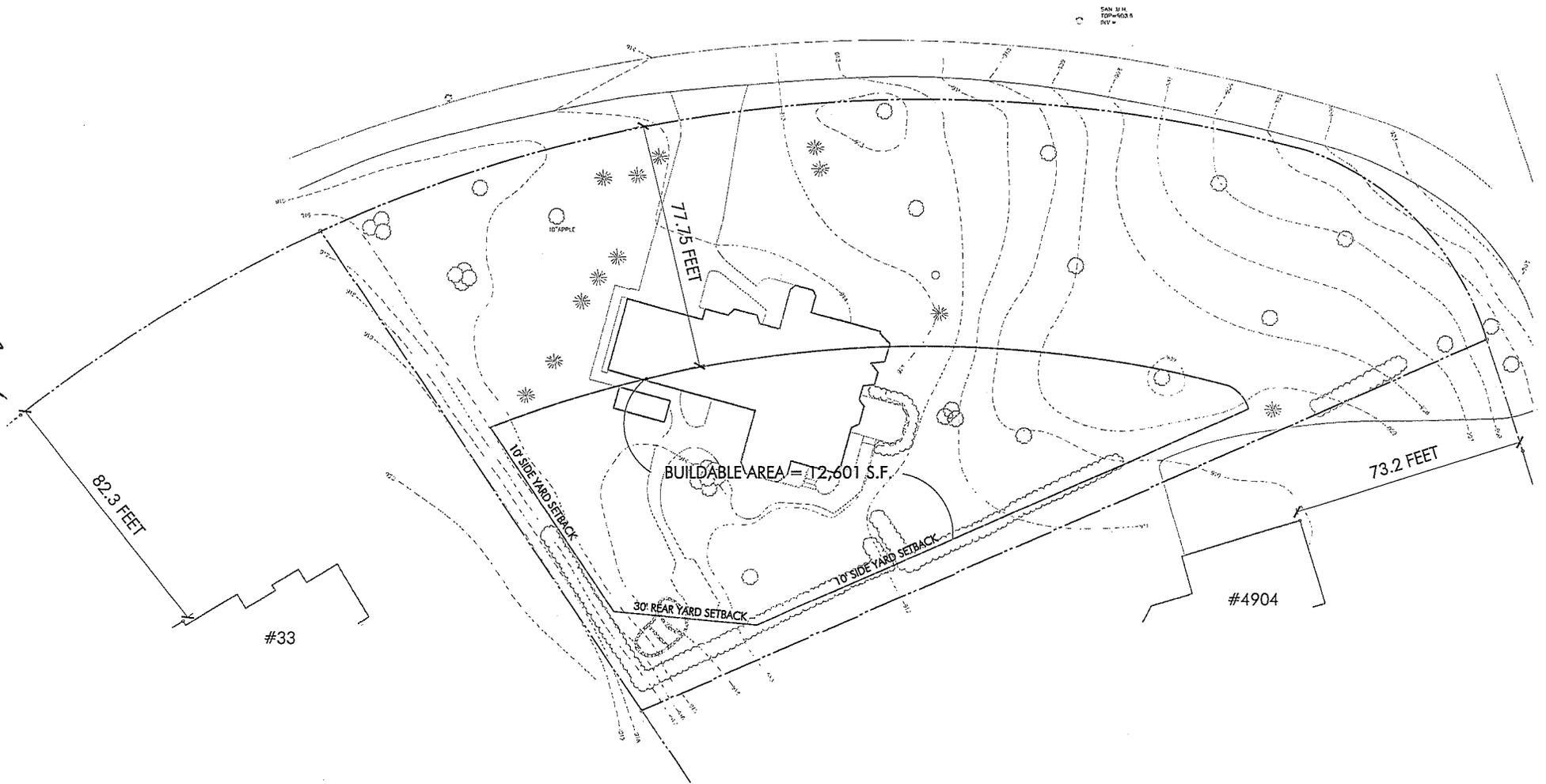
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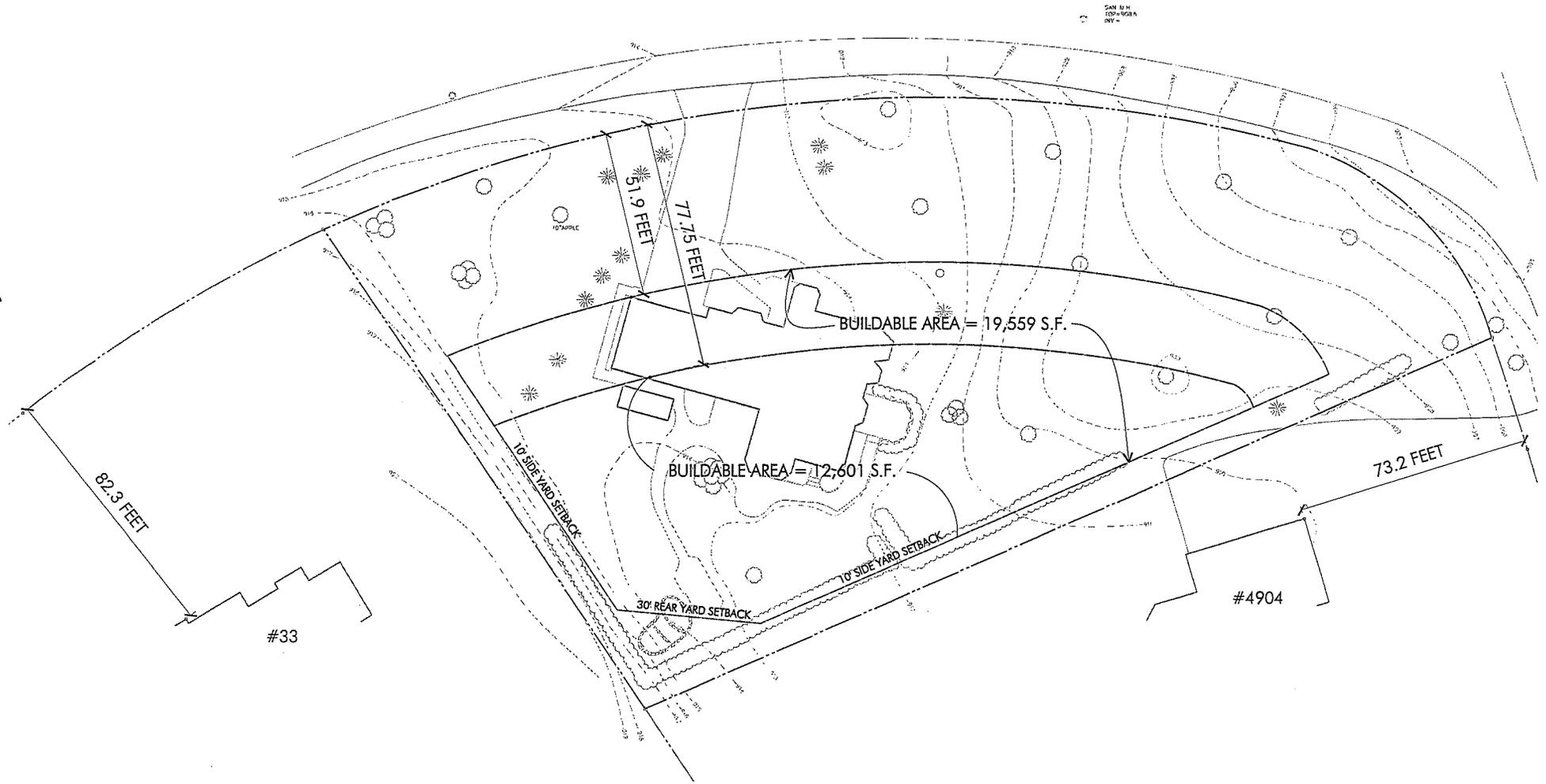
A.3

A.4



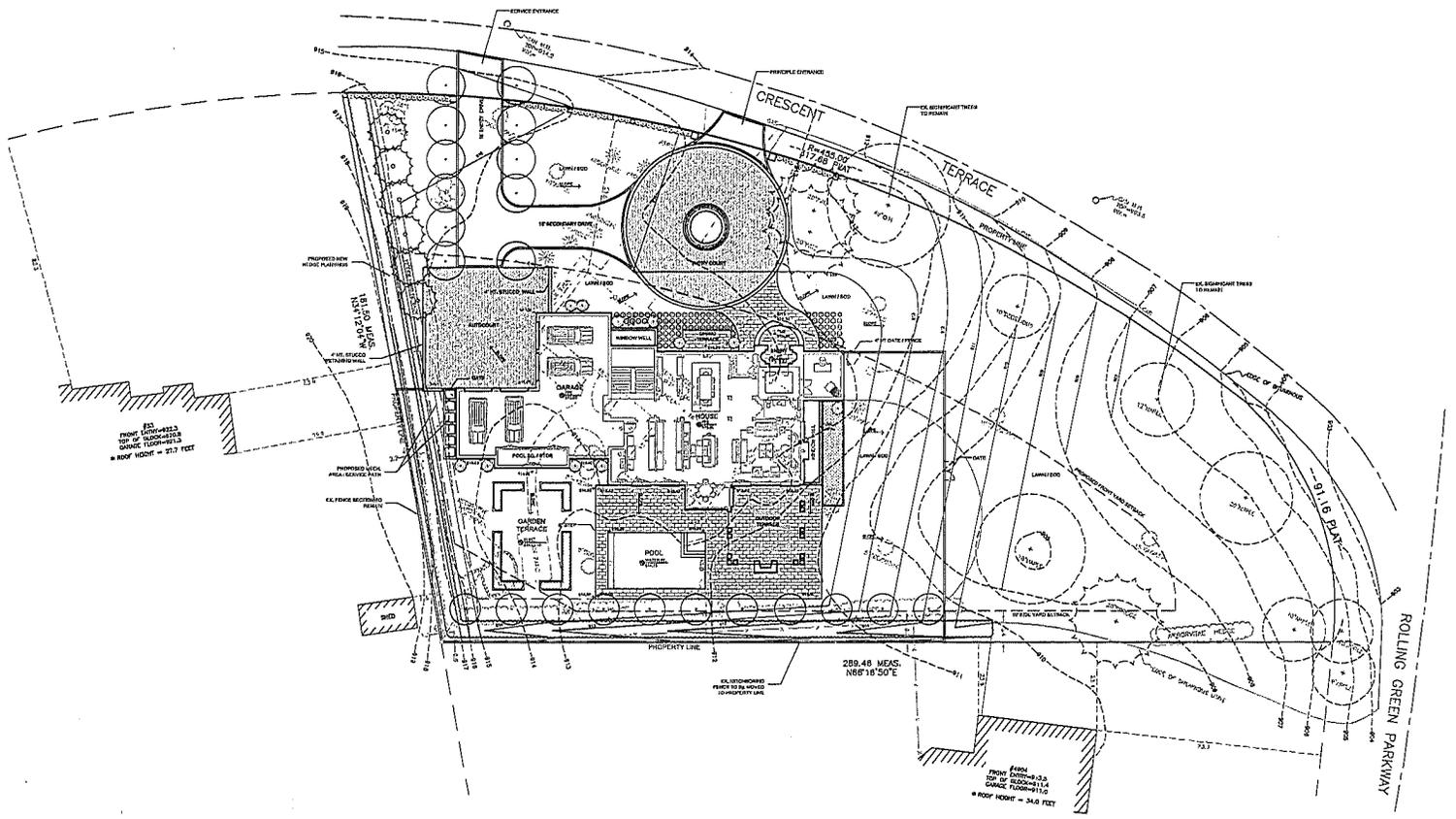
SITE PLAN - EXISTING HOUSE

A.5



SITE PLAN - EXISTING HOUSE

A.S.



1 **PRELIMINARY SITE PLAN**  
 SCALE: 1" = 16'-0"





A.7



SWANARCHITECTURE  
 Date: November 28, 2012

PROPOSED FRONT EXTERIOR ELEVATION

Il Nostro Sogno  
 5801 Crescent Terrace  
 DRAWING A1

A.8



1 East Exterior Elevation  
ROAD V-TYP

2 North Exterior Elevation  
ROAD V-TYP

3 South Exterior Elevation  
SCALE V-TYP

3 West Exterior Elevation  
SCALE V-TYP

SWANARCHITECTURE  
Date: November 28, 2012

PROPOSED EXTERIOR ELEVATIONS

Il Nostro Sogno  
5801 Crescent Terrace  
DRAWING A1

FRONT OF 5801 CRESCENT TERRACE



A9

EAST SIDE OF 5801 CRESCENT TERRACE

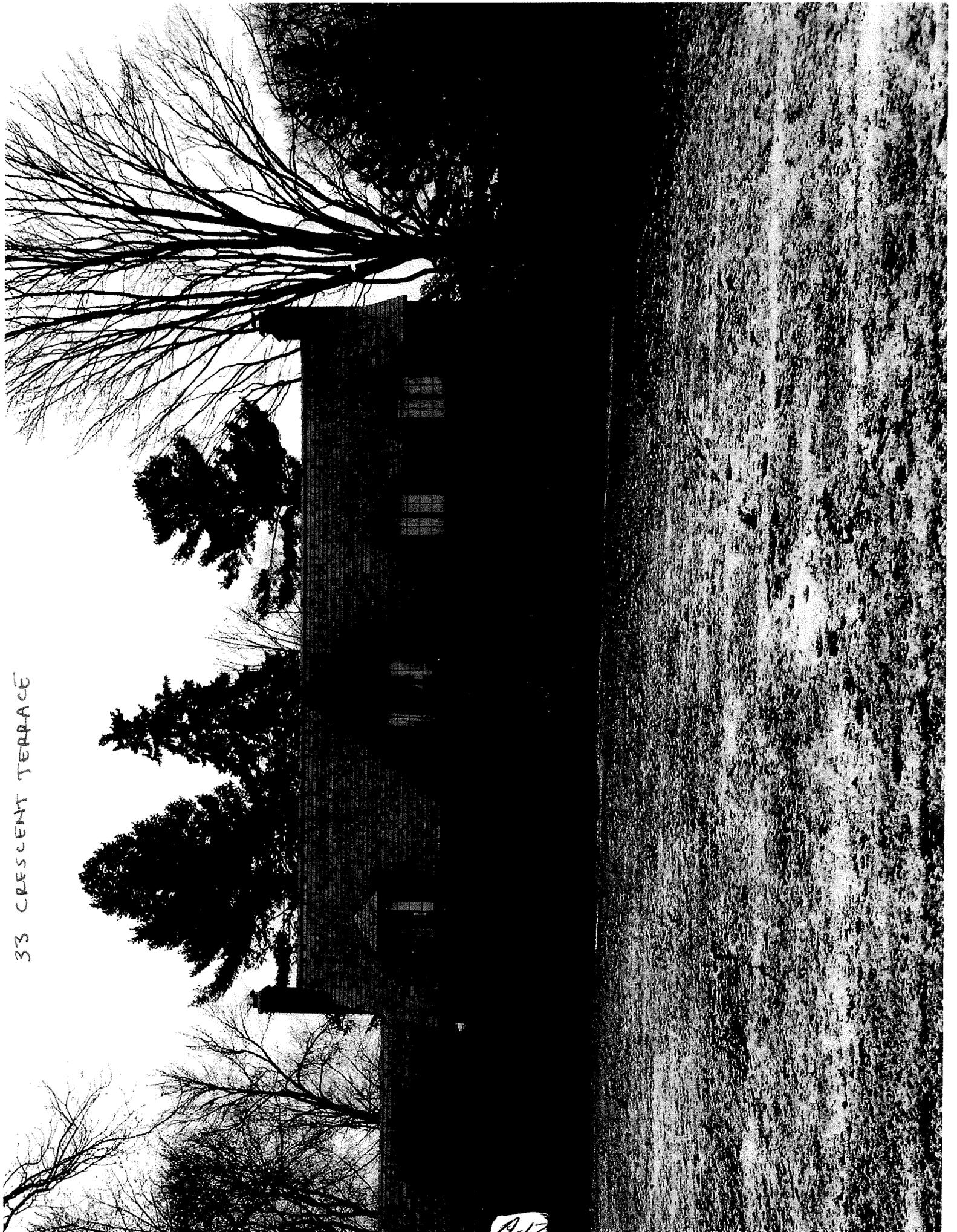


A10

4904 ROWINA GREEN PARKWAY

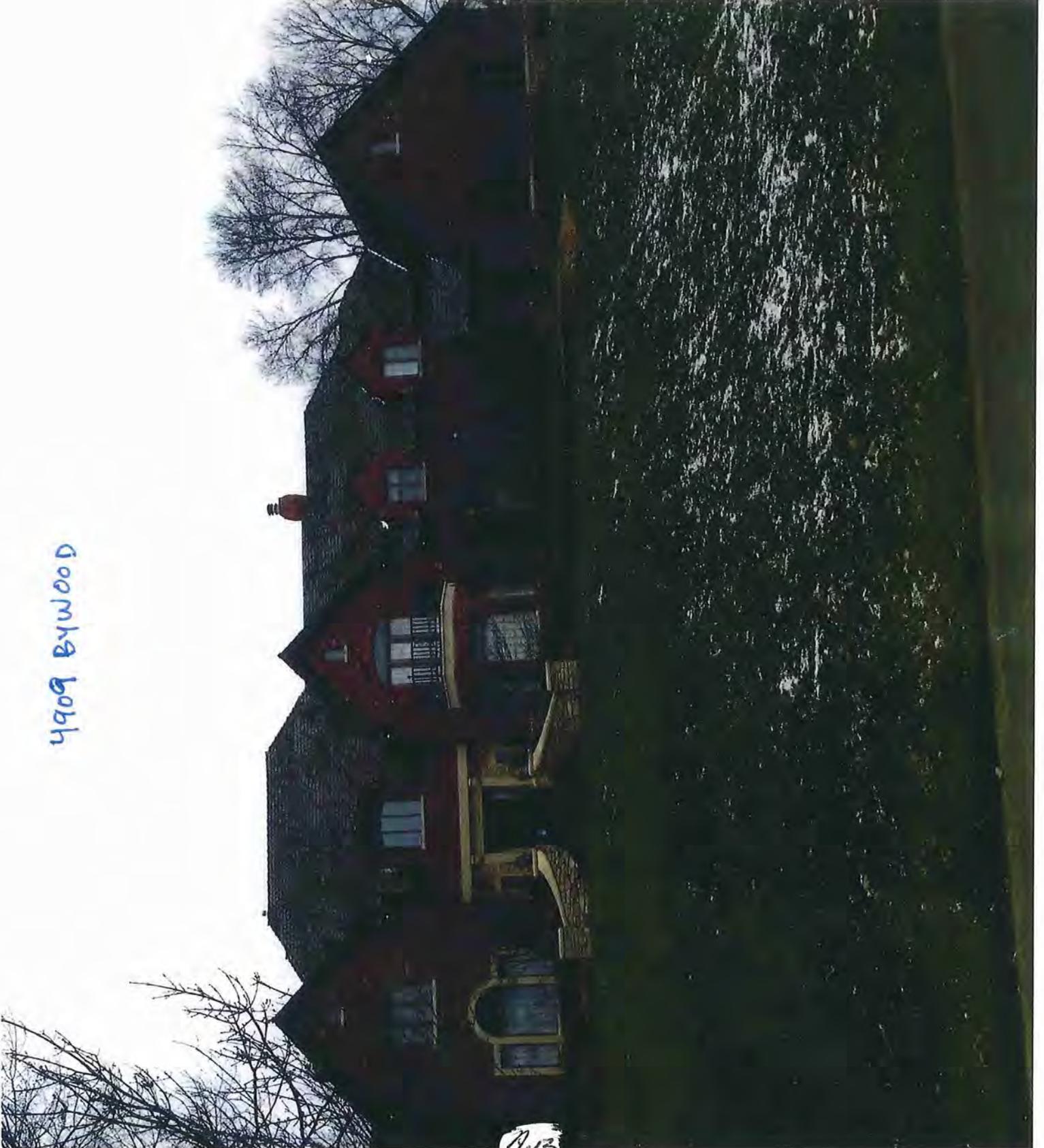


33 CRESCENT TERRACE



A.12

4909 BYWOOD



A.13

Susan Howl

---

From: Lynette Biunno on behalf of Edina Mail  
Sent: Thursday, January 03, 2013 3:36 PM  
Cc: Susan Howl  
Subject: FW: 5801 Crescent Ter.  
Attachments: DOCS-#3812096-v1-Broat\_Letter Mayor Hovland.docx.doc; John Bean letter.htm

Lynette Biunno, Receptionist  
952-927-8861 | Fax 952-826-0389  
[lbiunno@EdinaMN.gov](mailto:lbiunno@EdinaMN.gov) | [www.EdinaMN.gov](http://www.EdinaMN.gov)  
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-----Original Message-----

From: Phil & Pam [<mailto:philb@sprintmail.com>]  
Sent: Thursday, January 03, 2013 2:58 PM  
To: Edina Mail  
Subject: 5801 Crescent Ter.

Dear Mayor Hovland,  
Thank you for taking the time to discuss the proposed variance on 5801 Crescent Ter. with me a few weeks ago. I'm attaching a letter with some new information and repeating some of our other opposition. I am also attaching a letter from John Bean reflecting his opinion on what this will do to the adjoining property value. If you have any questions or any problems opening these documents please contact me at 952 929 2144.  
Thank you,  
Phil and Pam Broat

December 30, 2012

Re: CITY COUNCIL AGENDA – 1-22-13

25.85 FOOT FRONT YARD SET BACK VARIANCE REQUEST AT 5801 CRESCENT TERRACE FOR APPLICANT NICOLE SUNBERG

Dear Mayor Hovland,

I write this letter in opposition to the above proposed variance and to express my serious concerns about the proposal and the process that has unfolded.

On November 30, 2012, we received notice of an application for a variance on 5801 Crescent Terrace, Edina, Minnesota. As my wife and I live across the street from this property, we discussed this matter with the neighbors.

The following week we went to the city planning department and talked to Kris Aaker. Kris showed us the plans for the for the property variance, and told us that we should be satisfied with this variance proposal because it was a “modest home” that might be the best we could do on this property. Despite her assurances, we immediately felt that a 25.8 variance set back from the street would be out of character and would not look appropriate on the neighborhood.

In talking with the adjacent neighbors and the other home owners across the street and next to us, we decided to seek legal advice and hired council. We attended and spoke at the planning commission meeting, but we are convinced that in making their decision, the commission did not have all of the accurate and proper information.

Only one member of the commission indicated that she actually had viewed the property, and she was the sole vote against the variance. Strangely, although two of the commissioners suggested that adjacent neighbors to the south would be burdened if the variance were denied, they failed to realize that both neighbors actually were present at the meeting with the other owners opposing the variance .

The following Monday after the Planning Commission decision I went to the planning staff to get a copy of the site visitation report. I was told no such specific report exists and that the site visit information is included in the staff report. The staff report, however, does not include any reference to a site visit.

Upon learning this, I asked Kris Aaker to give me the name of the person that that visited the site and the date. With some hesitation she told me that she was the person that had visited the site. I then requested that she provide me with the date she visited. She indicated that she had been there the day of the Planning Commission meeting and added that she does not walk on any of the adjoining properties.

It is unfortunate that she did not obtain the perspective from the adjacent properties. A brief look from 33 Crescent Terrace would have revealed that because the new home will be 2 to 2 ½ times taller than the existing house and a mere 5 feet from the property line, the east view from this property will be completely blocked. Among other shortcomings, the staff report was inaccurate because it failed to account for site lines from adjacent properties. I believe that a brief visit to 33 Crescent Terrace and a review of all the site lines will demonstrate that the variance is inappropriate.

Additionally, the proposed home would be so close to the street it would not have a compatible front yard for the neighborhood. As you drive through Rolling Green you will also see that there aren't any other homes built one in front of another. It is a poor precedent to ignore the importance of neighborhood integrity and the hardship that would be imposed on 33 Crescent Terrace by granting this variance.

Further, I want to briefly note the following points:

1. It is important to emphasize that the neighbors surrounding the property in question are not opposed to change nor to redevelopment of the parcel. They oppose issuance of this variance because it does not satisfy the applicable legal standards and will negatively impact the enjoyment, use and values of their respective properties.
2. Applicant fails to meet any of the following three criteria, all of which must be satisfied:
  - a. Owners proposed use of the variance must be reasonable. In this case the proposed use is not reasonable because a home of this size easily can be built within the existing buildable area of 12,601 ft. The variance unnecessarily and unreasonably seeks to expand the buildable area to more than 19,500 ft., an increase of more than 55%.
  - b. The plight or hardship of the owner must be due to the uniqueness of the property and must be not self-imposed. There is no plight or hardship due to the significant amount of allowable building area. Although expansion of the building area may be more convenient to the owner, inconvenience is not the legal standard required to be met.
  - c. The variance must not alter the essential character of the neighborhood. The large setback standards in Rolling Green are an essential component of the neighborhood's character. Allowing the variance will adversely impact the estate style streetscape and neighboring sightlines. The fact that the existing home's setback is non-conforming and "grandfathered" does not mean that the proposed new home would be no more obtrusive with the same setback. The new home would be more than twice the height of the existing structure and will be located on the 5 foot side yard setback, rather than toward the middle of the site.
3. In the alternative, if a setback variance is permitted, it should be more restrictive than what currently is proposed. A setback variance in excess of 25 feet is massive for a site already possessing more than 12,600 ft. of buildable area. To assure applicant complies with what is being represented to the city, a variance of any size should only be granted subject to certain conditions to prevent the

potential for "bait-and-switch" situation or subsequent unforeseen additions or modifications in the variance area, including:

- a. restricting the height of the improvements located in the variance area to no greater than what currently exists;
- b. requiring applicant to adhere to the construction plans currently being proposed; and
- c. prohibiting any additional construction inside of the variance area after the house is built.

On December 15, Mr. Sunberg (the Applicant's spouse) contacted me, and I informed him that we were not interested in the proposed variance. I told him I thought he should see if they could come up with a plan that uses the allowable building area under the code or come to the neighbors with a variance proposal that accommodates our concerns.

I have heard nothing since that discussion. In short, I feel blindsided. It is my understanding that residential developers seeking such significant code variances generally first confer with the impacted neighbors in an effort to arrive at a plan with which everybody could be satisfied. All of the new big beautiful homes that have been built in Rolling Green have been done without variance and are beautifully centered and set back on the lot to keep the feel of the area. I believe this variance is incompatible with the character of the street and would serve to devalue the neighboring properties. In support of this position, I have enclosed a letter we have received from a reputable local realtor.

For these reasons, my wife and I oppose the variance and request that the City Council reverse the Zoning Board's approval of it.

Thank you for your consideration.

Sincerely,

*Philip N. Broat & Pam Broat*

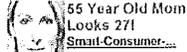
Phil and Pam Broat

4820 Rolling Green Parkway

Edina, Minnesota 55436



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Message

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From: 'Bean, Babelle & John' <BabelleBean@edinare... [Add to Address Book] To: 'philb@sprintmail.com' <philb@sprintmail.com> Subject: 33 Crescent Terrace Date: Dec 10, 2012 3:30 PM

Dear Phil,

You asked my opinion regarding the proposed new construction next to 33 Crescent Terrace.

I understand the owners wish to obtain a 25 foot variance in order to build closer to the street and that the house will be quite tall. Also, the proposal suggests a garage on the lot line of 33 Crescent Terrace.

The beauty of the Rolling Green neighborhood is enhanced by the setbacks. Virtually every house has a spacious front yard. Because of the setbacks, every neighbor has a wide vista in front and to the sides of their homes. If a home were to be built close to the street, it would certainly ruin the view of the neighboring house, and it would end the elegant symmetry of the Rolling Green neighborhood.

If the house is substantially taller than its neighbors, it would also detract from the beauty of the neighborhood.

In my opinion, the real estate value of 33 Crescent Terrace would be affected adversely. Currently, it has an open lot with great sloping yard. Put a house next to it close to the street, and it would be like putting up a wall on a toboggan run. It would cut right into the sightlines and spoil the view. It would reduce the openness and charm of the lot and harm the property value.

The Ramsay family has been a great asset to the community of Edina. I think having their property and home of over 40 years of devalued by a construction plan that requires these kinds of variances is not acceptable.

Please feel free to call me with any questions.

John Bean

President's Circle o-952-924-8780 c-612-387-4510 johnbean@edinarealty.com www.TheBeanTeam.EdinaRealty.com

[Reply] | [Reply All] Forward... [Print] | [Delete] | [Spam] Move to... More Actions... < Previous | Next > | < Back to INBOX

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## Kris Aaker

---

**From:** Kris Aaker  
**Sent:** Tuesday, December 18, 2012 8:07 AM  
**To:** 'philb@sprintmail.com'  
**Subject:** 5801 Crescent Terrace

Dear Mr. Broat,

I was at the above mentioned address on two occasions: Friday, November 30, 2012 and Wednesday December 12, 2012.

Sincerely,  
Kris Aaker



**Kris Aaker, Assistant Planner**

952-826-0461 | Fax 952-826-0389

[KAaker@EdinaMN.gov](mailto:KAaker@EdinaMN.gov) | [www.EdinaMN.gov/Planning](http://www.EdinaMN.gov/Planning)

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## Kris Aaker

---

**From:** Kris Aaker  
**Sent:** Friday, January 04, 2013 3:43 PM  
**To:** 'Suzanne Knelman'  
**Subject:** RE:

Dear Suzanne,

Both are correct. They both refer to "practical difficulties and circumstances" preventing reasonable use, that are not self-imposed/self-created, are unique to a property, not common to similarly zoned properties, that are in harmony with the intent of the ordinance/consistent with the comprehensive plan and won't alter the essential character of the neighborhood. I will send the state Statute language as well.

Sincerely,  
Kris Aaker

Kris Aaker, Assistant City Planner  
952-826-0461 | Fax 952-826-0389  
[KAaker@EdinaMN.gov](mailto:KAaker@EdinaMN.gov) | [www.EdinaMN.gov/Planning](http://www.EdinaMN.gov/Planning) ...For Living, Learning, Raising Families & Doing Business -----

Original Message-----

**From:** Suzanne Knelman [<mailto:sueknelman@aol.com>]  
**Sent:** Friday, January 04, 2013 2:35 PM  
**To:** Kris Aaker  
**Subject:**

Hi Kris, the requirements for variance approval in the variance request packet are different than the three listed on the Edina site under section 850.04 subd. 2 ....which is correct? Also, can you email me a copy of the Minnesota statute for variance approval. Thanks.

Sent from my Suzanne's iPad

# Minnesota Session Laws

Key: (1) ~~language to be deleted~~ (2) new language

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## CHAPTER 19--H.F.No. 52

### An act

relating to local government; providing for variances from city, county, and town zoning controls and ordinances; amending Minnesota Statutes 2010,

sections 394.27, subdivision 7; 462.357, subdivision 6.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2010, section 394.27, subdivision 7, is amended to read:

Subd. 7. **Variances; hardship practical difficulties**. The board of adjustment shall have the exclusive power to order the issuance of variances from the ~~terms requirements~~ of any official control including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the official control ~~in cases when there are practical difficulties or particular hardship in~~ the way of carrying out the strict letter of any official control, and when ~~the terms of~~ the ~~variance~~ variances are consistent with the comprehensive plan. ~~"Hardship" as used in connection with the granting of a variance means the property in question cannot be put to a reasonable use if used under the conditions allowed by the~~

~~official controls; the  
plight of the landowner is due to circumstances unique to the property  
not created by the  
landowner; and the variance, if granted, will not alter the essential  
character of the locality.~~

Variances may be granted when the applicant for the variance establishes  
that there

are practical difficulties in complying with the official control. "Practical  
difficulties,"

as used in connection with the granting of a variance, means that the  
property owner

proposes to use the property in a reasonable manner not permitted by an  
official control;

the plight of the landowner is due to circumstances unique to the  
property not created by

the landowner; and the variance, if granted, will not alter the essential  
character of the

locality. Economic considerations alone shall do not constitute a  
hardship if a reasonable

use for the property exists under the terms of the ordinance practical  
difficulties. Practical

difficulties include, but are not limited to, inadequate access to direct  
sunlight for solar

energy systems. Variances shall be granted for earth sheltered  
construction as defined in

section 216C.06, subdivision 14, when in harmony with the official  
controls. No variance

may be granted that would allow any use that is ~~prohibited~~ not allowed  
in the zoning

district in which the subject property is located. The board of adjustment  
may impose

conditions in the granting of variances to. A condition must be directly  
related to and must

~~bear a rough proportionality to the impact created by the variance insure compliance and to protect adjacent properties and the public interest. The board of adjustment may consider the inability to use solar energy systems a "hardship" in the granting of variances.~~

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Sec. 2. Minnesota Statutes 2010, section 462.357, subdivision 6, is amended to read:

Subd. 6. **Appeals and adjustments.** Appeals to the board of appeals and adjustments may be taken by any affected person upon compliance with any reasonable conditions imposed by the zoning ordinance. The board of appeals and adjustments has the following powers with respect to the zoning ordinance:

(1) To hear and decide appeals where it is alleged that there is an error in any order, requirement, decision, or determination made by an administrative officer in the enforcement of the zoning ordinance.

(2) To hear requests for variances from the ~~literal provisions of the ordinance~~ in instances where their strict enforcement would cause undue hardship because of circumstances unique to the individual property under consideration, and to grant such variances only when it is demonstrated that such actions will be in keeping with the spirit and intent of the ordinance. ~~"Undue hardship" as used in connection with the granting of a~~

~~variance means the property in question cannot be put to a reasonable use if used under conditions allowed by the official controls, requirements of the zoning ordinance including restrictions placed on nonconformities. Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if granted, will not alter the essential character of the locality. Economic considerations alone shall do not constitute an undue hardship if reasonable use for the property exists under the terms of the ordinance. Undue hardship also includes practical difficulties. Practical difficulties include, but is are not limited to, inadequate access to direct sunlight for solar energy systems. Variances shall be granted for earth sheltered construction as defined in section 216C.06, subdivision 14, when in harmony with the ordinance. The board of appeals and adjustments or the governing body as the case may be, may not permit as~~

a variance any use that is not ~~permitted~~ allowed under the zoning ordinance for property in the zone where the affected person's land is located. The board or governing body as the case may be, may permit as a variance the temporary use of a one family dwelling as a two family dwelling. The board or governing body as the case may be may impose conditions in the granting of variances ~~to insure compliance and to protect adjacent properties.~~ A condition must be directly related to and must bear a rough proportionality to the impact created by the variance.

**EFFECTIVE DATE.** This section is effective the day following final enactment.

Presented to the governor May 2, 2011

Signed by the governor May 5, 2011, 3:03 p.m.

## Kris Aaker

---

**From:** Kris Aaker  
**Sent:** Wednesday, January 02, 2013 8:04 AM  
**To:** 'Suzanne Knelman'  
**Subject:** RE: 5801 Crescent Terrace variance request

Dear Ms. Knelman,

The zoning ordinance requires a minimum 25 foot rear yard setback.

Sincerely,  
Kris Aaker

Kris Aaker, Assistant Planner

952-826-0461 | Fax 952-826-0389

[KAaker@EdinaMN.gov](mailto:KAaker@EdinaMN.gov) | [www.EdinaMN.gov/Planning](http://www.EdinaMN.gov/Planning) ...For Living, Learning, Raising Families & Doing Business -----

Original Message-----

From: Suzanne Knelman [<mailto:sueknelman@aol.com>]

Sent: Friday, December 28, 2012 4:52 PM

To: Kris Aaker

Subject: Re: 5801 Crescent Terrace variance request

Dear Kris,

Thanks so much for your response. Is there any definition or reference in the statute regarding any backyard/rear yard size minimum or description of adequate characteristics of rear yards?

Thanks.

Sent from my Suzanne's iPad

On Dec 28, 2012, at 3:34 PM, Kris Aaker <[KAaker@EdinaMN.gov](mailto:KAaker@EdinaMN.gov)> wrote:

> Dear Ms. Knelman,

>

> Regarding your request for information on the Crescent Terrace/Rolling Green neighborhood proposed variance, I submit to you the following from the variance file. The only information in the variance file relating to your four questions requesting building square footage and dimensions is indicated on the attached survey. The survey indicates the house and garage are 4,964.5 square feet, (footprint). The outdoor terrace is 2,677.1 square feet in area and walk over 4 feet wide is 41 square feet in area. There is no data responsive to your request for square footage and dimensions of the second floor, backyard and front yard proposed hardscape. There is no data responsive to your request for legal definition of terms "estate home" and "estate backyard". There is no data responsive to other variance proposals which reference "estate home" and/or "estate backyard".

>

>

>

> Sincerely,

>

> Kris Aaker

>

> Assistant Planner

## Kris Aaker

---

**From:** Kris Aaker  
**Sent:** Friday, December 28, 2012 3:34 PM  
**To:** 'Sueknelman@aol.com'  
**Subject:** 5801 Crescent Terrace variance request  
**Attachments:** 201212281434.pdf

Dear Ms. Knelman,

Regarding your request for information on the Crescent Terrace/Rolling Green neighborhood proposed variance, I submit to you the following from the variance file. The only information in the variance file relating to your four questions requesting building square footage and dimensions is indicated on the attached survey. The survey indicates the house and garage are 4,964.5 square feet, (footprint). The outdoor terrace is 2,677.1 square feet in area and walk over 4 feet wide is 41 square feet in area. There is no data responsive to your request for square footage and dimensions of the second floor, backyard and front yard proposed hardscape. There is no data responsive to your request for legal definition of terms "estate home" and "estate backyard". There is no data responsive to other variance proposals which reference "estate home" and/or "estate backyard".

Sincerely,  
Kris Aaker  
Assistant Planner

## Kris Aaker

---

**From:** Jackie Hoogenakker  
**Sent:** Wednesday, December 19, 2012 3:05 PM  
**To:** Kris Aaker  
**Subject:** FW:

Jackie Hoogenakker, Administrative Assistant  
952-826-0465 | Fax 952-826-0389

[JHoogenakker@EdinaMN.gov](mailto:JHoogenakker@EdinaMN.gov) | [www.EdinaMN.gov](http://www.EdinaMN.gov) ...For Living, Learning, Raising Families & Doing Business -----Original Message-----

**From:** Emilie Kastner  
**Sent:** Wednesday, December 19, 2012 3:05 PM  
**To:** Jackie Hoogenakker  
**Subject:** FW:

Emilie Kastner, Communications Assistant  
952-826-0342 | Fax 952-826-0389  
[ekastner@EdinaMN.gov](mailto:ekastner@EdinaMN.gov) | [www.EdinaMN.gov](http://www.EdinaMN.gov)  
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-----Original Message-----

**From:** Emilie Kastner On Behalf Of Edina Mail  
**Sent:** Tuesday, December 18, 2012 8:57 AM  
**To:** Jackie Hoogenakker  
**Subject:** FW:

Hi, Jackie!

Will you please assist this person?

Thank you!

Emilie Kastner, Communications Assistant  
952-826-0342 | Fax 952-826-0389  
[ekastner@EdinaMN.gov](mailto:ekastner@EdinaMN.gov) | [www.EdinaMN.gov](http://www.EdinaMN.gov)  
...For Living, Learning, Raising Families & Doing Business -----Original Message-----

**From:** Suzanne Knelman [<mailto:sueknelman@aol.com>]  
**Sent:** Tuesday, December 18, 2012 8:38 AM  
**To:** Edina Mail  
**Subject:**

December 18, 2012

Dear Edina Planning Department,

According to Data Practices statute, I am requesting the following information on the Crescent Terrace/Rolling Green neighborhood proposed variance request:

Square footage and dimensions of first floor of proposed building.  
Square footage and dimensions of second floor proposed building.  
Square footage and dimensions of backyard proposed hardscape.  
Square footage of front yard proposed hardscape.

Legal definition of the term "estate home" and "estate backyard" as referred to in the Planning Department's document of said property presented to Planning commission.

Identification (in terms of address) of other variance proposals which referenced the terminology of "estate home" and or "estate backyard" by Edina Planning Department staff over the last five years.

I will be in and out of the area over the next several weeks, so please respond via email that you have received this request. Please email requested information to same email. Thank you for your time and help.

Regards,  
Suzanne Knelman

Sent from my Suzanne's iPad

## Joyce Repya

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**From:** Lynette Biunno on behalf of Edina Mail  
**Sent:** Wednesday, December 12, 2012 9:57 AM  
**To:** Joyce Repya  
**Subject:** FW: 5801 Crescent Terrace, Rolling Green Neighborhood



**Lynette Biunno, Receptionist**

952-927-8861 | Fax 952-826-0389

[lbiunno@EdinaMN.gov](mailto:lbiunno@EdinaMN.gov) | [www.EdinaMN.gov](http://www.EdinaMN.gov)

...For Living, Learning, Raising Families & Doing Business

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**From:** Suzanne Knelman [<mailto:sueknelman@aol.com>]  
**Sent:** Wednesday, December 12, 2012 9:56 AM  
**To:** Edina Mail  
**Subject:** Fwd: 5801 Crescent Terrace, Rolling Green Neighborhood

PLEASE CALL ME (859.707.5639) to confirm receipt and that it will be included in planning packet for members today. Thank you.

We would like to ask the Edina Planning Commission to deny the request for the front yard "setback" variance on 5801 Crescent Terrace. The request does not meet the criteria for variance as required by Minnesota statutes and Edina zoning ordinance.

Minnesota statutes and Edina ordinances require that the following conditions be satisfied affirmatively for variance.

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

Based on Edina zoning ordinance rules, there is a 12,601 square foot building envelope. This sizable pad is ample for a beautiful and sizable home to be built without "practical difficulties" preventing "reasonable use". There are many beautiful and large homes all through Edina that have been built on far less square footage than this generous pad. The term "practical difficulties" and "reasonable use" should not be flippantly applied in order to disregard legal zoning protections. A talented architect instructed to "observe the ordinance" would find a creative solution to the building site. There is no reason to believe the current ordinance setback is preventing reasonable use of this lot.

The variance request does not meet this legal standard.

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

Edina planning department states " Yes, the unique circumstances are that the existing lot is subject to an average front yard setback that is deeper than the location of the existing home. The required setback reduces the buildable area dramatically, pushes a new home farther back on the lot and impacts the ability to provide a reasonable rear yard on such a large lot."

Clearly, the impact of the setback is exaggerated by the design of the proposed home. A home designed with a different configuration could address this concern. The design of this home to a large extent, "self created" the back yard problem.

The variance request does not meet this legal standard.

3) will the variance alter the essential character of the neighborhood.

Yes, the "setback" from the street is one of the distinctive characteristics of the Rolling Green neighborhood relative to other large home neighborhoods in Edina. The conversion of small rambler homes to estate homes has been accomplished successfully as the setback ordinance moved the new construction back from the street to fall in line with the existing neighboring properties. That setback has allowed the transition of a neighborhood with minimal harm to existing home owners by large new construction.

Previous planning committees have set precedent of honoring this ordinance in Rolling Green despite pressure to relax the ordinance. Commitment to this setback ordinance has been a significant factor in preserving the "essential character" of the Rolling Green neighborhood.

We would welcome a new family and home to the neighborhood, but want to preserve the "essential character" of Rolling Green. Hopefully the potential buyer will pursue revisions to their plans that would more closely meet the Edina ordinance without variance or look to purchase a different lot in Rolling Green which would be able to support these house plans.

Sincerely,  
Kip and Suzanne Knelman  
4812 Rolling Green Parkway

Mayor  
& CC

December 11, 2012

Edina Planning Commission  
4801 W 50<sup>th</sup> Street  
Edina MN 55424

Re: Edina Planning Commission Agenda #B-12-12: 25.85 Foot Front Yard Setback Variance Request at 5801 Crescent Terrace for applicant Nicole Sunberg

We, the adjacent and surrounding neighbors of 5801 Crescent Terrace (the "Property"), are writing collectively to voice our opposition to the setback variance petition (the "Petition") filed by Nicole Sunberg (the "Applicant") which is the subject of the Edina Planning Commission Staff Report Agenda No. B-12-12 to be considered on December 12, 2012. The Petition should be denied because fails the standard for issuance of a variance set forth in Edina City Code Section 850.04, Subd. 2F.

**STANDARD FOR ISSUANCE OF A VARIANCE**

The Edina City Code states in pertinent part that:

[t]he 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.

Edina City. Code Sec. 850.04, Subd. 2F (emphasis added).

In evaluating whether the Property can be put to a reasonable use, the Commission considers: (1) whether there are practical difficulties in complying with the City Code; and (2) whether the proposed use is reasonable. In this instance, the Applicant's Petition has not demonstrated that either of these considerations has been met. The Petition should also be denied because the variance, if granted, will alter the essential character of the Property and its surroundings.

**THERE ARE NO “PRACTICAL DIFFICULTIES” IN COMPLYING WITH THE CITY CODE**

Clearly the Property can be put to a reasonable use and there are no “practical difficulties” in constructing a home on the Property that complies with the City Code. The Site Plan attached to the Petition as Exhibit A.4 indicates that under the existing setback requirement, the Property contains 12,601 square feet of buildable area. This is a large space capable of accommodating significant residential construction. Further, the Proposed Survey for Streeter and Associates attached to the Petition as Exhibit A.6 demonstrates that the project contains an impervious surface area totaling 7,672.5 square feet. Accordingly, the existing setback affords Applicant more than sufficient space to develop the Property as intended. Additionally, Applicant’s plans fail to take advantage of the significant unused portion of the Property adjacent to the proposed construction. No finding of “practical difficulties” is appropriate where a landowner has not used available space for construction.

Moreover, the setback scheme contained in Subdivision 7 of City Code Section 850.11 was designed to promote continuity and thereby preserve the strong aesthetic character of Edina’s neighborhoods. By tying the setback requirement of a particular property to the setback requirements of adjacent properties, the City Code promotes uniformity along city streets. In this case, honoring the requisite 77.75 foot setback will ensure that the Property is in aesthetic harmony with neighboring properties on Crescent Terrace. Although the existing home on the Property does not comply with the current setback requirement, its deviation is not noticeable because the home is only one story and contains approximately 2,300 square feet.

In contrast, the construction Applicant proposes is forty (40) feet tall and will contain approximately 4,964.5 square feet, accordingly to Exhibit A.6 to the Petition. Granting a variance to permit the imposing construction Applicant contemplates in a location more than twenty five (25) feet nearer to the street than either of the adjacent homes would disrupt the distinct character of the neighborhood and the streetscape.

**THE PROPOSED USE OF THE PROPERTY IS NOT REASONABLE, AND A VARIANCE WILL ALTER THE CHARACTER OF THE NEIGHBORHOOD**

The variance should be denied because the Applicant’s intended use of the Property is not reasonable. The Petition suggests that the Applicant is merely replacing one existing Property with another. However, the attachments to the Petition underscore that construction on a much larger scale is intended and will result in a far more obtrusive presence in the neighborhood. Granting the requested variance will not only disrupt the character of the Property; it will also have a detrimental effect on the value of surrounding properties. In particular, the sight lines of the neighboring properties will be adversely affected if significant construction is allowed so close to the road and on a scale so much larger than currently exists. As the Commission Report notes, the character of Rolling Green “includes large homes which are proportionate to ample lot areas which are oriented towards views, topography, and street presence.” Granting the variance sought in the Petition will upset

these views and cause the Property to have a disproportionate street presence, all to the detriment of Rolling Green's signature character.

Additionally, in considering this variance request we request that the Commission carefully analyze the proposed height of the building as well as the amount of hard surface.

Because the requirements for issuance of a variance under the City Code have not been met, the undersigned neighbors request that the Petition be denied.

Respectfully Submitted,

Brad and Susan Baker  
4904 Rolling Green Parkway

Man Susan Baker

Phil and Pam Broat  
4820 Rolling Green Parkway

Phil Broat Pam Broat

Kevin and Patty Gilligan  
5804 Crescent Terrace

K Patty Gilligan

Bill and Donna Ramsay  
33 Crescent Terrace

Bill Ramsay Donna Ramsay

Bob and Candy Gravier  
4909 Bywood West

Bob Gravier Candy Gravier

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  - Contacts
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  - Drafts [36]
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  - Sent Items
- Click to view all folders
- Manage Folders...

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 Reply to All
 Forward
 Move
 Delete
 Junk
 Close

### Fwd: Sunberg Variance Information - 5801 Crescent Terrace

Nikki Mikan [nikki.mikan@me.com]

**Sent:** Wednesday, December 05, 2012 5:04 PM

**To:** Nate Wissink

Hi Nate,  
Mike and I have no objection to the variance. You will see an e-mail below from Mike indicating that same message. Good luck to you and the Sunbergs!  
Nikki Mikan

Sent from my iPhone

Begin forwarded message:

**From:** "G. Mike Mikan" <g.mike.mikan@gmail.com>  
**Date:** December 5, 2012 4:50:08 PM CST  
**To:** Nikki Mikan <nikki.mikan@me.com>  
**Subject:** Re: Sunberg Variance Information - 5801 Crescent Terrace

We have no objection to the variance. Looks nice.

On Dec 5, 2012, at 4:44 PM, Nikki Mikan wrote:

Sent from my iPhone

Begin forwarded message:

**From:** Nate Wissink <nate@elevationhomes.com>  
**Date:** December 5, 2012 3:53:19 PM CST  
**To:** "Nikki.Mikan@me.com" <nikki.mikan@me.com>  
**Subject:** Sunberg Variance Information - 5801 Crescent Terrace

Nikki,

Thanks for taking the time to talk with me yesterday regarding the front yard setback variance request for 5801 Crescent Terrace. As we discussed, I'm forwarding you the application documents that were part of the City package so you can get a look at has been proposed regarding the front yard setback variance for the property. Overall, the diagrams show the challenges with developing a home on the site that conforms to the front yard setback, since it pushes the home to the back of the property, most notably impacting Baker's back yard (property to the South) by towering over it and not allowing a back yard experience for our clients. As you know, we're not comfortable with that and have

decided to pursue the variance instead. As you review the materials, feel free to call me with questions. While we hope the plans provide the basic intent of the project in terms of its architectural style and scale, at this stage they aren't fully finalized, which we would do provided we received the variance. Regardless, our hope is that our client's home would be a beautiful addition to the neighborhood. I know you were excited about the Mediterranean style!

Please note that I've reached out to several other neighbors (including Bakers) and will be sending them the package for their review. One thing that would help us in the process, provided you and Mike don't

have any objections to the variance request, is to send me an e-mail indicating you have “no objection to the variance”.

Thanks again for taking the time to talk with me yesterday.

With appreciation,

Nate Wissink Project Director | Streeter & Assoc., Inc. and Elevation Homes | Direct 952.346.2488 | Fax 952.449.4987 |  
email: [nate@elevationhomes.com](mailto:nate@elevationhomes.com)

<Crescent Terrace Variance Request.pdf>

<DIAGRAM 1 FOR VARIANCE.pdf>

<DIAGRAM 2 FOR VARIANCE.pdf>

<A1\_NORTH ELEVATION.pdf>

<Sunberg Site Plan.pdf>

<A2\_NORTH ELEVATION (2).pdf>



Connected to Microsoft Exchange

## Nate Wissink

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**From:** Michael Erickson <michaelderickson@hotmail.com>  
**Sent:** Thursday, December 06, 2012 4:29 PM  
**To:** Nate Wissink  
**Subject:** RE: Sunberg Variance Information - 5801 Crescent Terrace

No objection to the variance

> From: [nate@elevationhomes.com](mailto:nate@elevationhomes.com)  
> To: [Michaelderickson@hotmail.com](mailto:Michaelderickson@hotmail.com)  
> Date: Wed, 5 Dec 2012 22:15:28 -0600  
> Subject: Sunberg Variance Information - 5801 Crescent Terrace

> Michael,

> Thanks for taking the time to talk with me today regarding the front yard setback variance request for 5801 Crescent Terrace. As we discussed, I'm forwarding you the application documents that were part of the City package so you can get a look at has been proposed regarding the front yard setback variance for the property. Overall, the diagrams show the challenges with developing a home on the site that conforms to the front yard setback, since it pushes the home to the back of the property, most notably impacting Baker's back yard (property to the South) by towering over it and not allowing a back yard experience for our clients. As you know, we're not comfortable with that and have decided to pursue the variance instead. As you review the materials, feel free to call me with questions. While we hope the plans provide the basic intent of the project in terms of its architectural style and scale, at this stage they aren't fully finalized, which we would do provided we received the variance. Regardless, our hope is that our client's home would be a beautiful addition to the neighborhood.

> Please note that I've reached out to several other neighbors (including Bakers) and will be sending them the package for their review. One thing that would help us in the process, provided you don't have any objections to the variance request, is to send me an e-mail indicating you have "no objection to the variance".

> Thanks again for taking the time to talk with me today.

> With appreciation,

> Nate Wissink | Project Director | Streeter & Associates, Inc. and Elevation Homes | Direct 952.346.2488 | Fax 952.449.4987 |

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**RE: Sunberg Variance Information - 5801 Crescent Terrace**  
 Wolfenson, Ellyn J [EJWolfenson@CBBURNET.COM]

**Sent:** Wednesday, December 05, 2012 11:03 PM  
**To:** Nate Wissink

Hi Nate ..... Mick and I have reviewed the documentation you sent related to the variance you are requesting for 5801 Crescent Terrace and we are in support of that request and have no objection to the variance. Unfortunately we are unable to attend the meeting on Wednesday evening.

Kindest regards,  
 Ellyn and Mick

Ellyn Wolfenson

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