

**AGENDA  
PLANNING COMMISSION MEETING  
CITY OF SHOREVIEW**

**DATE: MARCH 26, 2019  
TIME: 7:00 PM  
PLACE: SHOREVIEW CITY HALL  
LOCATION: 4600 NORTH VICTORIA**

**1. CALL TO ORDER  
ROLL CALL  
APPROVAL OF AGENDA**

**2. APPROVAL OF MINUTES**  
*February 26, 2019*

**3. REPORT ON CITY COUNCIL ACTIONS**  
*Meeting Dates: March 4 & 18, 2019  
Brief Description of Meeting Process- Chair, Kent Peterson*

**4. NEW BUSINESS**

**A. STANDARD VARIANCE**  
*FILE NO: 2714-19-01  
APPLICANT: Tim & Dawn Thompson  
LOCATION: 874 Colleen Ave*

**5. MISCELLANEOUS**

- A.** City Council Meeting Assignments
- *April 1, 2019 - Commissioner Solomonson*
  - *April 15, 2019- Commissioner Peterson*
- B.** Comprehensive Plan – Update on Metropolitan Council Review
- C.** Workshops

**6. ADJOURNMENT**

*\* These agenda items require City Council review or action. The Planning Commission will hold a hearing, obtain public comment, discuss the application and forward the application to City Council. The City Council will consider these items at their regular meetings which are held on the 1<sup>st</sup> or 3<sup>rd</sup> Monday of each month. For confirmation when an item is scheduled at City Council, please check the City's website at [www.shoreviewmn.gov](http://www.shoreviewmn.gov) or contact the Planning Department at 651-490-4682 or 651-490-4680*

**SHOREVIEW PLANNING COMMISSION  
MEETING MINUTES  
February 26, 2019**

**CALL TO ORDER**

Chair Peterson called the February 26, 2019 Shoreview Planning Commission meeting to order at 7:02 p.m.

**ROLL CALL**

The following Commissioners were present: Chair Peterson; Commissioners Anderson, Doan, Riechers, Solomonson, Yarusso and Wolfe.

**APPROVAL OF AGENDA**

**MOTION:** by Commissioner Doan, seconded by Commissioner Solomonson to approve the February 26, 2019 Planning Commission meeting agenda as presented.

**VOTE:**     **AYES: Anderson, Doan, Riechers, Solomonson, Wolfe, Yarusso, Peterson**  
              **NAYS: None**

**APPROVAL OF MINUTES**

Page 5: Third paragraph from the bottom, the word “absent” was changed to “present.”

**MOTION:** by Commissioner Solomonson, seconded by Commissioner Anderson to approve the January 29, 2019 meeting minutes as amended.

**VOTE:**     **AYES: Anderson, Solomonson, Wolfe, Yarusso**  
              **NAYS: None**  
              **ABSTAIN: Riechers, Doan, Peterson**

**REPORT ON CITY COUNCIL ACTIONS**

City Planner Castle reported that the City Council approved the Comprehensive Sign Plan for New Life Evangelical Lutheran Church.

**NEW BUSINESS**

**STANDARD VARIANCE**

**FILE NO.:** 2712-18-32  
**APPLICANT:** TIFFANY & JAMES RATHMANNER  
**LOCATION:** 5423 CARLSON ROAD

**Presentation by Associate Planner Aaron Sedey**

The property is located on the east side of Turtle Lake developed with an existing single family home and detached garage. It is zoned R1, Detached Residential with Shoreland Overlay. The variance request is to alter the deck that was located in the Ordinary High Water Level (OHWL) setback. The deck is a nonconforming structure at 57.53 feet from the OHWL with no evidence of a permit. Any changes require a variance to make it a legal nonconforming structure.

The original deck has been removed, as it was unsafe. The proposed deck is in almost the same location. Legal nonconforming structures are allowed to be repaired and maintained in the same footprint. The minimum OHWL setback is calculated from the setbacks of the two adjoining parcels' principal structures. The average of the two adjoining lots plus or minus 10 feet is used in the calculation for the OHW setback range; or the setback is a minimum of 50 feet.

The applicant states the purpose of the new deck is to replace the old one. Shoreland mitigation is required. The applicants have chosen architectural mass and vegetative restoration area near the lake as the two mitigation practices to be used. Notices were sent to property owners within 150 feet. No comments were received.

Staff finds that practical difficulty is present. The proposed use is reasonable, as it is a modification and addition of the deck that will be no closer to the OHWL. Unique circumstances are present due to the property to the north with a setback of 109.63. Also, the deck was in place when the current homeowner bought the house. The character of the neighborhood will not be changed. The proposed deck will be in the similar footprint with an addition to the north that is still 60.93 feet from the property line to the north and increases the setback from the OHWL to 57.87 feet. The proposal complies with the standards of the Development Code, and staff recommends approval.

Commissioner Solomonson asked for clarification on legal nonconforming and illegal nonconforming. City Attorney Kelly explained that a legal nonconforming structure was legal at the time it was built but changes in the Code and ordinance have brought it into non-compliance, and therefore, illegal. Property owners are allowed to rebuild, repair or replace a nonconforming structure as long as the use is not expanded. As there is no record of when this deck was built, it could not be confirmed that it is a legal nonconforming use.

Commissioner Solomonson noted that if there was no home to the north, a variance would not be needed. He clarified that the deck cannot be covered.

**Mr. Jimmy Rathmanner**, 5423 Carlson Road, Applicant, thanked the Commission for considering the application. Both neighbors have been consulted. He stated he would answer any questions.

Chair Peterson opened the discussion to public comment. There were no comments or questions.

**MOTION:** by Commissioner Doan, seconded by Commissioner Wolfe to approve a variance request for OHW setback for the proposed deck rebuild at 5423 Carlson Road, subject to the following conditions:

**Variance**

1. The deck must be built to as shown in the survey within the footprint and description depicted on the submitted survey and be no closer than 57.87 feet from the OHWL.
2. The project must be completed in accordance with the submitted as part of the Variance application. Any significant changes to these plans, as determined by the City Planner, will require review and approval by the Planning Commission.
3. The existing vegetation on the north and lakeside of the property shall remain and not be removed or disturbed as a result of this project.
4. This approval will expire after one year if a building permit has not been issued and work has not begun on the project.
5. Shoreland Mitigation Affidavit is required to be signed before the building permit is issued.
6. This approval is subject to a 5-day appeal period. Once the appeal period expires, a building permit may be issued for the proposed project. A building permit must be obtained before any construction activity begins.

This approval is based on the following findings of fact:

1. The property will still be used in a reasonable manner, as the deck is in a similar location and not encroach further into the OHL setback.
2. The unique circumstances are tied to the northern neighbor being set back further from the OHL than most homes in the area, and the deck was in place prior to the homeowners owning the home.
3. The proposed deck will not alter the character of the neighborhood as the addition is still far away from the neighboring property.

**VOTE:**

**AYES: Peterson, Solomonson, Doan, Wolfe, Yarusso, Riechers, Anderson**

**NAYS: None**

**PUBLIC HEARING - REZONING**

**FILE NO.: 2692-18-12**  
**APPLICANT: BUELL CONSULTING/VERIZON WIRELESS**  
**LOCATION: 5900 MACKUBIN STREET**

**Presentation by City Planner Kathleen Castle**

The application is to rezone Bucher Park from TOD-1 District to a TOD-2 District to permit a wireless telecommunications tower with a height of 75 feet. TOD-1 zoning only allows a maximum height of 60 feet. The TOD-1 and TOD-2 Districts were established as overlay districts to existing zoning districts to indicate where the City would allow telecommunications facilities while protecting the health, safety and welfare of the public. The three overlay districts created are:

- TOD-1: City parks and public property where a maximum height for a tower is 60 feet
- TOD-2: Water towers, tall tower sites and Sitzer Park, allows maximum height of 75 feet
- TOD-3: Business Park and industrial areas

If rezoning is granted by the City Council, Verizon would then have to apply for a permit. A ground lease would be executed for the space used at Bucher Park. The underlying zoning of R1 Detached Residential will not be changed.

The Federal Communications Commission (FCC) has determined what authority municipalities have on telecommunications facilities. Local authority includes:

- Zoning authority
- Cannot discriminate or regulate telecommunications facilities in a manner that prohibits personal wireless services
- Decisions must be made within a certain time frame
- A denial must be supported by findings
- Decisions cannot be based on environmental effects of RF emissions

The City's criteria for rezoning are as follows:

- Consistent with Comprehensive Plan policies and purpose and intent of Development Regulations
- Development facilitated by rezoning will not result significantly in an adverse impact on the planned land use of the surrounding property
- Applicant is required to enter into a Development Agreement with the City as a condition of rezoning

The applicant states the following reasons for the request:

1. The location is a viable site for the Verizon network.
2. The closest cell towers are operating at capacity. Therefore, there are deficiencies in the network.
3. Use of wireless devices are increasing and added capacity is needed to meet demand.

4. Obstacles, i.e., vegetation, to the RF signal are present with a 60-foot height maximum; therefore, a taller height is needed.

The tower would be a monopole facility with the cell facilities located inside the pole. The pole would also be used to light the hockey rink in Bucher Park. The closest tower is a mile away in North Oaks. The proposed tower would expand coverage and free space on the North Oaks tower to increase capacity there.

The Comprehensive Plan designates the property for park use which will not change. Technology goals in the Comprehensive Plan support improvement of quality of life, citizen participation and efficient and effective government.

The property is currently zoned for tower use, which means that a determination has been established that a 60-foot tower would be compatible with the surrounding land uses and will not have an adverse impact. The decision to be made with this application is the compatibility and impact of a taller, 75-foot tower. Any tower built must comply with the City's development design standards and receive the required permits.

Surrounding land uses are low density residential to the west, south and east. Kerry Lake is south and east of the park. The City of Lino Lakes to the north has residential uses. Consideration of impact pertains to the 15-foot increase in tower height.

Bucher Park consists of 23 acres that provides nice open space and separation from adjacent residential areas. Kerry Lake and mature vegetation provide a buffer around the perimeter of the park. TOD regulations allow one tower per property, unless otherwise approved by the City Council. The proposed tower would replace one of the light poles for the hockey rink. It would be 156 feet from the nearest residential property and 250 feet from the nearest residence. Staff believes the characteristics of Bucher Park will mitigate impacts.

The City's consultant, SEH, reviewed the application and agreed with the applicant that the additional height is needed to improve the capacity of the Verizon system. Should the monopole be installed, SEH will conduct RF emissions tests to assure they meet FCC standards. The FCC does not allow the City to adopt stricter RF emissions standards than those of the FCC. State law does not require an Environmental Assessment Worksheet (EAW) for a tower of this height.

The City's Parks and Recreation Department reviewed the application and expressed no concerns. Staff also has no concerns regarding the tower height and will be involved in the permit review regarding design, location and ground lease.

Required notices have been sent to property owners within 350 feet for the public hearing, and notice was published in the City's legal newspaper. Many people requested additional time for public review. A number of responses have been received in opposition expressing concerns about visual impact, health impact, impact on property values, the need for a tower at this location, impact on wildlife, impact on the park use and facilities. The City of Lino Lakes has expressed no concerns. Staff finds that the rezoning is consistent with the Comprehensive Plan and Development Code. Visual impact will be mitigated by the park characteristics and City design standards. Agreements with the City will be executed as required.

Commissioner Doan asked the location of the two 75-foot towers currently at Sitzer Park. Ms. Castle pointed out their location as lights for the hockey rink. Commissioner Doan asked the nearest distance to a residential property. Ms. Castle answered, 195 feet.

Commissioner Yarusso asked when the two existing 75-foot poles were put in. Ms. Castle responded that one was in 2007 or 2008, and the second one a few years later.

Commissioner Anderson asked about the requirement of one pole per location and whether the two poles were part of one application. Ms. Castle explained that two applications were received. The existing poles are designed for co-location. Commissioner Anderson noted that in Chapter 207 of the Code, 20% over the maximum height is permitted if there is substantial interference with emissions, which would be 90 feet. Ms. Castle stated that this provision was discussed as an option. However, the rezoning criteria is less subjective than defining a significant obstacle. It was recommended that the applicants move forward with the rezoning process.

Commissioner Riechers noted that the FCC would not allow the Commission to deny this application on the basis of RF emissions, and the consultant has indicated that a taller tower would lessen impact from RF emissions. Ms. Castle stated that the further the distance from RF signals, the less impact. The signals move horizontally from the tower, not downward. Therefore, taller towers have diminished RF signal impacts. Commissioner Riechers asked if Verizon would hold a neighborhood meeting for residents to ask their questions and also address property value. Ms. Castle stated that the City can encourage Verizon to hold a neighborhood meeting, but that would not be a reason to table the application.

Commissioner Riechers asked the property values in the area. Ms. Castle answered that for 2018, the valuation from the Ramsey County Assessor's Office of nearby homes is \$291,710. The median value of a home in Shoreview is \$289,800.

Commissioner Wolfe asked if the City has considered purchasing open space near the park for TOD-1 or TOD-2 zoning. Ms. Castle answered, no.

Commissioner Solomonson asked if there has been consideration for another location other than the hockey rink in the park and whether there has been discussion about the longevity of the towers when technology improves with small cells and 5G. Ms. Castle stated that the proposed tower is part of a 4G system. Only the current location was considered.

Commissioner Yarusso stated that the incremental distance of an additional 15 feet is not going to increase the problem, as the City already allows a 60-foot pole. It will, in fact, somewhat lessen RF emission concerns.

Chair Peterson noted that the Planning Commission will also review the permit, which addresses aesthetics. Ms. Castle added that the Code design standards are meant to address visual impact.

**Mr. Rob Viera**, 5096 Merrimac Lane N., Plymouth, Representative of Verizon, explained that with a 75-foot pole, there will be space for a second provider below Verizon antennas, which would not be possible with a 60-foot pole. The electrical casing is 6' x 6' and will be well screened.

Commissioner Solomonson asked if the monopole would be compatible with 5G technology, and if there would be power backup. **Mr. Viera** answered that 5G technology would simply mean more antennas. There will be backup power batteries.

Commissioner Anderson noted that at Sitzer Park there are two towers because one provider did not want the lower position on the existing pole. He asked the probability of another provider locating on this pole. **Mr. Viera** explained that while not ideal, placement lower on the pole would still provide limited coverage and he expects someone will use the space.

Commissioner Doan asked the comparison of emission power from the proposed tower to the one at Sitzer and whether another location in the park would work. **Mr. Viera** answered that the power emission is 100 watts, which is comparable to Sitzer. Another location could work. It seemed most practical to be where there already is a 50-foot light pole. One location was rejected because of an active osprey nest.

City Attorney Kelly stated that proper notice has been given for the public hearing.

Chair Peterson opened the public hearing at 8:12 p.m.

**Mr. Christopher Nguyen**, 394 County Road J West, stated that 350 feet for the public notice from the park is not far. Many homes and families are missed who use this park and do not want this pole in their park. While the City does not have the authority to deny building a tower, it can determine location which does not have to be parks. Parks should not allow this kind of construction where children are playing under these poles. While not against development, he questioned the minimal requirement of 10 days notice at 350 feet. He would ask the Commission to reject the proposal and find another location that does not intrude on parks and where children may be at risk for health issues.

**Mr. John Olstad**, 498 Elaine, stated that he is partially speaking for his neighbor at 496 Elaine who recently returned from being deployed. He was looking forward to the park view from his deck that will now include the tower. He noted that other cities put up notice signs at the entrances to the park for all concerned to be aware of the proposal. All local daycare centers bring children to play in the park. He estimated 200 people a night play in the park. There is 600 to 800 acres of Poplar Lake Open Space nearby that could be used. Bucher Park should not have to solve Verizon's coverage problem. There is also commercial property at Highway 49 and County Road J. One businessman stated he would love the extra income and would allow a monopole on his property. There are other locations. It is his understanding that there will be a humming noise from this facility. Although the health concerns are not under consideration, the data provided is 23 years old. Technology has changed. In 2001, the City adopted a height limitation of 60 feet to minimize visual impacts to nearby neighborhoods. Cell providers have indicated this height limitation causes difficulties. He would like to know why the visual impact does not matter anymore. Many cities have a minimum 300-foot setback from residential properties and won't allow poles on residential property. The radiation from the monopole causes thinner shells for osprey eggs. Often birds will abandon their nests. He asked



how many poles will be allowed in the park. This tower will lower property values. Berkshire Hathaway has shown indications that property values will be lowered by as much as 10%. People come from all over to use the sledding hill. When he has used it with grandchildren, they have almost hit a light pole that is there. It will be another problem if there is a bigger pole put in. If this application is approved, he is hopeful that it will be moved to another location. 5G technology will have another realm of radiation issues that were not known when in 1996, when regulations were passed. He read a letter that Verizon is required to submit to the Securities Exchange Commission (SEC) each year regarding negative impacts on their stock. Verizon's letter indicates the number of lawsuits and liabilities due to health issues from RF emissions. A similar letter was submitted by AT&T, and Lloyd's of London will not insure for these issues. He emphasized that he does not want to see this pole located so close to residents and in the park where children play.

**Mr. Randy Hegner**, 505 Elaine Avenue, stated that he does not want to help a billion dollar company like Verizon. It is not a small area, and it is an eyesore regardless of screening. He does not want to see children playing near the area and does not want it in the park.

**Ms. Sheila Conlan**, 534 Elaine, stated that they live closer than a block but did not receive a notice. She walks the park every day. Putting in a tower will make the aesthetics awful from her home. She does not want to see a tower. If there is a tower, she would like to see it kept to the minimum height and not 75 or 90 feet.

**Ms. Kasandra Nguyen's daughter**, 394 County Road J West, stated that she and her friends play at the park every day during the summer and do not want to see it change. She does not want to look at a tower when she is playing with her friends.

**Mr. Steve Porath, 5917 David Court**, stated that he walks in the park at least once a day and often twice. It is a beautiful park that was beautifully renovated a few years ago. It is not appropriate to put an unattractive commercial structure in the middle of it. Parks are for recreation, not commercial structures. The hill is 40 feet high and is used all year round. Using the hill will put children closer to the emissions from that tower. The aesthetics of the whole park will change.

**MOTION:** by Commissioner by Doan, seconded by Commissioner Solomonson to close the public hearing at 8:40 p.m.

**VOTE: AYES - Peterson, Solomonson, Doan, Wolfe, Yarusso, Riechers, Anderson**  
**NAYS: None**

City Attorney Joe Kelly clarified that what is being considered is changing the current TOD-1 District zone that allows a 60-foot pole to a TOD-2 District to allow a 75-foot pole. What is not under consideration is the location and amount of radiation.

Commissioner Doan asked when the permit process occurs and if consideration will then be given to location and aesthetics. Ms. Castle stated that one condition of rezoning is that the applicant must enter into an agreement with the City. Rezoning would not become effective until the agreement is executed and the permit granted. The permit process addresses design and aesthetics. Further, there are location

and setback regulations in the Code. The setback required is one foot for every foot of height, which would be 75 feet.

**Responses to Resident Concerns:**

**Notice:** Ms. Castle explained that the Code requires a notice of 350 feet for property owners adjacent to the park. The City's policy has been to not vary from this requirement. For staff, it is important to be consistent and not choose an arbitrary boundary that would differ from one neighborhood to another.

**Gaps in Coverage and Location Alternatives:** Ms. Castle stated that the property is zoned for telecommunications wireless facilities. The ordinance indicates a preference for these facilities to be on City-owned property. Although there is nearby County open space, it is the County's policy to not permit these types of structures. The County is not a zoning jurisdiction. Local communities regulate zoning. In Lino Lakes, these structures are only permitted in industrial areas.

**Mr. Viera** responded that the location is the result of engineering analyses to provide better coverage to the south. The proposed location works well and zoning allows towers which is why this location is being pursued. He noted that there will be no noise from the structure.

Commissioner Doan asked about flexibility for another location. **Mr. Viera** stated that the 6'x6' equipment building does not need to be adjacent to the pole. It could be within 100 feet to avoid the sledding hill. Commissioner Doan asked about 5G technology. **Mr. Viera** stated that 5G is similar to 4G. He cannot speak specifically to it, but it is not the same frequency block as is being used now. The radio frequency emissions are well below FCC requirements. Commissioner Doan asked if there might be a need to exceed 75 feet to a 90-foot height in the future. **Mr. Viera** answered that 75 feet is the maximum. The tower will not be built to 90 feet.

Commissioner Solomonson stated that future technology will use much higher frequencies. His question is whether the tower will become obsolete. **Mr. Viera** answered that when small cells come into play, they are meant to augment the cell system not replace them. The pole will not go away.

Commissioner Riechers asked for further information about current Verizon litigation and liabilities. **Mr. Viera** responded that he has no information other than the company will often settle out of court rather than going through a long drawn out court case.

Commissioner Solomonson asked if the City can deny an application if all locations are filled. City Attorney Kelly responded that the City is not allowed to discriminate against users or providers. The City would not be allowed to deny building towers. Co-location is allowed. The only control the City has is in zoning, and the City has identified certain areas where towers are allowed.

Ms. Castle stated that the Code does limit one tower per location. It is the decision of the City Council to determine if another tower would be located at this site. She noted current elevations. The sledding hill is 18 feet in height. Kerry Lake is at an elevation of 890. The top elevation of the hill is at 908. The ice rink is at 896.

Commissioner Anderson asked if this site would be viable at a height of 60 feet. **Mr. Viera** responded that the pole could be built at that height, but the preference is 75 feet.

### **Commission Discussion**

Commissioner Solomonson stated that when current zoning was adopted for telecommunications poles, he had concerns about health, but the Telecommunications Act does not allow RF emissions to be considered. The question became what locations would the City allow for placement. One of the reasons parks were identified is that if placed in an industrial, area, the City would lose control. The City keeps control with poles placed on City-owned land. He is also concerned about new technologies, but the current application is a permitted use in this park. The question is allowing 75 feet as opposed to 60 feet. Because of the Telecommunications Act, the zoning and the permitted use, he will approve this request.

Commissioner Anderson stated that it is clear the park was zoned for a tower. While he understands the concerns because there is a tower close to his home, this application is a matter of an additional 15 feet, and he will support it.

Commissioner Doan stated that the issue is the zoning of TOD-1 and TOD-2. Tabling would give the neighborhood more time, but he is not sure there would be new information. The decision is between aesthetics of 60 feet or 75 feet and health risks due to proximity. He supports the higher tower that moves it further from children.

Commissioner Yarusso noted that telecommunications has been a rapidly evolving industry. At the time the City adopted its zoning regulations, no one could have anticipated the heavy demands that would be made for coverage. People now use cell phones for everything but a phone. The purpose of the request is to improve the intensity of the coverage. There is a long-term advantage for a higher tower because if it can provide a wider area of coverage and fewer towers will be required. She expressed her appreciation for the level of involvement of citizens coming forward to give their opinions.

Commissioner Wolfe stated that he is having a hard time with 75 feet which would be more of an eyesore. At 60 feet, trees would have to be cut. He would like to find a middle ground that would be more pleasing to everyone, but he is not sure tabling the matter would bring that opportunity. He will only support TOD-1 zoning.

Commissioner Riechers stated that it is difficult to listen to residents and not weigh in those issues for the decision. Policies and procedures are complicated. She is concerned about health issues, property values and notices, but the decision is 60 feet or 75 feet. Tabling might provide more information on adverse impact to home values, but she is not sure there would be a good analysis. An extended height would be more protective from health issues and her decision would support that.

**MOTION:** by Commissioner Solomonson, seconded by Commissioner Anderson to recommend the City Council approve the Rezoning request submitted by Buell Consulting/Verizon Wireless for Bucher Park, 5900 Mackubin Street, subject to the following conditions:

1. This approval rezones the property from TOD-1, Telecommunications Overlay District – One, to TOD-2, Telecommunications Overlay District – Two. The underlying zoning designation will remain unchanged as the R-1, Detached Residential District.
2. Rezoning is not effective until a Wireless Telecommunications Facility (WTF) agreement is executed.

The recommendation is based on the following findings:

1. The rezoning is consistent with the Comprehensive Plan, and the requirements of the Development Code. The park use of the property will remain and the underlying zoning will remain as R-1, Detached Residential.
2. The increased height permitted in the TOD-2 District will not have a significant adverse impact on the surrounding planned residential land uses. Impacts will be mitigated by the park's size, characteristics, natural features and City design standards.
3. The increased height permitted in the TOD-2 District will not impact the park use.

**VOTE:**

**AYES: Peterson, Solomonson, Doan, Yarusso, Riechers, Anderson**

**NAYS: Wolfe**

**ABSENT: None**

**MISCELLANEOUS**

**City Council Meetings**

Commissioner Yarusso will attend the March 18, 2019 City Council meeting. There are no items for the March 4, 2019 meeting.

**Comprehensive Plan - Update on Metropolitan Council Review**

The Metropolitan Council has submitted a number of comments to be addressed in the Comprehensive Plan before it is considered complete. Many of the comments relate to population forecasts. The modeling used needs to be revised based on the most recent multi-family projects that have been approved.

Comments also related to multiple land uses for Policy Development Areas (PDAs). The PDAs have been used consistently with guidance for multiple land uses. The Metropolitan Council is requiring specific land use designations with maps showing those land designations. The Metropolitan Council assigns density calculations to the PDAs and multiple land uses throw off those calculations. Staff will use the least intense land use categories and recalculate the forecasts.

Commissioner Doan cautioned that there may be conflict with residents using the PDA designation and map to insist the City not consider denser development, even though the PDA would reference multiple land uses. Ms. Castle stated that the language needs to be carefully explained with reference to multiple designations.

Commissioner Doan suggested a discussion with the City's new Metropolitan Council Representative Peter Lindstrom. The last two comp plans have been deemed sufficient and appropriate. He would like to know why this approach is being pushed on the City. It is counter to a Comprehensive Plan perspective.

Chair Peterson asked the timing for this process. Ms. Castle stated that if the revisions are complete, it can be brought to the March meeting, but she does not want to hold it up for a meeting if it is ready to submit. The policy direction of the plan is not changing and will not be further reviewed by the City Council.

### **Workshops**

Commissioners provided topics for upcoming workshops:

- Notice requirements
- Parking
- Digital signage
- Building heights
- Affordable housing
- Trends in telecommunications
- Visiting sites of past decisions to see how those decisions worked

### **ADJOURNMENT**

**MOTION:** by Commissioner Doan, seconded by Commissioner Yarusso to adjourn the meeting at 9:36 p.m.

**VOTE:**      **AYES:** Peterson, Solomonson, Doan, Wolfe, Yarusso, Riechers, Anderson  
**NAYS:** None

ATTEST:

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Kathleen Castle  
City Planner

**TO:** Planning Commission  
**FROM:** Aaron Sedey, Associate Planner

**DATE:** March 20, 2019

**SUBJECT:** File No. 2714-19-01; Variance – Tim and Dawn Thompson, 874 Colleen Ave.

### **INTRODUCTION**

The City received a variance application from Tim and Dawn Thompson, 874 Colleen Ave, to reduce the 30-foot minimum rear yard setback permitted to 16-feet for a proposed enclosed three season porch addition to the current home. The proposed addition would go where a previous deck was, but extending 4 feet more out from the house. This deck was removed in the fall of 2018.

The application was complete March 5, 2019.

### **BACKGROUND AND PROJECT DESCRIPTION**

The property is located on Colleen Ave at the south end of the cul-de-sac. The property is irregular in shape from being on the cul-de-sac and has an area of approximately 13,429 square feet. Improvements on the property include a split level single-family residential dwelling with an attached garage, and driveway. The existing home is setback 30 feet from the rear lot line at its closest point.

The previous deck was 16 feet wide and 12 feet deep and was not an enclosed structure. The proposed project would be 16 feet by 16 feet and be enclosed as it would have a roof, door and would be screened in. The structure is proposed to be setback 16 feet from the rear property line.

### **DEVELOPMENT ORDINANCE REQUIREMENTS**

The property is located in the R-1, Detached Residential District. According to Section 205.082(D)(2) - the minimum structure setback from the rear property line shall be thirty (30) feet. This applies to enclosed porches.

In Section 205.080(D)(1)(h)(ii) encroachments in rear yards are: decks, open terraces, balconies, unenclosed porches provided they are no closer than five feet to any property line.

### **VARIANCE CRITERIA (SECTION 203.070)**

When considering a variance request, the Commission must determine whether the ordinance causes the property owner practical difficulty and find that granting the variances is in harmony with the Comprehensive Plan, and in keeping with the spirit and intent of the ordinance. Practical difficulty is defined as:

- 1. Reasonable Manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.*
- 2. Unique Circumstances. The plight of the property owner is due to circumstances unique to the property not created by the property owner.*

3. *Character of Neighborhood. The variance, if granted, will not alter the essential character of the neighborhood.*

For a variance to be granted, all three of these criteria must to be met.

### **APPLICANT'S STATEMENT OF JUSTIFICATION**

The applicant states that they are requesting a variance to construct a three season screened in porch attached to the rear of the home. The structure proposed encroaches into the minimum 30 foot rear yard setback.

The applicant states they carefully designed screened in porch in a similar location as the previous deck. They have enjoyed their home and previous deck for 32 years, which they have put a temporary screened in canopy and are looking to have something more permanent in place.

The location of the proposed porch is set a lower elevation then the neighbors that abut the rear yard. Also one of those neighbors has a large shed that would help buffer the view from that neighbor. Buffering also includes trees and growing lilac bushes. The neighbors that would be potentially affected by the proposed project do not have issues with the project.

See the attached statement and plans.

### **STAFF REVIEW**

Staff has reviewed the application in terms of the Comprehensive Plan and Development Code, as discussed below. The proposed improvement is consistent with the City's land use and housing policies related to housing maintenance and re-investment in single-family residential neighborhoods. However, in Staff's opinion, practical difficulty isn't present.

*Reasonable Manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.*

The applicant is currently using the property in a reasonable manner with the home and previous deck that wasn't enclosed with a permanent structure. The proposed addition of the larger enclosed structure could be viewed as encroachment into neighboring properties sightlines and privacy. Although, adding another livable space is a permitted single-family residential use this proposed addition could be viewed as unwarranted use of the property by bypassing the Development Code.

*Unique Circumstances. The plight of the property owner is due to circumstances unique to the property not created by the property owner.*

As the applicant believes the unique circumstances are related to the principal structures' layout on the lot, these conditions do not create a unique circumstance for the proposed addition as it is preference of the applicant's. The property has sufficient buildable area on the western side when the required structure setbacks are applied, which may not be ideal for the addition. An addition can be constructed within the required building setbacks. While the lot does have some constraints due to the lot depth, placement and design of the home, Staff believes that may eliminate or lessen the variance needed for an addition. Options include reducing the proposed size, shifting the addition to

the side yard or relocating it further to the west. Staff understands that these options may not be desirable for the applicant.

*Character of Neighborhood. The variance, if granted, will not alter the essential character of the neighborhood.*

If approved at its current request, the principal structure will extend into the rear yard and have an impact on adjoining properties. The intent of the setback requirements is to maintain open space and yard area between structures. In general, the majority of homes on Colleen Ave, including adjoining properties, maintain or exceed the minimum 30-foot rear yard setback required. The encroachment of the applicant's home into the rear yard setback is out of character for the area.

### **PUBLIC COMMENT**

Property owners within 150 feet were notified of the applications and this hearing. No comments received.

### **STAFF RECOMMENDATION**

The application was reviewed by Staff in accordance with the standards of the Development Regulations and appreciates the redevelopment effort of the applicant. In staff's opinion, practical difficulty is not present as the applicant has reasonable use of the property. Other options are available that could eliminate the need for the variance or lessen the deviation proposed. A motion to deny has been prepared to assist the Commission.

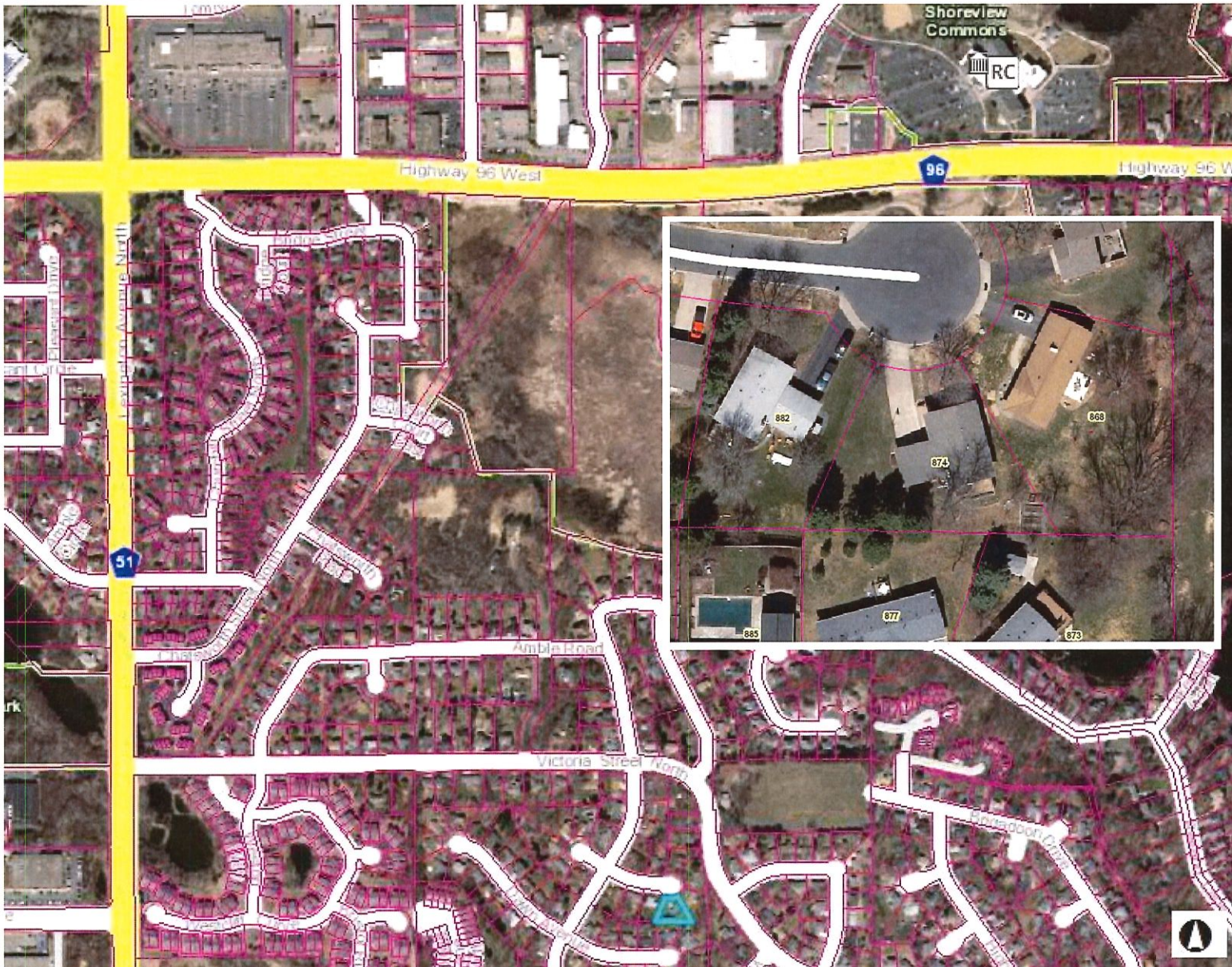
In the event that the Planning Commission can make affirmative findings facts for practical difficulties, the Commission should complete and adopt Resolution 19-33 approving the variance. The following conditions are recommended if the variance is approved:

1. The project must be completed in accordance with the plans submitted as part of the Variance application.
2. This approval will expire after one year if a building permit has not been issued and construction commenced.
3. Erosion control will be installed in accordance with City Code requirements prior to any site disturbance. Vegetation shall be restored in accordance with City Code standards.
4. This approval is subject to a 5-day appeal period.
5. Vegetation between properties should be added to include large shrubbery or trees to be maintained for the life of the property. A landscape plan shall be submitted for review by the City Planner prior to issuing the building permit.

#### Attachments

- 1) Resolution No. 19-33
- 2) Location Map
- 3) Submitted Plans
- 4) Proposed Motion to Deny
- 5) Proposed Motion to Approve





**Legend**



- City Halls
- Schools
- Hospitals
- Fire Stations
- Police Stations
- Recreational Centers
- Parcel Points
- Parcel Boundaries

**Notes**

Enter Map Description

1,333.3                      0                      666.67                      1,333.3 Feet

NAD\_1983\_HARN\_Adj\_MN\_Ramsey\_Feet  
 © Ramsey County Enterprise GIS Division

This map is a user generated static output from an Internet mapping site and is for reference only. Data layers that appear on this map may or may not be accurate, current, or otherwise reliable.

**THIS MAP IS NOT TO BE USED FOR NAVIGATION**

## Variance Request and Justification

### Variance Request:

Currently in the city of Shoreview, there is a 30 ft. setback distance required when building structures. We are requesting a variance be allowed for us to build a screened-in porch where our deck was previously located on our property at 874 Colleen Ave. Since the new porch will be 20 ft. from the east property line and 16 ft. from the south property line, this presents a practical difficulty in complying with this regulation.

### Variance Justification:

We have been working with Patrick Miller Construction, Inc. to put together plans for a carefully designed and built screened-in porch on the same location of our previous deck. We've lived at our home for 32 years with a deck on that same location. Our purpose for updating our deck to a screened-in porch was to better enjoy the outdoors during the warmer seasons without all the challenges with bugs.

The location of the new porch will not change the character of our neighborhood. In fact, if granted, we feel it will actually enhance the value and overall appeal. The placement of the porch is in a location that is set lower than our adjoining neighbors to our south. One neighbor has a large storage barn, which creates a visual barrier to our proposed deck. Between us and the other neighbor to the south, there are several large trees and several currently growing lilac bushes.

We have taken time to discuss the plans and show all three adjoining neighbors how it will look once finished. Unanimously, all three have agreed with our plans. (See attached, signed Adjoining Property Owner's Approval)

### Adjoining Property Owner's Approval

We, the adjoining property owners of Tim & Dawn Thompson, have reviewed, discussed and approve of their proposed plans for building a porch on the site of their previous deck. We agree the new porch will not change the character of the neighborhood and grant our approval of the attached variance application.

Robert B. Whereatt    2-19-19    Robert B. Whereatt  
Signature                                  Date                                  Print Name

Barbara Hinrichs    2-19-19    Barb Hinrichs  
Signature                                  Date                                  Print Name

Darren Regan    2-20-19    Darren Regan  
Signature                                  Date                                  Print Name

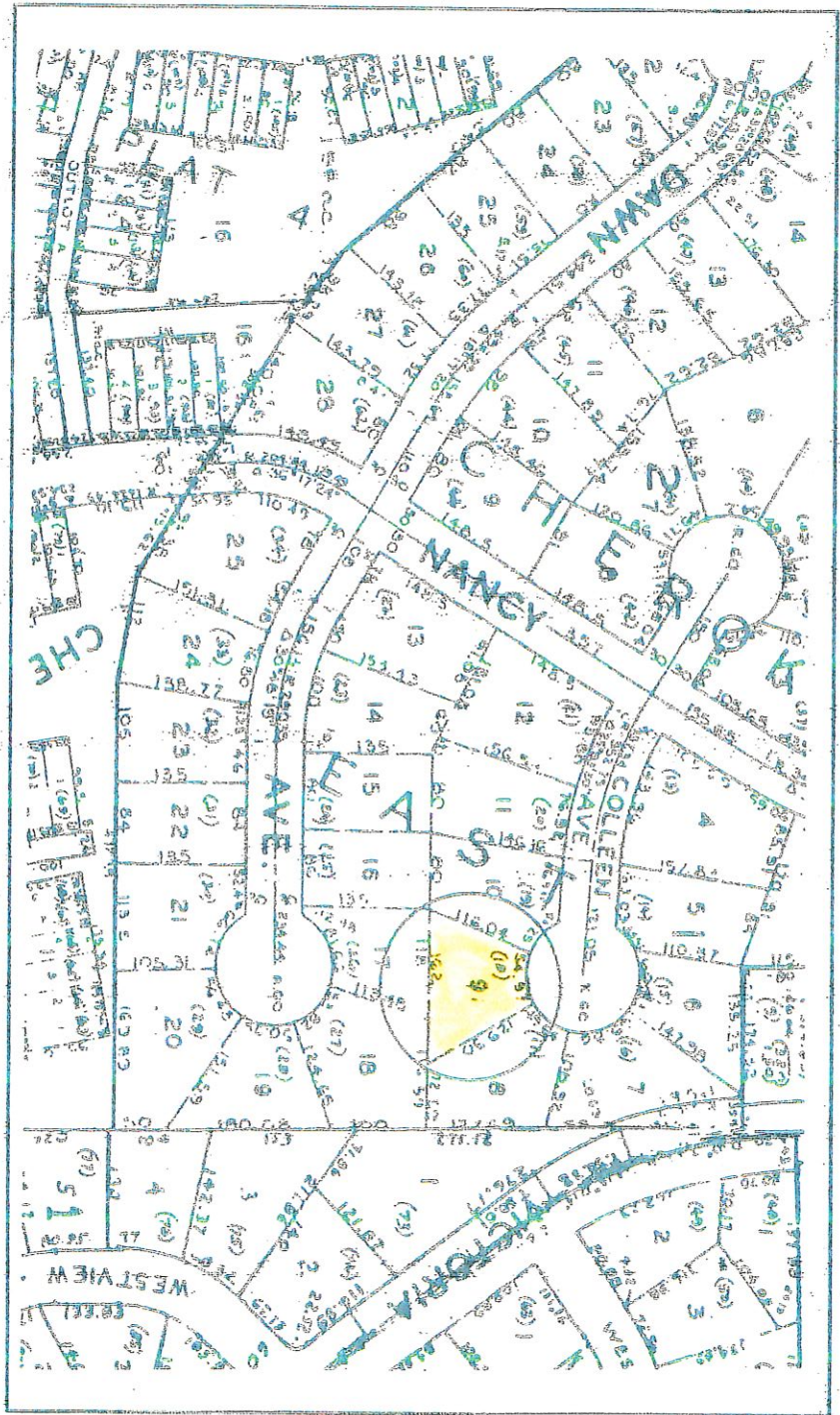
## Adjoining Property Owner's Addresses

Robert B. Whereatt  
868 Colleen Ave  
Shoreview, MN 55126

Barbara Hinrichs  
873 Dawn Ave  
Shoreview, MN 55126

Darren Regan  
877 Dawn Ave  
Shoreview, MN 55126

Tim + Dawn Thompson  
874 Colleen Ave.

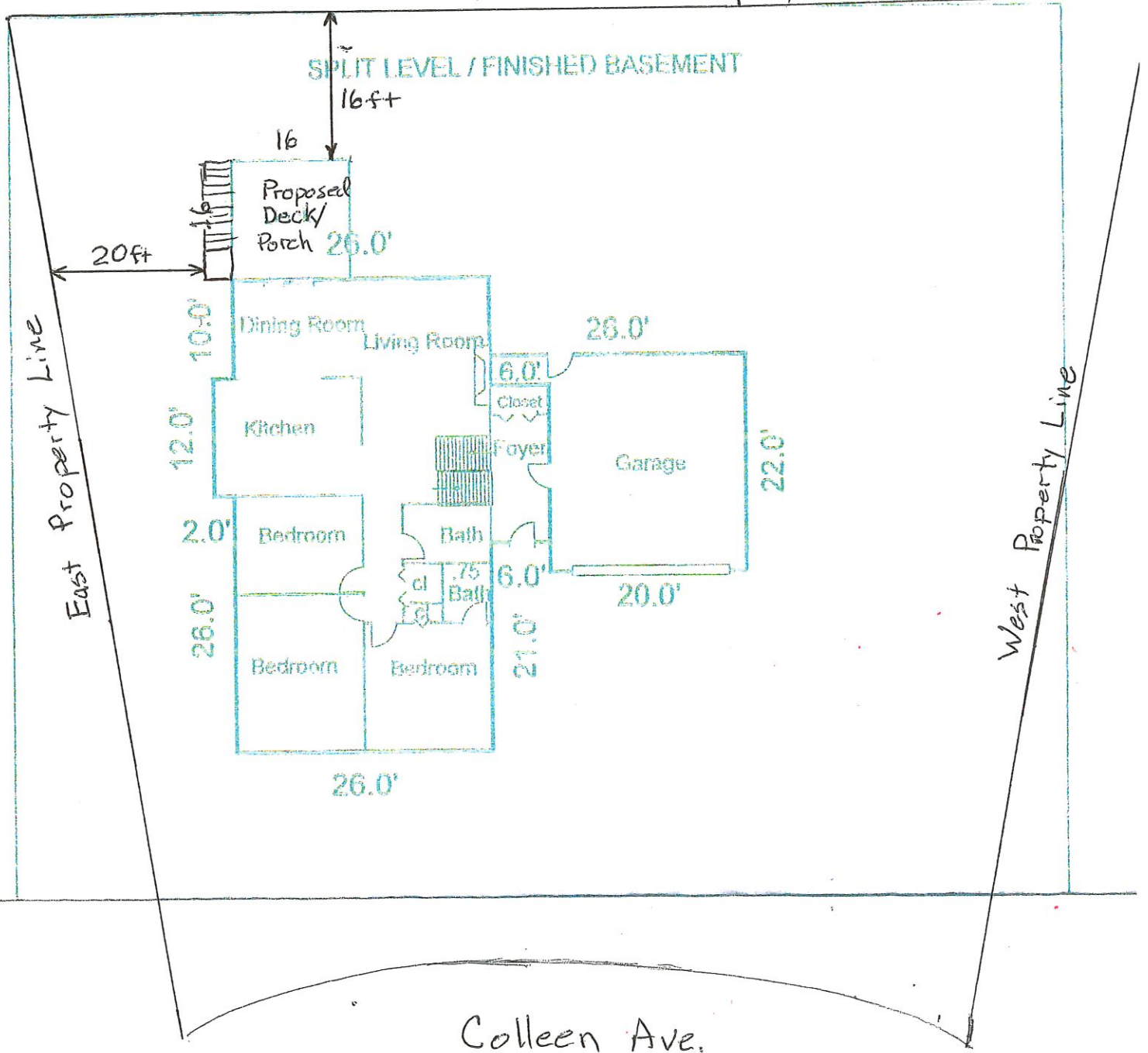


Plat Map

Over for Certification and Statement of Limiting Conditions

Tim + Dawn Thompson  
874 Colleen Ave

South Property Line

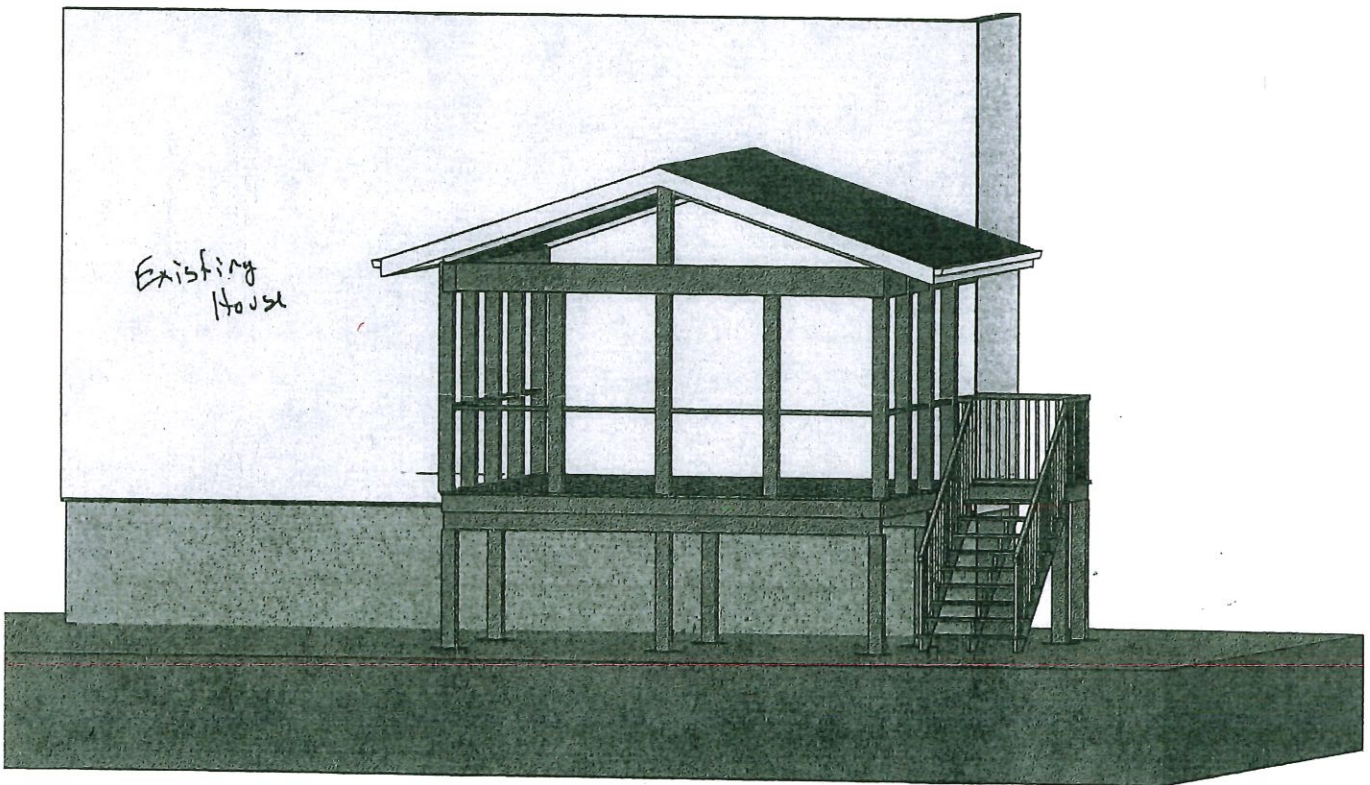


Colleen Ave.

**874 Colleen Avenue**  
Location of proposed new screened-in porch

Views of previous deck

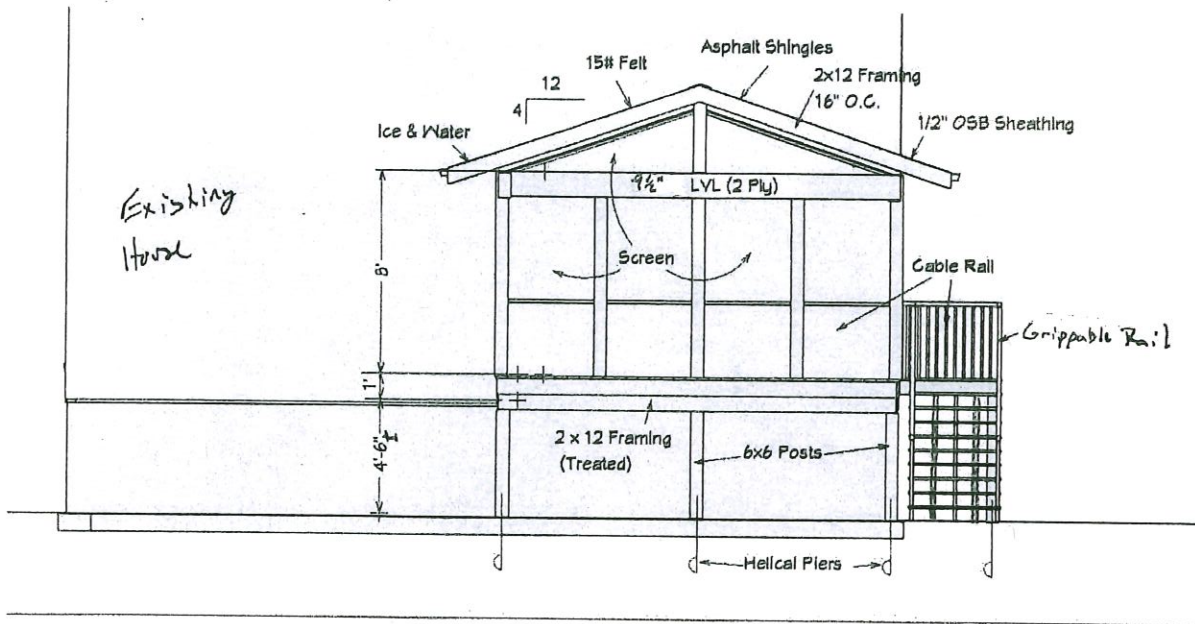




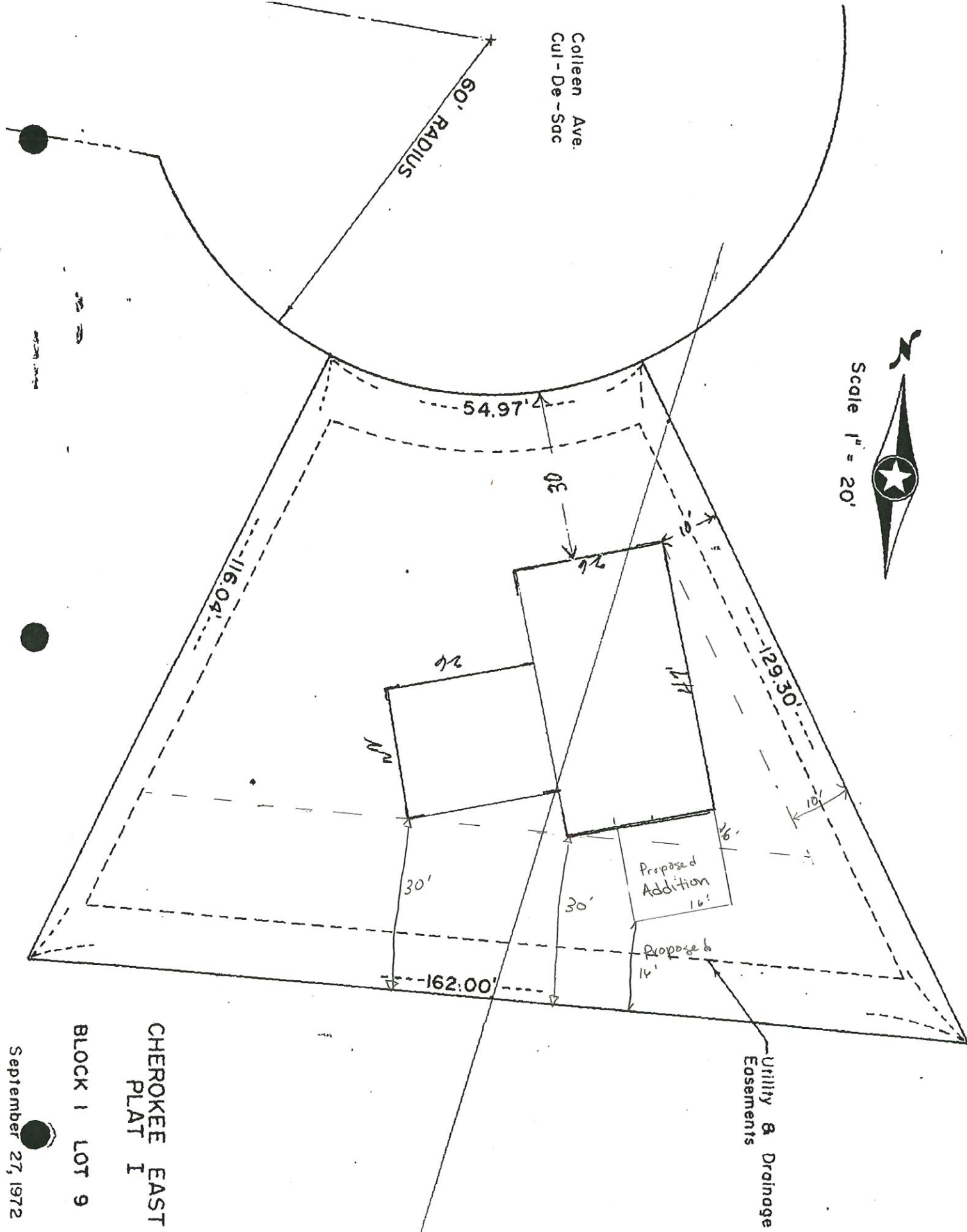
Existing  
House

Patrick Miller-Cant  
Tina & Dawn Thompson  
874 Colleen Ave  
Shoreview, MN 55126





Patrick Miller Const.  
 Tim & Dawn Thompson  
 874 Colleen Ave  
 Shoreview, MN 55126



\* Depicted by staff based on applicant's information.

September 27, 1972

**EXTRACT OF MINUTES OF MEETING OF THE  
PLANNING COMMISSION OF SHOREVIEW, MINNESOTA  
HELD MARCH 26, 2019**

\* \* \* \* \*

Pursuant to due call and notice thereof, a meeting of the Planning Commission of the City of Shoreview, Minnesota was duly called and held at the Shoreview City Hall in said City at 7:00 PM.

The following members were present:

And the following members were absent:

Commissioner \_\_\_\_\_ introduced the following resolution and moved its adoption.

**RESOLUTION NO. 19-33 APPROVING A VARIANCE TO REDUCE THE REAR YARD  
SETBACK**

WHEREAS, Timothy A Thompson and Dawn P Thompson submitted a variance application for the following described property:

*Lot 9, Block 1, Cherokee East Plat 1, RAMSEY COUNTY, MINNESOTA*

*(This property is more commonly known as 874 Colleen Ave)*

WHEREAS, the Development Regulations establish that in the R-1 Detached Residential District a minimum 30-foot setback from a rear property line is required; and

WHEREAS, the applicant has proposed an addition to the existing house and requested to reduce the rear setback to 16-feet; and

WHEREAS, the Shoreview Planning Commission is authorized by State Law and the City of Shoreview Development Regulations to make final decisions on variance requests; and

WHEREAS, on March 26, 2019 the Shoreview Planning Commission made the following findings of fact:

1. *Reasonable Manner. The property owner proposes to use the property in a reasonable manner not permitted by the Shoreview Development Regulations.*
2. *Unique Circumstances. The plight of the property owner is due to circumstances unique to the property not created by the property owner.*
3. *Character of Neighborhood. The variance, if granted, will not alter the essential character of the neighborhood.*

NOW, THEREFORE, BE IT RESOLVED BY THE SHOREVIEW PLANNING COMMISSION, that the variance request for property described above, 874 Colleen Ave, be approved, subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Variance application.
2. This approval will expire after one year if a building permit has not been issued and construction commenced.
3. Erosion control will be installed in accordance with City Code requirements prior to any site disturbance. Vegetation shall be restored in accordance with City Code standards.
4. This approval is subject to a 5-day appeal period.
5. Vegetation between properties should be added to include large shrubbery or trees to be maintained for the life of the property. A landscape plan shall be submitted for review by the City Planner prior to issuing the building permit.

The motion was duly seconded by Commissioner \_\_\_\_\_ and upon a vote being taken thereon, the following voted in favor thereof:

And the following voted against the same:

Absent:

Adopted this 26<sup>th</sup> day of March, 2019

---

Kent Peterson, Chair  
Shoreview Planning Commission

ATTEST:

---

Aaron Sedey, Associate Planner

ACCEPTANCE OF CONDITIONS:

---

Timothy A Thompson,  
874 Colleen Ave

---

Dawn P Thompson  
874 Colleen Ave

STATE OF MINNESOTA )  
 )  
COUNTY OF RAMSEY )  
 )  
CITY OF SHOREVIEW )

I, the undersigned, being the duly qualified and acting Manager of the City of Shoreview of Ramsey County, Minnesota, do hereby certify that I have carefully compared the attached and foregoing extract of minutes of a meeting of said City of Shoreview Planning Commission held on the 26<sup>th</sup> day of March, 2019 with the original thereof on file in my office and the same is a full, true and complete transcript therefrom insofar as the same relates to adopting Resolution 19-33.

WITNESS MY HAND officially as such Manager and the corporate seal of the City of Shoreview, Minnesota, this 26<sup>th</sup> day of March, 2019.

\_\_\_\_\_  
Terry C. Schwerm  
City Manager

SEAL

**PROPOSED MOTION  
TO DENY**

**MOVED BY COMMISSION MEMBER \_\_\_\_\_**

**SECONDED BY COMMISSION MEMBER \_\_\_\_\_**

To denying the variance request to decrease the allowed rear yard setback of 30-feet to 16-feet for a proposed three season addition, submitted by Tim and Dawn Thompson for the property located at 874 Colleen Ave, subject to the following condition:

1. This motion to deny is subject to a 5-day appeal period.

This action is based on the following findings:

1. The applicant is currently using the property in a reasonable matter. An unenclosed addition could be constructed and comply with code.
2. The plight of the owner is due to the design used for the proposed project.
3. The home will extend into the rear yard and have an impact on adjoining properties altering the character of the neighborhood. There are options to eliminate or lessen the variance needed for an addition.

**VOTE:       AYES:**  
**NAYES:**

Regular Planning Commission Meeting  
March 26, 2019

**PROPOSED MOTION  
TO APPROVE**

**MOVED BY COMMISSION MEMBER \_\_\_\_\_**

**SECONDED BY COMMISSION MEMBER \_\_\_\_\_**

To adopt Resolution No. 19-33, approving the variance request to reduce the rear yard setback to 16-feet for the proposed 3 season porch addition, submitted by Tim and Dawn Thompson for the property located at 874 Colleen Ave. This approval is subject to the following conditions:

1. The project must be completed in accordance with the plans submitted as part of the Variance application.
2. This approval will expire after one year if a building permit has not been issued and construction commenced.
3. Erosion control will be installed in accordance with City Code requirements prior to any site disturbance. Vegetation shall be restored in accordance with City Code standards.
4. This approval is subject to a 5-day appeal period.
5. Vegetation between properties should be added to include large shrubbery or trees to be maintained for the life of the property. A landscape plan shall be submitted for review by the City Planner prior to issuing the building permit.

This approval is based on the following findings:

- 1.
- 2.
- 3.

**VOTE:       AYES:  
              NAYES:**

Regular Planning Commission Meeting  
March 26, 2019