



# City of Blaine Anoka County, Minnesota

Blaine City Hall  
10801 Town Sq Dr NE  
Blaine MN 55449

## Legislation Details (With Text)

**File #:** RES 22-155    **Version:** 2    **Name:** Variance - Joseph Stontz  
**Type:** Resolution    **Status:** Passed  
**File created:** 10/3/2022    **In control:** City Council  
**On agenda:** 10/3/2022    **Final action:** 10/3/2022  
**Title:** Granting a 9-Foot Variance to the 22.5-Foot Rear Yard Setback for a Deck/Landing and a 12.5-Foot Variance to the 30-Foot Rear Yard Setback for a 4-Season Porch Addition at 802 131st Avenue NE. Joseph Stontz (Case File No. 22-0057/SLK)  
**Sponsors:** Sheila Sellman

**Indexes:**

**Code sections:**

**Attachments:** 1. Attachments, 2. Unapproved PC Minutes 091322

Date	Ver.	Action By	Action	Result
10/3/2022	2	City Council	Adopted	Pass
9/13/2022	1	Planning Commission	Recommended for Approval	Pass

**Development Business** - *Sheila Sellman, City Planner*

**Title**

**Granting a 9-Foot Variance to the 22.5-Foot Rear Yard Setback for a Deck/Landing and a 12.5-Foot Variance to the 30-Foot Rear Yard Setback for a 4-Season Porch Addition at 802 131<sup>st</sup> Avenue NE. Joseph Stontz (Case File No. 22-0057/SLK)**

**Executive Summary**

The applicant is requesting a variance to the rear yard setback of 30 feet for a four-season porch and a landing for stairs that will be adjacent to the proposed porch.

The request is to reduce the setback to 17.5 feet for the porch and 13.5 feet for the landing for the stairs.

**Schedule of Actions**

Planning Commission (Public Hearing)	09/13/22
City Council (Variance)	10/03/22
Action Deadline	10/10/22

**Background**

*Staff report prepared by Shawn Kaye, Planner, and Teresa Barnes, Project Engineer*

Zoning

The property is zoned R-1 (Single Family).

Surrounding Zoning and uses

The surrounding properties to the west and north are zoned R-1 (Single Family). The lots to the south

are zoned DF (Development Flex). The Way of the Lord Church to the east is zoned R-1 (Single Family). The property across the intersection of the Van Buren Street and 131<sup>st</sup> Avenue to the northwest is zoned RE (Residential Estate).

#### Comprehensive Land Use

The property and surrounding parcels have a land use of LDR (Low Density Residential).

#### Existing Conditions

The property is a single-family lot. The site has an existing home with an attached deck in the rear yard. The lot also has a detached garage.

The front yard is on the north side of the property and is addressed with a front door facing 131<sup>st</sup> Avenue. The applicant is not able to change the orientation of the home (front door to the west) because the east side of the home would not be able to meet the rear yard setback requirement. The east side of the home sits about 16 feet from the east property line and the required rear yard setback is 30 feet.

#### History

The property was platted as Way of the Cross Church Woods in 2005. The plat included eight single family lots and 32 detached townhomes. The two existing homes on the southwest and southeast (applicant's home) corner of Van Buren Street and 131<sup>st</sup> Avenue were platted as R-1 lots as part of the plat. The detached townhomes to the south of the applicant's property were re-platted to a total of 26 small lot single family instead of 32 detached townhomes in 2006. The small lot single family subdivision to the south is zoned DF (Development Flex) and have a rear yard setback requirement of 30 feet.

#### **Evaluation of Request**

##### Code Requirement

Section 29.035 of the zoning code regulates standards in the R-1 Zone. Specifically, 29.035 (c) states: Rear yard setback-Thirty (30) feet.

Section 33.11 Permitted Encroachments which regulates allowed encroachments. Section 33.11 (a) states: Decks 30 inches or greater in height and/or attached to the home; balconies; open terraces; marques; flues; sills; lintels; pilasters; cornices; gutters; open canopies; open porches not enclosed by walls, screens, windows, or doors; and awnings; are permitted to encroach by up to 25% of the required setbacks in the front, side, and rear yard.

The applicant's deck in the rear yard is therefore permitted to have 22.5-foot rear yard setback because the deck is permitted to encroach 25 percent into the 30-foot rear yard setback.

#### Site Plan

The applicant is proposing to construct an attached four-season porch in the rear yard. The new four-season porch (16 feet by 20 feet) is proposed to be constructed over the footprint of the existing deck with a four-foot landing for stairs that will be adjacent to the proposed porch.

The proposed porch is required to have a rear yard setback of 30 feet. The applicant is proposing a 17.5-foot setback, therefore requiring a 12.5-foot variance to the 30-foot rear yard setback for the porch.

The applicant's deck/landing in the rear yard is permitted to have 22.5-foot rear yard setback because the deck is permitted to encroach 25 percent into the 30-foot rear yard setback. The landing for the stairs is proposed to have 13.5-foot setback to the rear property line, therefore requiring a 9-foot variance to the 22.5-foot rear yard setback for the deck/landing. In this case, the deck is a landing and will not be used as a typical deck (more for egress/ingress into the porch).

#### Architecture

The proposed porch will be sided to match the existing home.

#### Tree Preservation

There is one tree in the rear yard that will remain.

#### Grading/Storm Drainage

The four-season room addition is proposed to be constructed over the existing deck area, therefore there is no proposed changes to the existing grading or drainage for the lot.

#### Wetlands/Watershed

The four-season room addition is proposed to be constructed over the existing deck area, therefore the proposed construction does not affect any existing wetland areas and does not require a watershed permit to be obtained.

#### Access/Street Design

The four-season room addition will not require nor be granted any additional access nor require any street design.

#### Easements/Right-of-Way/Permits

The proposed four-season room addition does not encroach into any easements nor right-of-way.

(a) Criteria for granting variances. A variance to the provision of the zoning ordinance may be issued by the City Council to provide relief to the landowner in those cases where the ordinance imposes practical difficulty on the property owner in the use of his land. No use variances may be issued. A variance may be granted only in the event that the following circumstances exist.

1. Exceptional or extraordinary circumstances apply to the property which do not apply generally to other properties in the same zone or vicinity, and result from lot size or shape, topography, or other circumstances over which the owners of the property, since enactment of this ordinance, have had no control. *The subject site is 15,561 square feet which is slightly larger than typical R-1 lot of 10,000 square feet. The house was existing when the lot was platted, which determined the front yard and side yard for this corner lot. The front yard is off 131<sup>st</sup> Avenue and the corner side is Van Buren Street NE. which makes the southern property line the rear yard and requires a 30-foot setback. If reversed with the front yard as Van Buren and 131<sup>st</sup> Avenue, the corner side yard (the southern property line) would be considered a side yard and a 10-foot setback would apply. The house is set back farther than the required 30-foot front setback and the 20-foot setback on the street corner. Based on the orientation of the house, the rear yard of the property (south side) is adjacent to the neighbor's side yard. If the house was oriented to Van Buren Street, then the proposed addition would be in a side yard and able to meet the 10-foot setback. The property to the south is able to have an addition to their existing home 10 feet from the same property line that the code requires the subject site to have a 30-foot setback. The orientation of the house is not a circumstance of the property*

*owner. The greater setbacks on the existing house and lot orientation demonstrate a circumstance that does not apply generally to other properties in the same zone or vicinity.*

2. The literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this ordinance. *The property to the south can have a 10-foot setback from the common lot line, but the subject site is required to have a 30-foot setback. The variance would provide an 18-foot setback to the porch and a 14-foot setback from the landing, both meeting the 10-foot setback that would be required had the house been oriented differently.*
  3. That the special conditions or circumstances do not result from the actions of the applicant. *The applicant bought the house in its current location and did not determine the front yard designations.*
  4. That the granting of the variance requested will not confer on the applicant any special privilege that is denied by this ordinance to other owners of lands, structures or buildings within the same district. *The variance in this circumstance is due to the building orientation and larger setbacks of the existing house that are not typical for properties in the same district.*
  5. That the variance requested is the minimum variance which would alleviate the hardship. Economic considerations alone shall not be considered a hardship. *Economic considerations were not part of the analysis.*
  6. A variance would not be materially detrimental to the purposes of this ordinance, or to other property in the same zone. *The variance would not be detrimental to properties in the same zone.*
  7. The proposed variance will not impair an adequate supply of light and air to the adjacent property, or substantially increase the congestion of public streets, or increase the danger of fire, or endanger the public safety, or substantially diminish or impair property values within the neighborhood.
- (b) The City Council may impose such restrictions and conditions upon the premises benefited by the variance as may be necessary to comply with the standards established by this ordinance, or to reduce or minimize the effect of such variance upon other properties in the neighborhood, and to better carry out the intent of the variance.

### **Strategic Plan Relationship**

Not applicable.

### **Board/Commission Review**

The Planning Commission voted unanimously to approve the variance. There were no comments at the public hearing.

### **Financial Impact**

Not applicable.

### **Public Outreach/Input**

Notices of a public hearing were:

1. Mailed to property owners within 350 feet of the property boundaries.
2. Published in Blaine/Spring Lake Park/Columbia Heights/Fridley Life.
3. Posted on the City's website.

### **Staff Recommendation**

By motion, approve the Resolution.

**Attachment List**

Zoning and Location Map

Site Sketch

Aerial

Building Elevations

Floor Plan

Way of the Cross Church Woods Plat

Narrative

Unapproved Planning Commission Minutes 9/13/22

**WHEREAS**, an application has been filed by Joseph Stontz as Case File No. 22-0057 for a variance to the 9-foot variance to the 22.5-foot rear yard setback for a deck and a 12.5-foot variance to the 30-foot rear yard setback for a 4-season porch addition; and

**WHEREAS**, said case involves the land described as follows:

Lot 8 Block 2 WAY CROSS CHURCH WOODS

**WHEREAS**, a public hearing has been held by the Blaine Planning Commission on September 13, 2022 and the Planning Commission recommends approval; and

**WHEREAS**, the Blaine City Council has reviewed said case on October 3, 2022.

**NOW, THEREFORE, BE IT RESOLVED** by the City Council of the City of Blaine that a variance is hereby approved per Sections 29.035 (c) and 33.11 (a) of the Zoning Ordinance to allow a 9-foot variance to the 22.5-foot rear yard setback for a deck and a 12.5-foot variance to the 30-foot rear yard setback for a 4-season porch addition, with the following findings:

1. The subject site is 15,561 square feet which is slightly larger than typical R-1 lot of 10,000 square feet. The house was existing when the lot was platted, which determined the front yard and side yard for this corner lot. The front yard is off 131<sup>st</sup> Avenue and the corner side is Van Buren Street NE. which makes the southern property line the rear yard and requires a 30-foot setback for a home. If reversed with the front yard as Van Buren and the 131<sup>st</sup> Avenue side, the corner side yard the southern property line would be considered a side yard and a 10-foot setback would apply. The house is set back farther than the required 30' front setback and the 20' setback on the street corner. Based on the orientation of the house the rear yard of the property (south side) is adjacent to the neighbor's side yard. If the house was oriented to Van Buren Street, then the proposed addition would be in a side yard and able to meet the 10-foot setback for a porch and landing for the deck. The property to the south is able to add an addition to their existing home 10 feet from the same property line that the code requires the subject site to have a 30-foot setback. The orientation of the house is not a circumstance of the property owner. The greater setbacks on the existing house and lot orientation demonstrate a circumstance that does not apply generally to other properties in the same zone or vicinity.
2. The property to the south can have a 10-foot setback from the common lot line, but the subject site is subject to a 30-foot setback. The variance would provide a 17.5-foot setback to the porch and a 13.5-foot setback from the landing, both meeting the 10-foot setback that would be required had the house been oriented differently.
3. The applicant bought the house in its current location and did not determine the front yard designations.

4. The variance in this circumstance is due to the building orientation and larger setbacks of the existing house that are not typical for properties in the same district.
5. The variance would not be detrimental to properties in the same zone.

**PASSED** by the City Council of the City of Blaine this 3<sup>rd</sup> day of October, 2022.