

GENERAL MINUTES  
 THE BOARD OF ZONING APPEALS  
 CITY HALL – ROOM 330  
 SAINT PAUL, MINNESOTA  
 OCTOBER 03, 2022

BOARD MEMBERS PRESENT

Daniel Miller  
 Thomas Saylor  
 Luis Rangel Morales  
 Danielle Swift  
 Diane Trout-Oertel  
 Marilyn Porter

STAFF PRESENT

David Eide                      DSI  
 Yaya Diatta                    DSI  
 Kelly Koski                    DSI  
 Peter Warner                   City Attorney

ABSENT BOARD MEMBERS

Robert Clarksen

APPROVAL OF MINUTES for September 06, 2022

Moved By: Trout-Oertel / Second By: Porter- Approved 4-0

APPROVAL OF RESOLUTIONS - None

**Old Business:**

FILE #	NAME	MOVED	SECONDED	VOTE	ACTION
22-086120	1841 Lincoln Avenue- Kurt & Amy Atkinson	Saylor	Porter	4-2	Denied

**New Business**

FILE #	NAME	MOVED	SECONDED	VOTE	ACTION
22-089088	15 Oakley Avenue - GV Investments LLC	Saylor	Porter	6-0	Approved
22-096911	722 Grand Avenue - Trice Strohkirch & Diego Bonta	Rangel Morales	Saylor	6-0	Laid Over 2 Weeks

Submitted by: Maxine Linston

Maxine Linston  
Maxine Linston (Oct 18, 2022 15:33 CDT)

David Eide

David Eide

Approved by:

Diane Trout-Oertel, Secretary

Diane Trout-Oertel  
Diane Trout-Oertel (Oct 18, 2022 15:25 CDT)

## BOARD OF ZONING APPEALS HEARING MINUTES

THE BOARD OF ZONING APPEALS

CITY HALL – ROOM 330

SAINT PAUL, MINNESOTA

OCTOBER 03, 2022

PRESENT: Members of Board of Zoning Appeals: Mr. Miller, Mr. Rangel Morales, Mr. Saylor, Ms. Swift, Ms. Trout-Oertel, Ms. Porter

Department of Safety and Inspections: Mr. Eide, Mr. Diatta, Ms. Koski

Legal: City Attorney Peter Warner

ABSENT: Mr. Clarksen

The meeting was chaired by Daniel Miller

Mr. Miller- Good afternoon and welcome to the Board of Zoning Appeals. Our purpose is to review and decide upon requests for zoning code variances, administrative reviews and requests to modify the home occupation requirements for handicapped individuals. If you intend to testify today, we ask that you start your remarks by giving your name and address, staff will first show slides of the site, a presentation of findings and discussion will follow. I will then call in the applicant, then those in favor, and then those opposed. At that point, the board may call back the applicant in case we have additional questions, I will close the public portion of the hearing and the board will vote to approve or deny the request. The board's vote is final unless appealed to the City Council within 10 days. We will take the cases in the order they appear on the agenda. A few words on speaker time: the board limits this to a total of 30 minutes for those speaking in favor and an equal 30 minutes for those speaking in opposition. Individual speakers are limited to three minutes each, please be mindful of this. If you have submitted a letter or email, reminder that there is no need to read those documents as they are already part of the record. Please provide your key points without repeating ideas presented by previous speakers.

Present today from the Department of Safety and Inspections are David Eide and virtually, I believe, we have Yaya Diatta. Our legal counsel is Peter Warner and our secretary is Ms. Kelly Koski, my name is Daniel Miller, I'm the chair of the board. Before moving on to our first order of business, I will ask the secretary to call the role of those board members in attendance for today's hearing.

Ms. Koski- attendance roll call: Saylor-Present. Swift- Here. Rangel Morales- (joined later) Porter-Here. Trout-Oertel-Here. Miller-Here.

### **Approval of Minutes for September 06, 2022:**

Mr. Miller- The first order of business is the approval of the minutes from September 6, 2022. Do we have a motion?

Ms. Trout-Oertel- I'll move approval of the minutes as submitted.

Mr. Miller- Is there a second?

Ms. Porter- I'll second.

Mr. Miller-Moved by Trout-Oertel, seconded by Porter. Can we get roll call for that?

Ms. Koski- roll call vote: Swift-Abstain. Trout-Oertel-Yes. Porter-Yes. Saylor-Yes. Miller-Yes.

**Moved by: Trout-Oertel / Second by Porter**

**4-0**

## **Old Business:**

Mr. Miller- All right. Moving on to Old Business, 1841 Lincoln Avenue. This was continued. The applicants are proposing to split this parcel that contains an existing single-family dwelling in order to create a new lot that would be suitable for a new single-family dwelling. A lot width of 50 feet is required. Both lots are proposed to be 40 feet wide for a variance request of 10 feet each. David, do you just want to kind of get us up to speed? And procedurally I believe we did not close the public portion of the hearing. We just lost our quorum? I remember and we're there. And was there any new, I believe that we have a new letter or something?

Mr. Eide- Yeah, there are some new public comments in the back of the packet. So my name is David Eide. I'm with the Department of Safety and Inspections. 1841 Lincoln, some of the board members were not here when we last had this case. I'm going to go over what this variance is, these two variance requests are for. So this is an 80 foot by 150-foot lot on the north side of Lincoln Avenue between Howell Street South and Fairview Avenue South. An alleyway abuts the property to the north. The surrounding land uses are primarily single-family dwellings to the east, west, and south and residential land and commercial uses to the north. The section of the code that the applicants are requesting a variance from is 66.231. It's the table, which I can pull up here. So the property is zoned R3. So in order to create a new lot, it's required to have 6,000 square feet and 50 feet of width and the applicant's proposing two 40 foot lots. They do meet the lot size requirement, but they don't meet the width requirement. So the six findings are needed to be found true to grant a variance.

1). The variance is in harmony with the general purposes and intent of the zoning code. The site currently consists of a single parcel that is 80' wide and 150' deep. The survey provided by the applicant labels the site as parcel "A" and "B". Parcel "A" is proposed to be 40 by 150 feet and would retain the existing home and detached garage. Parcel "B" is the proposed new lot that would eventually be the site of a future single-family dwelling, although staff have not seen plans for that development exact structure. The subdivision would result in two nonconforming parcels that would not comply with the lot width requirement of 50' in the R3 zoning district. The applicant is requesting a variance of the lot width requirement for both proposed new parcels. The R3 one-family residential zoning district is intended to "provide for an environment of predominantly low-density, one-family dwellings." This request would allow creation of an infill lot that could be developed for a single-family dwelling. This request is consistent with the purpose and intent of Zoning Code Sec. 60.103 to provide for housing choice. This finding is met for both requested variances. 2). The comprehensive plan this variance is consistent with the comprehensive plan. The requested variance to allow a new lot to be created where a single-family dwelling can be constructed in the future aligns with Policy H-46 in the Comprehensive Plan by supporting the development of new housing. This finding is met for both requested variances. 3). The applicant has established that there are practical difficulties in complying with the provision, that the property owner proposes to use the property in a reasonable manner not permitted by the provision. Economic considerations alone do not constitute practical difficulties. The applicants are currently able to enjoy this parcel with the 80' lot width. The parcel is suitable for the existing single-family dwelling and conforms to the lot width and size requirements. The applicant is creating their own difficulty by proposing to split the parcel in 2/ half, creating two lots of nonconforming width. This finding is not met for both requested variances. 4). The plight of the landowner is due to circumstances unique to the property not created by the landowner. The property owners are proposing to split this parcel and are creating the need for the variances. Their plight is due to their request to split the parcel, not due to a circumstance unique to the property. This finding is not met for both requested variances. 5). The variance will not permit any use that is not allowed in the zoning district where the affected land is located. A single-family lot is permitted in this zoning district. No unallowed uses will be permitted under this application. This finding is met for both requested variances. 6). The variance will not alter the essential character of the surrounding area. The request to create a new lot suitable for a new single-family dwelling will not alter the essential character of the surrounding area, given that 6 of the 12 lots on the north side of this block currently do not meet the 50' lot width requirement. This finding is met for both requested variances.

**Correspondence:** District Council Recommendation: Staff received a letter from District 14 – Macalester Groveland Community Council recommending approval of the requested variances. Staff received three letters from residents

opposing this variance request, one of which was from the property owner directly abutting this property at 1833 Lincoln Avenue and I believe that there are a couple letters that were submitted since then. And this staff report was not updated, but they're in the packet. Based on findings three and four staff recommend denial of the requested variance. And then I have the survey up on the screen so, I believe at the last hearing, not all of you were here, but the public hearing was left open. So if you have any questions for me, I'm happy to answer.

Mr. Miller- Mr. Saylor

Mr. Saylor- Yes, thank you, David, for that information. Can you go back to the point about other houses in the neighborhood that do not meet the 50-foot width? You gave some numbers there, too. So this would not what I want to figure out is, would this represent an outlier and what I heard you say is maybe not with a lot split.

Mr. Eide- Sure, chair Miller and commissioner Saylor. I just went across the top, or the north side of Lincoln between Howell and Fairview and noted which lots do not meet the current 50-foot width requirement. So that would be for finding six, essential character. So I found that was met for the two variances as far as finding six.

Mr. Saylor- And as a follow up, those 40 foot lots, is that what we're just trying to put this into a larger context here? So the ones that don't meet now are they currently 40?

Mr. Eide- Most likely, let me pull up the underlying plat.

Mr. Saylor- Thank you.

Mr. Eide- Yeah, so it appears that most of the ones that do not meet the width requirement, follow the plat.

Mr. Saylor- So 40, huh? And the follow-up question I have is are any of these recent, those 40 foot lots recent, subdivisions of 80-foot lots or were they planted that way originally?

Mr. Eide- Chair Miller, board member Saylor, not that I know of. We haven't had any recently.

Mr. Saylor- Okay, thank you.

Mr. Miller- There's the clarifying question on that. You said 6 of 12, it seems like there's a lot more 40-foot lots than 6 who was on the block?

Mr. Eide- So, one, two, three, four, five, six.

Mr. Saylor & Chair Miller- it's the red. It's the red. Yeah.

Mr. Miller- Any other questions for staff?

Ms. Swift- With splitting the parcel would that like trigger other issues? Like, as far as like, how far that property is to the property line, etc.

Mr. Eide- Board member Swift, It appears from the survey that the existing home would meet the side yard required setback of, I believe it's six feet in the R3 but I can check that out right now. If it didn't, we would have been putting that forward before the Board. But yeah, it would meet the requirements other than the lot width.

Mr. Miller- Ms. Trout-Oertel.

Ms. Trout-Oertel- Thank you Chair Miller, I would like to point out that across the street there are at least two properties that have a vacant 40-foot parcel, so that, you know, it isn't really an outlier, in my opinion. I did go to the neighborhood and drive around, and then another near block, as well. There are several properties that are wider than 40 feet. Just wanted to get it up here because I don't know, we didn't show and talk about the other side of the block.

Mr. Miller- One, one other note, I think that we brought up last time was that they're meeting the area requirement, just not the lot frontage requirement. So the lots are area wise deep, big enough for a split.

Mr. Eide- Correct, 6,000 square feet.

Mr. Miller- Any other questions for staff? Otherwise, I'll let the applicant's come back up. Okay, applicants, if you'd like to step back up, go ahead. And since we're being recorded wait until you get to the microphone but same thing, state your name and address.

Kurt Atkinson- Thank you very much. Kurt Atkinson 1841 Lincoln.

Amy Atkinson- Amy Atkinson, 1841 Lincoln.

Mr. Miller- Is there something you'd like to add specifically to the staff report and can focusing in, we got your statements last time. I know it was a little bit rushed, but I think we kind of mentioned, you know, focusing on those findings, that the staff has recommended denial of, findings three and four.

Kurt Atkinson- Those three and four. Perfect. Thank you very much. Let me just if I could for a couple seconds. Thank you all so much for your time and being here this afternoon, we are very grateful. Number two, let me thank the board, Mr. Eide, and your staff for your service to the city and in getting everything pulled together for today's meeting. I did just have one question for structure. There will be some comments from neighbors. Do we have the opportunity to come back after that or not?

Mr. Miller- Yes

Kurt Atkinson- There will be, again? Okay, sorry, I just didn't want to process. Then I'll just read the additional. So last time I read our whole application, I can skip that right, that I read. I can read through it real quick, otherwise so it's up to you. Yes,

Mr. Miller- It's in the minutes.

Kurt Atkinson- I think maybe you weren't at our meeting last time, right?

Ms. Swift- I was not.

Kurt Atkinson- Okay. Can I just read through it real quick?

Mr. Miller- Sure.

Kurt Atkinson- You know, I can read it fast, Amy and Kurt Atkinson propose to split the lot at 1841 Lincoln into two 40 foot wide by 150 feet deep that will be point one four acres each allowing the development of an additional single-family home on lot 7, and David, there is, I thought you made a really great point of the consistency which I'm going to comment on. We Believe splitting the lot creates an opportunity to provide more housing in an area where needed and is an alignment with the city's higher density plan for the area. The current size of the lot is not congruent with its neighbors as referenced in the visuals a couple of seconds ago. I'm not going to go through all the exhibits again, unless if you would like me to, please let me know, I want to be respectful. The current lot is not congruent with its neighbors, the block or surrounding area, that's exhibit B in the handouts. It is an outlier that is inconsistent with a more low maintenance urban lifestyle. Given the yard is an extra entire city lot, which requires extensive maintenance on our part. The existing home on 1841 Lincoln lot is positioned fully on lot 6, that's very unique versus any of those other buildings on the street to allow for proper development. On lot 7, it will easily meet the setback and with 150 feet deep it meets the square footage requirement. Sorry, I know this was just noted, a variance is needed to allow the two parcels to exist as to 40-foot lots, which we would greatly appreciate today. When the Lots were originally planned. And now, this is maybe a piece of information that might be new. When the lots were originally platted, and it was 1908 and you have that in the presentation. But it's from the U of M, it was originally planted as two 40 by 150-foot lots. So, just actually asking for it to be exactly like it was originally mapped. Exactly as platted, and this I think is worth noting specifically to the question that came up a few moments ago. This did happen exactly to our neighbors, the split, a split of the 1847 parcel occurred to allow the building of the 1845 that's the neighbor directly to the west property in the 1950s. Both

parcels are 40 by 150, that's kind of the precedent or history of it. This split allowed for the development of a quality single-family home that has been a wonderful addition to the neighborhood. 1845 is the neighboring property directly to the west of 1845, the plat. Did I say something wrong? Oh 1841. Sorry. The plat from the year 1908 shows 1845 and 1847 separately. So it's kind of the same exact scenarios. What we're trying to do here as a single parcel. With two 40 foot lots. Exhibit D is where we look there. Sometime in the past, this is the only change two the original plans, required variances to split the current parcel into two parcels will not and I think this was affirmed by Mr. Eide alter the essential character of the neighborhood and more specifically the block since the block between Fairview to the East and Howell, to the West, over 50% of the parcels are 40 foot wide lots. The parcels, notice this is of note too, I think when it comes to the harmony of the neighborhood, the parcels directly surrounding the parcel of 1841 to the east, west and south. And I did look, I don't know if you can bring it up but I look to the north. I think they all three are 40. Also are all 40 foot lots, the original planting shows 40-foot, lots of their standard for this area. Therefore, the look and feel of locality will not change, is reasonable and consistent with historic record to be in alignment with the neighborhood to allow the address at 1841 to become two distinctive lots. I do have my phone.

I did want to then, also just note, I thought it'd be helpful if I was coming into the meeting today. This was the note from the Mac Groveland Community Council and I do want to play a couple, there's no video from what I understand, what I thought it would be helpful to maybe hear some thoughts of what you what those council members thought inside there.

Mr. Miller- Yeah. So we're probably not going to allow that. We do have the letter from them.

Kurt Atkinson- Okay? Yeah. Oh you heard you saw the video from. Okay, good. I was just referencing the gentleman that to clarify that.

Mr. Warner- We did not see the video. They've got the letter from Mac Groveland. That's all you need for the record.

Kurt Atkinson- Oh can I read the rest of what they said? Can I add that already? I thought it was a point where they were referencing, I think it's really germane.

Mr. Warner- We have their record that they're in support of your position.

Kurt Atkinson- Okay? Thank you very much for that.

Mr. Warner- I'll just finish; the individual Commissioners and what they might have said, it really isn't dispositive. It's the ultimate decision that they've made.

Kurt Atkinson- Okay? Thank you very much for your guidance. Lastly, 1841 Lincoln presents a special condition on the block. It is the only 80-foot-wide lot. And now, this is new information, that has no permanent building on it. That's what's different than the other sides of the street. This difficulty was created by the change of the original plot and is not congruent with the neighborhood or the city's current high-density goals. We believe it is not a substantial variance as it is just a matter of returning to its original zoning and the following original plan. We're not asking for anything more or less than the adjacent lots, thus not requesting anything out of the zoning districts and the essential character is not hurt, but enhanced, I believe, by creating this lot. It is in harmony with the general purpose and intent of the zoning code, consistent with the city's plan and is intended to be used in a reasonable just like the rest of the neighbors, east, west south and I think north manner. This split will have no adverse effect on delivery of government services. In fact, we feel it will enhance the delivery by creating a new taxable, conforming residence, and enhancing services to all on the street. This variance would relinquish the special privilege of 1841 Lincoln bringing it in alignment and making both lots, available will bring a more, will bring more equity to the community. The lot would be used in a reasonable manner, just like the adjacent neighbors on all sides. Just two more comments, this proposed variance, which is reasonable due to unique circumstances, is primarily driven by zoning changes that don't align with the neighborhood or the original plan. But also, as an act of social justice by bringing the property in alignment with the rest of the community and the street; strict compliance with the R3 zoning would strongly and unreasonably prevent conformity with the neighborhood and

the city plan for which we highly commend the city's Planning Commission, the with the high-density hard work. That's been done by our city. Along with Mac Groveland Community Council. We believe the approval of this variance is the right decision. We hope you will approve this variance, as we think it is, for the betterment of the block, Macalester Groveland, and the Macalester Groveland, and the City of St. Paul. That's all I have.

Mr. Miller- Okay, any questions and for the applicant?

Mr. Miller- I think my first question would be just to kind of repeat how you believe that there is practical difficulty in complying with the provision, and to speak directly to those specific things would, maybe take your key points out of your presentation. And then also explain how the plight of the landowner is due to circumstances unique to the property and not created by the landowner. Those are the points that we are going to be focused on.

Kurt Atkinson- Perfect. So, for the difficulty perspective, this is really driven by the... Please, chime in if you'd like, Amy. By being able to follow the mission and structure of the zoning. I think it's called, I don't want to mess this up, is that the zoning department of where our city decides we want to be high density? Is to be able to be in congruence with that goal of the overall city that is, you know, a significant difficulty that we are all here able to address today and be able to make more equal and fair. And just across the street, second was the uniqueness, I did, I actually drove several times. None of the other Lots on the north side of Lincoln, none of them, are 80. The furthest one I think is 53 and of the one that the across, who were the ones by the way, that spoke in favor of this with the community council, they have a garage on that second lot. So that's where I think it would get a little tricky. Ours, there's nothing on it. It's basically trees and grass. So the unique circumstances and the practical difficulties. I think the difficulty fits with the zoning and being able to comply with the mission of the city and what we want to do as a community and the uniqueness would be the fact that it's the only one that has no dwelling or I mean, there's nothing on it. I'm sorry, basketball court and some trees and swing sets gone, but the does that answer your question? Thank you.

Mr. Miller- That bring some clarification.

Amy Atkinson- And just like to add to your point of being an outlier, actually in the conversation with the Macalester Community Council, he did note that the majority of lots in Mac Groveland are 40 by 120. So if you look at it from a broader perspective, it is an outlier.

Kurt Atkinson- And there was a, I don't know if it matters for this but the comment I was going to try to play, it was just a comment of, you know, I don't know, I don't do this at all for a living but he wanted to say we should make this by right. Not by appeal or something of to do that, which I just thought would be powerful. And you probably know way more about what that means than I, but I'm sorry. So that was my comment.

Mr. Miller- Any questions for the applicants? Ms. Swift.

Ms. Swift- Are you going to sell both of the homes?

Kurt Atkinson- We're not sure at this point, we'll probably for sure sell one of them and I don't know, I mean, it depends, it's hard for us to make a decision because we haven't gotten your permission so I can't really answer that. But our intent would be to for sure sell one of them. Right.

Amy Atkinson- I would love to see another family enjoy.

Kurt Atkinson- Yeah. I mean I think there's, I read through all the letters and I don't know that this meeting has any commentary on popularity contest or not, but we've been part of that street forever and I put the roadblock up for every street party that there's been, so we're not trying to do something here that is all about making a bunch of money which seems to be what the letters want to talk about. Again, I don't know how much of the facts versus the circumstances matter but I just want to properly answer your question. So, at this time, we probably look to sell one of them. I don't know what I'm going to do with, what we would do at the second one.

Mr. Miller- Any other questions?

Mr. Saylor- Yeah, I have a question. Yeah, there were a number of letters in there making a number of claims so just for the, just to help me understand, is this still your primary residence?

Kurt Atkinson- No.

Mr. Saylor- Okay.

Kurt Atkinson- No, 1841 is not our primary residence.

Mr. Saylor- I know because when you introduce yourself and give your name and address, you gave that as your address.

Kurt Atkinson- Oh, was that the address? I thought that was the address were... we're at 575 Montcalm.

Mr. Saylor- Okay.

Kurt Atkinson- 575 is where we currently are sleeping, we have them both, but that's where we're staying.

Mr. Saylor- Okay, thank you.

Amy Atkinson- We really see this as an opportunity. To hopefully split this lot out and let another family build a lot there.

Mr. Saylor- Okay, thank you

Amy Atkinson- Before we sell the whole parcel, so.

Mr. Miller- Okay. If don't have any other questions, I'll.

Ms. Swift- Would you be developing the other lot?

Amy Atkinson- I don't know. We just don't know. We are here to find out what our options are. We'd love to see that be, have an option or have the opportunity for another family to develop it. I would love to see a lovely family home there, one that would fit the neighborhood.

Ms. Swift- So, I just did you mention that? You didn't see any plans yet? but you could, I guess I'm asking because you could potentially get rid of the lot and someone else develop on it, or if you had intended to be the one to put the house there.

Kurt Atkinson- Well, yeah. Until all of this, I mean, it's no big secret about it. I there was sort of a discussion of building my retirement home there. I love the street. So if I said the wrong address, that certainly wasn't out of trying to hide anything, and I read those letters and...

Mr. Saylor- Just clarifying.

Kurt Atkinson- You know, I thank you, my goodness, I'm so grateful for your helping me to do what I don't do each day. But I mean, if you think about the street, not to go off on a tangent, but for retirement, when the kids grow older, you know, you're right by the CVS and the bank that I think it's a great place for to have retirement home. So we don't know what we're going to do.

Amy Atkinson- It's a wonderful location, close to the arteries, all the public transportation.

Kurt Atkinson- I think people probably get a little ahead of themselves. Thinking oh here's what we're going to do. We're just asking you to make it like it was originally, I do think the difficulty, we can see it and walk through it and see what the zoning is, and how we can fit what our city trying to do. I think that works, and the unique part is that it's just not and there's no other 80-foot wide that doesn't have buildings on it. I mean, if you look, it's right. It's, it's wide open.

Mr. Miller- Thank you for those comments. Yeah. Okay. I guess I'll just have you have a seat again and think see if there's anyone here to speak in favor or an opposition, and if there are, you'll have a chance to come back up.



Kurt Atkinson- Thank you so much all.

Mr. Miller- Okay, sure. Okay, so I'll ask if there's anybody here that has not testified previously at the last meeting. I know, we opened it up so people would have a chance at that point, just in case they couldn't make it back to the canceled meeting from two weeks ago or this meeting. So, if anybody is here to speak in, I'll start with in favor of this variance request, anyone to speak in favor? Okay, not seeing any. If there's anyone here to speak in opposition? You can please come forward. Same thing, we're being recorded. Start with your name and address and then sign into the book.

Beth Bullemer- Hi, my name is Beth Bullemer. I live in 1845 Lincoln, so the property next to the 1841 property that has the home on it. I am the property that was a split lot. So I feel the impact of splitting a lot and what that means to live on a 40 foot wide lot. I sent a letter expressing my concerns. I want to reiterate that, but I also wanted to address the attendance at the Mac-Groveland Committee hearing and their unanimous approval. So not all of the neighbors were informed that there was a meeting where the council was going to discuss the matter. When we received your letter, it had comments, or there was a place to email, but it wasn't clear that there was going to be a committee meeting to discuss, including myself. As part of this recommended process, it's recommended that the neighbors or the applicants actually talk to their neighbors about what they're doing and inform people of their intent. But since purchasing our home in February, my husband has had a few handful of interactions with Kurt. And in none of these interactions has this matter been raised. They did not mention their intent to move nor their intent to split the lot. Instead, they kind of just disappeared in June, which is a little strange. You think if you were going to permanently vacate your property, you might want to let your neighbors know that "Hey, we're not going to be around and if anything's gonna happen, maybe let us know." But this didn't happen, again, mysterious disappearance. So we actually found out about the requested variance, not through neighbors, or not through this letter, but through another neighbor, we did not receive the initial letter for the hearing on September 6. So we did not receive the letter for the Mac-Groveland committee either. Again, if you don't know about something you can't really say anything or act on it. So I guess, that was, that was our gaff for our inability to say so things to the Mac-Groveland council and I know other neighbors felt the same way that they weren't aware of the meeting. And so didn't feel like they could express their discontent with the proposal. So, I want to next, I would like to reiterate some of what I said in my letter. During our housing inspection, we learned that our lot actually slopes towards our house. So this is a disadvantage of a narrow lot and so the previous owners have done a lot to try to direct water away from the house and we continue to do the same. But this is a challenge with a small lot in the winter and the spring. There's nowhere for snow to go and so water starts pooling. And so, this is a potential impact to the proposed lot in the future. I think the suggestion is that this is an outlier and that having a home on this other lot would bring that in, be consistent with the other homes in the neighborhood, but maybe outliers are important to help with ground water drainage and ground swelling. I should also note that the 1841 house and garage is very close to our property, actually, there are previous variances made so their garage is about a foot and a half from our property line and their home is less than the recommended, or the distance between our homes are less than the recommended 12 feet. So again, there's less room for water to be routed. So, not only do we feel the strain of this water on our house, but this water runoff is really impacting the integrity of our garage and the alley as a whole. So, the major drainage point in the alley, is kind of on the property line between our house and the neighbor over, so water, again, flows towards our property. This year, when the snow started to melt, the alley turned into a river, and we started joking that we have waterfront property but really, it's not funny. So my husband and the neighbors, they did their best to basically drain the sewer, get water moving, so we could, we didn't have a river, but it was, it didn't work. Ultimately, the city was contacted and they came and cleared the sewer. But in talking with our neighbors, we learned that this is an annual event, which is really concerning. The alley floods every single year. Again, our garage is particularly susceptible because it's recessed, it's sunk in about 6 inches. So we're basically level with the alley so when there's significant alley flooding, that means our garage floods too. So what does this have to do with the requested variance? Our alley is unique in that we share access with all the businesses and multi residential units on Grand. So that means there's very little green space. I think David had pulled up some of the images, but directly behind our lot is a four-car garage, then next to that is a three-car garage. Next, that is a three-car garage. And then you have Grandview theater and then you have a parking lot. On the Lincoln side. It's our garage. The Atkinson's. The empty lot in question, then in 1833 and then there's actually

a house that's on the alley itself. There's not a lot of space for water to go and we see the impact of all those structures and all that concrete. So again, where 40-foot-wide lots may be the normal, it's really stressing our infrastructure.

So I think that's the initial pain point that will see if a home is developed on that lot, is the impact to the alley itself and perhaps to our garage. But I would also question whether you can build a home, that's desirable. I went and looked at homes that were developed in our area in the last 10 years. And the average square footage is 3,000 square feet. That's large. So even though this is a normal-sized lot, putting a house that big isn't what they were doing in the 50s or the 1800's. They were building houses with footprints of a thousand square feet and this just isn't being done today. So I fully expect to be back here and having the potential developers contesting additional variances to allow for a home that is really up to market standards and again, reduce that square footage of green space and really a challenge the infrastructure that's there. All right, I think that's it.

Mr. Miller- Thank you for those comments. Any questions for the person testifying? Luis.

Mr. Rangel Morales- I'm just curious; we have the same problem in our home with the alley flooding and it's usually because it gets clogged with leaves and stuff, but once it's removed, it does not take, I mean. I know that it freezes over at times and the snow gets in there. It just becomes a mess, and we're in charge of plowing our own alley. It's probably your case too. And so I'm just wondering if once that is removed, whether the crew takes the...

Beth Bullemer- So again, we moved in February, so we weren't really privy to what happened in the fall, in that alley of how leaves are picked up or debris was taken care of. I know that when it started to flood, there is several efforts to completely clear that drain without end. Basically trying to clear it and the water, just would not move.

Mr. Miller- Other questions? Could you tell me again how close you said that the existing garage is to your property line?

Beth Bullemer- Sure, it's actually referenced here. You see existing garage, shed, existing garage. Yep. And their reference is 1.4, about a foot and a half. It is really close, and that garage basically drains on to our property. So not only do we have to deal with our water. We're dealing with that water.

Mr. Miller- A question for staff. Is that legal non-conforming? Or is that nonconforming, or where we at with that setback?

Mr. Eide- Chair Miller, this would not meet today's setback. I'm not familiar with when this garage was developed but it today it would require three foot setback.

Mr. Miller- If we split the lot, do we need it?

Mr. Eide- No. Because it's an existing legal non-conforming situation that won't be made worse by the lot split.

Mr. Miller- Okay.

Beth Bullemer- But you should note 1833, and my neighbor couldn't be here today, There is, her lot, there's three feet between her house in the property line where the new house would be built. So that also should be six feet and it's only three feet today. So again, we're challenging our space.

Mr. Miller- Any other questions for the speaker? Okay, well thank you for your comment. If the applicant would like to step forward again to make any specific comments about what was just said?

Kurt Atkinson- Just a couple of specific comments to that shed you're referencing. Does that shed have a foundation? Are we allowed to ask a question? Does that have a foundation?

Mr. Warner- You have to address the chair.

Kurt Atkinson- Oh, I'm so sorry. Thank you. I believe that shed was added just a couple years ago and I don't know if it has a foundation. And I think it's one that you put down and can move, you know, like one you get at Menards or wherever. So I don't know if that's a permanent dwelling. If you can ask, I don't know.

Mr. Miller- I don't know if its relevant.

Kurt Atkinson- But I don't know, that that shed was not there for 12 or 15 of the 17 years we lived there that one on the right. That was added. So just, let's not like a built-in garage. Was the one that I wrote. Go ahead.

Amy Atkinson- I just want to address the comment about the setback. There'd be absolutely no problem for a new building to have a six foot set back on the new property. So putting on there would not bring a new issue, it would be in alignment with the current zoning.

Kurt Atkinson- So, I'm trying to just, I wrote down specific, some specific things to help you all be able to make what I hope is the right decision long-term. So that addresses that shed offset thing and I think is one that you could slide over three feet. But I don't know, I wasn't there when Mike built it. But next, the alley, that, I mean, it's been a known problem. I mean, that's been that way forever. And I think what your question might have been getting at is never in the 17 years I've lived there has it like refroze. It happens every spring. It doesn't happen in the fall, and you've got to go out there and chip it and then you get the water going, and it goes. This is the first spring that I haven't done it for the, for everybody. And I've never had the city come. I think they call it steaming it. There was one year that they did that. So that is, I've never seen it happen twice, so you're right. It's one of those once-a-year unfortunate things. My third comment was, a lot of speculation about what's going to be built here. And again, I can tell you and look straight in your eyes. I have no, I don't have us. There's not a secret set of blueprints somewhere of some 4,000 square-foot monstrosity. One of the letters referenced the beautiful home on the end of the block. I don't have any plans. There aren't. We just really think that 40 by what, if you look and you can put a beautiful home on there that maybe we end up enjoying my retirement, I really don't know. I feel like I'm being emotional, I'm a more factual person, but at the Mac-Groveland meeting, again, we followed all the rules. I mean, I don't think I was going to get out and walk around and have a discussion with all my neighbor's, it wasn't something that was on my mind. I had other things going on. There certainly was no intent of what was the word, um disappeared. I've been back, I took 30 more boxes out of the house yesterday. I've said hi to the neighbors. There's no disappearing, the neighbors across the street are the ones that we always had, get our mail and they knew we moved since the day we moved. They're probably our closest friends, we have kids the same age. So there's no disappearing act that went on here, and I know that probably doesn't impact your decision here at all. The neighbors. Did I miss anything? Oh, oh, the water issue, too. I don't know if it's a water issue to the side of the home. Mike and Brooke were the neighbors that lived there before, super nice people. And wonderful nice people too, I'm sure, I just haven't had a chance to know you. That water issue, I believe is on the other side of the house that they're referencing. Isn't that. They've been dealing with that on the other side, I know.

Amy Atkinson- It doesn't actually go behind 1841 or if it does just a little bit and it wouldn't go behind the new lot. So it's an issue over here. And again, it's a drainage...

Kurt Atkinson- In all the years I've lived there, and I talked to that neighbor, I mean, every two weeks forever. I don't know of any water issue to the left of our house and that house that was causing problems. So if there was, I know there... I mean they would have said something.

Amy Atkinson- Just to add. I mean just to add it's a very level lot and one thing we know about these lots in Mac-Groveland, you need to pipe your gutters out. You have to bring your water out or bury it. You can't just let it rest. You know.

Kurt Atkinson- Is that helpful? I'm not quite sure of the format? Are there any other questions or things we could offer to give you the tools to make a decision?

Mr. Miller- Any last questions for the applicants? I think we're good. Yeah, you guys can have a seat and then we'll have our discussion here.

Kurt Atkinson- Again, thank you all so much for your time.

Mr. Miller- So that will close the public portion of the hearing, and ask for discussion or motion?

Ms. Porter- My only question for staff is, is this the only 50-foot lot? It looks like there's one more, one or two additional, correct?

Mr. Eide- The only 50-foot lot?

Ms. Porter- Yeah, or a lot that's 50 foot or above.

Mr. Eide- So, looks like there's like six lots on the block that are 50 feet or more on the north side.

Ms. Porter- But they're still single family, they haven't been split or anything like that.

Mr. Eide- Correct. It doesn't look like there are any other 80-foot lots, but there are six other 50, lots that are greater than 50 feet in width.

Ms. Porter- Thank you.

Ms. Trout-Oertel- What about the other side of the street? That's, let me just look at that. I mean, not. I guess when I was there, I felt like there were...

Mr. Saylor- And red is the real property line, right?

Mr. Eide- Correct.

Mr. Saylor- Okay.

Ms. Trout-Oertel- That corner lot. How wide is the corner lot?

Mr. Eide- On the right side? Looks like 61.35 feet.

Mr. Miller- Just read across, would you? Read from right to left?

Mr. Eide- So it looks like the property lines don't line up with the plat. So I know the 1880 is more than 50. 1866 is more than 50. 1858 more than 50. 1846 is looks like it's 80. And then 99 Fairview is 61.35. So there are seven lots that are 40 feet on the south side. And then five that are more than 50.

Mr. Rangel Morales- Will you bring up the chart of R3 and R4 and what is allowed to be built in those the respective zonings?

Mr. Eide- Yep. Chair Miller, board member Rangel Morales. So in an R4, which this is zoned R3 but in an R4, 5,000 square feet and 40 feet of width are required. So if this were zoned R4 it would meet it, but it's zoned R3.

Mr. Rangel Morales- I'm saying if you look at the different, what can actually be built?

Mr. Eide- Oh. As far as the uses?

Mr. Rangel Morales- Yes.

Mr. Eide- Very similar, but the R3 just requires a larger lot size. But as far as the uses very, very similar.

Mr. Rangel Morales- Is there anything that's allowed in an R3 that's not allowed in an R4 or vice versa.

Mr. Eide- It looks like in the table R1 to R4 are combined, so it looks like they'd be the same, as far as uses.

Mr. Rangel Morales- I just, I didn't know that was the answer, but I figured that there would be either really close, if not identical, like they are. And so then the difference really is just about size, of what the city is asking to be able to build a home.

Mr. Eide- Correct.

Mr. Rangel Morales- And most homes in St. Paul are zoned R4?

Mr. Eide- I do not have that information, but a lot are,

Mr. Rangel Morales- Okay.

Mr. Saylor- Mr. Eide, this street is zoned R3, right? Lincoln? Where we're looking at here? North and south of the street? Is that right? That's what's going to ask you for. Great and little can you got one more? And what's the brown there?

Mr. Eide- That would be RM2 multi-family residential.

Mr. Saylor- Now I lost where we're at are. Where are we at, that map. Looks like all Minnesota on there, okay? Thank you. Okay, so it's it looks like it's R3 on the North side, but on the other side of the alley, something else? Yeah? No. No, that's where we were up, right. That's commercial, right?

Mr. Miller- Yeah, that's all the Grand.

Mr. Eide- Yeah. Business converted and T2 traditional neighborhood. Yeah.

Mr. Saylor- Okay, thank you. Mr. Eide.

Mr. Miller- Any other comments or other questions?

Mr. Saylor- Mr. Warner, point of clarification, the staff recommendation is recommending denial based on findings three or four. So, if we are to disagree with that, overturn, that we need to provide rationale for the findings three and four. Is that correct?

Mr. Warner- Correct.

Mr. Saylor- Thank you.

Mr. Miller- So, just kind of a quick recap of the way I'm thinking. This isn't unlike any of the other ones that, you know, come up a lot. Comprehensive plan has decided that adding density is a positive thing and sometimes it's in conflict with our zoning code. I don't think this is horribly unique to any of the other kind of cases that we come across. If it were a hundred-foot lot, they'd split it by right. They have two large size lots, even for the R3 district.

Ms. Trout-Oertel- I agree with, well I think we're in a difficult time because the comprehensive plan is in conflict with some of the zoning that we have. But, you know, I am hard pressed to come up with any practical difficulties for approving the variance or for finding any circumstances unique to the property. So I just wanted to point that out. I will be voting with a staff recommendation.

Mr. Warner- Chair and commissioners, my only comment is, people talk about conflict between the comp plan and the zoning code. I would suggest that there is no conflict. It's true that the comp plan calls for increasing density, but you do that through zoning classification. So you create zoning classification's that allow for increased density. So this is zoned R3, which is single family. So just because there's a big lot doesn't mean that there's a conflict. So just click I would caution about using that that word in this particular application.

Ms. Porter- And for me it's really about the applicant making a compelling case to split the lot and I haven't heard that that there's a reason for us to request the variance and personally I just haven't heard it.

Mr. Saylor- Discussion here, but Mr. Warner's point is well taken. The comprehensive plan does point towards increased density, but we are tasked as the board of zoning appeals. This is our lens, right? The lens of the zoning code and the six criteria that we have here are the factors we are tasked to use when it comes to variance requests, and I agree with commissioner Trout-Oertel and commissioner Porter it's hard to where's the three? And I can't if I want to move towards approving, this. I can't find rationale that is consistent to overturn what the staff has recommended with respect to finding three and finding four. So to move this process along, I will move to approve the staff recommendation which is recommending denial of the requested variances based on findings three and four because that is what the code provides us.

Mr. Miller- Is there a second?

Ms. Porter- I'll second.

Mr. Rangel Morales- So can we have discussion on it? So I intend to vote no on the motion. I think with this is a unique illustration of how zoning code works throughout the city because this was originally plotted as 40-foot lots. And then zoning regulation changed in the 70s or whatever it was that the zoning code was imposed. And it sort of made this a non-conforming, well, it made it a conforming lot under the R3 and I made all the other 40 foot lots non-conforming in a district that requires 50-foot frontage, okay? And then, we now, you know, that was 40 years ago and now we're in a situation in which the city is considering an infill study, which is seeking to be able to utilize these type of green spaces in ways in which we have learned. Or I think that what the city is trying to do with the infill study is allow more building and less space. So we sort of, you know, so to me, when I was looking, when Mr. Eide was looking at the number of houses that are 40 feet versus 50 feet, we call it an R3 District. But there's a, I mean, it looks like at least forty to fifty percent of the homes are 40 feet. So I, you know, I think that the way that it was particularly, you know, if they had been plotted, like, commissioner Miller said at a hundred foot, that's how it was separated. Instead of to 40-foot Lots, then he would be able to subdivide it and still be able to build within the R3 District. But that's not what, that's not what they did. And it seems it's not the only property which they didn't do that, the one across the street also did two 80 foot two of 40 foot Lots. So I think, I don't think it's unreasonable. I think that. I'm still trying to come up with the language on what the practical difficulty is, and then also what the, the circumstances unique to the property is, at 40 feet it makes it conforming with 40 to 50 percent. I'm just anecdotally, by looking at the rest of the neighborhood so it's not like it's completely setting it on a place. So I feel like the way in which it was re subdivided, even the corner lot on the left, bottom left there. That one is even in the more challenging because it looks as, probably not easy, but 60 feet. And then you see the top left that, that one was subdivided. It looks like, I mean, yeah, I just think it's a unique place of, you know, where we were as a city before the 70s, what the city was planning, and sort of the zoning code not keeping up with where the vision of where we're trying to get to is. So I just, I think it's completely in line with the vision of infill and is in line with utilizing more space and building more housing, which is desperately needed and it's not unreasonable.

Mr. Saylor- And thank you, commissioner Rangel Morales for those comments. And that's part of the tension I think, I'm feeling with this property too. Couldn't we also argue that, couldn't it also be argued that if that is reasonable, isn't the onus on the city of St. Paul then to adjust its zoning classifications in because that, that is not an unreasonable conclusion here. But isn't that? Isn't it the city's responsibility to look at these zoning maps and say, gosh, look at how many 80-foot lots we have here, or 50-foot lots, right. It's a cornucopia of fronts here and 40 by 120 is completely reasonable. And yes, I'm biased because my lot to 40 by 120 in the city of St. Paul. And it's a fine house but, you know, we have six criteria, and they task us to use the zoning map that we have in front of us, right? And I think that's the other side of this coin.

Ms. Swift- So it just kind of took contribute to the conversation. I think in other parts of the city we're seeing like the 1 to 4 study where we can put four-plexes on single family lots or even some of the developments that we see along University where I know we're going to be getting 288 units. Since we're building upwards because we don't have enough space and to, you know, commissioner Rangel Morales's point of desperately needing houses. As we desperately need housing, and it seems like depending upon which neighborhood in the city you're in, what is more tolerated versus another? And so, you know, I think that the city sometimes can be slow to move as far as like rezoning and those kinds of things, slower than what we're seeing applications come in. And so I feel like, you know, that I do feel the tension as well. I think that more housing is good, it's definitely needed. And if we had, you know, other people in other parts of that, I mean, depending upon what neighborhood you see is, also part of who we see able to show up and participate in the public process. And I think that that has a lot to do with the tension that we are feeling today. If we didn't have anybody showing up and contesting, it might be an easier yes, than it is more of a discussion. So just noticing the location and how much that plays into the difficulty of making a decision with this one.

Mr. Rangel Morales- So to commissioner Saylor's point. I just think, so these studies and rezoning, and these process of re-adjustment take a lot of time and resources. I think it's like even the infill study we've been working on that since

right before the pandemic began, it sounds like. And so it's been two and a half years and we've done the first portion of that, which like, again, it reduced the amount of space and it loosened regulation around ADUs and around being able to use, have more than one principal dwelling under one lot. And, you know, I believe the planning department called it the low-hanging fruit before they address the larger issues of how much is too much to allow for where we're at right now. And so, I think we, so I'll give you an example. So the in this particular area and I don't know if it applies to this area per se, but the Mac-Groveland area, they put that additional regulations where they, you know, it had to because of the problem with building these massive homes tearing down these 1,000 square foot homes and building these 3,000 square foot homes. People were, the community organized, and they came up with their own, sort of regulations at home, had to meet. And so then for a while there, and when I first started at the BZA, we started getting all these applications for these articulations of homes and this and that. And we sort of realized that it was like over-regulated and it took, so it, it took a while for the, for, for the regulations to put on, we realized that they were too regulated and so they took several years, I think, probably 3 or 4 years for it to be taken away and in that mean time, it was up to us to decide how that sort of fit in with the vision of what that regulation was. And so I think what I'm saying is, is the particular R3 zoning. I don't understand the purpose of it, other than perhaps maintaining green space which was a vision for the 70s. I know that the vision today is changing. He's not proposing to do a lot in which it's like a 20-foot lot, and a 40-foot lot, in which we would then anticipate someone needing additional variance requests, just to be able to build something there, you know, commissioner Saylor said that he owns a home that's 40 by 120. I think that's probably the dimensions of our property as well. And, the only the only, the only concern that I really had in that, I was looking through the minutes on was, that we did have the neighbor who came and spoke, who lives to the east and their concern was about their tree. And the question that I had posed was whether we could put any form of conditions on the lot split on making sure that the tree was preserved or at least taken into account. And that was more of a question for Mr. Warner. But because it seemed like the tree was right at the property line. And it's, I don't know what the legality of that is, but that aside. I think if anything, the practical difficulty is that the lot, whenever it was resold or we plotted after the 40 feet, it wasn't done in a way that it could be re split. And it just seems like space is not being fully utilized when we really need to use every space that we can. That's my thoughts on it.

Ms. Trout-Oertel- I'm sorry but I didn't understand what you said, could you rephrase your last point?

Mr. Rangel Morales- So I'm thinking, you know the when the city was dividing these lots, whether it's the, you know, the ones on the bottom left or... By putting a foot requirement of 6,000, I'm sorry I'm 50 square feet in the front. It makes it so that it's almost never un-splitable under an R3 zoning, right? Because you would never be able to build. Well, I guess you could keep one at 50 feet in the other one at 30 but you would still do that would even be worse. So it just I don't understand what the purpose of it was when the majority of the neighborhood is already at 40 feet?

Ms. Trout-Oertel- Oh, so you're questioning why it was rezoned?

Mr. Rangel Morales- Why was it rezoned to R3? And I think there's probably someone in the planning department who could answer that question. But it was rezoned in a way that it would make a property like that one or the one in front of it, which would split two 50/40 foot lots would be completely reasonable, impossible under these particular standards.

Mr. Warner- I just had a question for staff. Could he build a second house on the lot now?

Mr. Eide- Mr. Warner, correct. Well, an accessory dwelling unit. So it's not necessarily like an additional complete unit because you'd still be subject to the 6 adults on the lot. But yes.

Mr. Warner- So it could be a like a regular house, just got accessory unit. So yeah, if the ability already exists to put a second house there, without the need for a variance. Just toss that out.

Mr. Saylor- Mr. Warner, can you repeat that?

Mr. Warner- If staff is correct; and I'm going to go assume that I'm reliably informed, that he could build a second principle dwelling unit on the house or on the lot. Just called an accessory dwelling unit. Is that correct?

Mr. Eide- Correct.

Mr. Miller- I think we brought this up last time too; we looked at an additional principal dwelling unit and that's not allowed because there's not enough, same thing, lot frontage. Right. But accessory dwelling unit and those are limited to certain size, just out of curiosity?

Mr. Eide- Yes, Chair Miller, they're limited to 75 percent of the floor area of the principal dwelling unit. So, and they yeah, it would look like an additional house. But for zoning purposes it would be subject of the limit of six adults on the lot.

Mr. Rangel Morales- I'm just thinking of the, it always come back to her because I was just amazed at how good it looks. The particular, they came before us too, but it was the property on Dale and Laurel where they wanted to build like multiple homes.

Mr. Saylor- Down by the co-op? Yeah.

Mr. Rangel Morales- And they ended up doing a cluster, not a cluster development, it wasn't called that, be careful about that, but it was something different. But it still allowed them to do a home in the front sort of another one in the back with a garage. Yeah they had another unit on top and it was. It looks great. I know there was a lot of concern about the, it just, and so for to see a home that's 80 feet, you know, on a property that can be divided into two properties like that, you know, that's not to say that whoever ends up buying the property, they're going to sell it, isn't going to come back for a variance, but they certainly don't need to.

Mr. Miller- All right. What are we thinking about? We do have a motion on the floor.

Mr. Saylor- We do. That's right.

Mr. Miller- So, if there's not any other discussion, I guess I'll ask for a roll call on that motion which was to uphold staff recommendation and deny the variance request.

Mr. Saylor- So just for clarification, voting yes means to vote with staff?

Mr. Miller- Yes.

Mr. Saylor-Okay

Mr. Miller- Okay, Kelly roll call vote please.

Ms. Koski- roll call vote: Trout-Oertel-Yes. Saylor-Yes. Porter-Yes. Swift-No. Rangel Morales-No. Miller-Yes.

Mr. Miller- Your variance request has been denied and that decision is final unless appeals to the City Council within 10 days. And City Council will be able to know our discussion and our consternation. That will be communicating with them. You can get in contact with (staff) afterwards.

**Moved by: Saylor/Second by: Porter**

**Denied 4-2**

**New Business:**

**15 Oakley Avenue:** Mr. Miller- The applicant is proposing to construct a new building on existing footings from a structure that previously existed at this location. Zoning code requires a front yard setback of 0 -10 ft for non-residential or mixed-use building. The applicant is proposing a front yard setback of 24.5 five feet or a variance request of 14.5 feet.



Mr. Eide- Thank you chair Miller and board members. David Eide with the Department of Safety and inspections again, I have the property up on our screen, 15 Oakley Avenue. This is a 5,181 square foot parcel on the north side of Oakley Avenue between Prior Avenue North and Lyndhurst Avenue West. An alleyway abuts the property on the north and provides, provided, access to the surface parking for the previous building on this site. The surrounding land uses are to the north various mixed use and commercial uses primarily office T3 zoning, to the east vacant commercial T3, to the south surface parking lot, duplex, VP / RM2, and to the west multifamily T3. The building that previously occupied this property was damaged by fire and was subsequently demolished. Zoning code section 62.102 states that when a non-conforming structure is removed or destroyed by any means including by fire or other parallel to the extent greater than fifty percent of the estimated market value as indicated in the records of the county assessor at the time of the removal or damage and no building permit is applied for the repair or replacement within 180 days, it shall not be reconstructed, except in conformity with the provisions of the code. The building contained a legal-non-conforming warehouse use a building permit was not applied for to repair or replace within 180 days which means that the owner must comply with the current zoning code requirements. The applicant's proposing a service business with showroom and workshop for the new use. They don't have a specific tenant at this time and are seeking to reuse part of the existing building footprint footings, which requires a setback variance. And then I put the table in the packet. So the zoning variance is from 66.331, the table states 0 to 10 feet for the front yard setback and this is further than 10 feet back. So, the findings, I guess I can. Maybe I'll pull up their plans first to look at. Here's the survey that the applicant submitted.

Mr. Saylor- And currently blank like that? It was demolished, right?

Mr. Eide- Chair Miller and board member Saylor, there are currently footings and a slab on the site currently. And I think the pavement in the back is still there, but otherwise it's the building is gone.

Mr. Saylor- All right, thank you.

Mr. Eide- Findings: One, regarding the variance being in harmony with the general purposes and intent of the zoning code. The applicants are proposing to reuse some of the existing footings of a building that has been removed and construct a new building with a larger footprint. However, the prior building had a non-conforming front yard setback. The zoning code requires a front yard setback of 0 to 10 feet for a non-residential or mixed-use building in the zoning district. They're proposing a 24.5-foot setback, for variance request to 14.5 feet. This proposal aligns with the purpose and intent of the zoning code by providing for adaptive reuse of non-conforming buildings and structures. And to support elimination of non-conforming uses of the land, this finding is met. Two, regarding the comprehensive plan. Permitting the property owner to reuse part of the existing footings on the site by keeping the building in the same location aligns with LU-5 in the 2040 comprehensive plan which encourages flexible building design to ensure ongoing functionality and viability and to respond a new market opportunities. So the applicant's proposing to reuse the footings in the front part of the property or the south side, and then they're going to, actually the proposal is to extend the building rearward to the north in order to meet the minimum floor area ratio requirement. And I believe that, so they've had to work with their insurance, it's been kind of complicated, but they got approval to remove the slab too. So just going to reuse the footings, expand footings backwards and then a new building with the larger floor area. Regarding practical difficulties, the prior building was damaged by fire and was removed, but the footings and pad remain. The applicant's proposing to reuse the front portion of the footings while expanding the building rearward. To comply with the code would require regrading the site and removing the footings that were determined to be reusable. Constructing a new building at the required front setback would not allow the applicant to reuse the existing footings. It is reasonable to permit the applicant to reuse the existing footings and maintain the existing front yard setback given it is roughly an alignment with the buildings next door. The existing footings and the topography of the site consisting of a slight slope dictate the need for the building at this location. These are practical difficulties to comply with the code requirement. This finding is met. 4) the damage that the building sustained by fire was outside of the applicant's control. This is the circumstance unique to the property, not created by the landowner. That finding is met. Five, regarding uses. The applicant is proposing a service business with showroom and workshop, which is permitted in the T3 zone. This finding is

met. Six, regarding the essential character. The proposed structure would be a two-story building, which is it is in keeping with the neighborhood character. That finding is met.

**Correspondence:** Staff did not receive recommendation from District 13-Union Park District Council, at the time of the staff report. Staff did not receive any correspondence regarding this request. And based on findings 1 through 6, staff recommend approval of the requested variance. And in your packets, you have the plans, but I did put up the floor plan where the second story is proposed, they modified their plans. Initially they were going to have a cantilever, but they needed to expand their floor area even more so then they decided to bump the footings out in the back. So if you have any questions, I'm happy to answer.

Mr. Miller- Any questions for staff?

Mr. Miller- Did you say what the use was going to be? Or does it even matter?

Mr. Eide- Chair Miller, service business with showroom or workshop. So they don't have an exact tenant picked out. They're kind of building it out in hopes of attracting a tenant, I would imagine.

Mr. Miller- Okay. Any other questions for staff? Is the applicant here?

Mr. Miller- Yep. Please step forward, once you get seated, state your name and address, or business address, and sign into the book.

Todd Knutson- Hello. I am Todd Knutson. I'm working with my father Bruce Knutson, the architect of record here to represent him.

Rich Pakonen- And I'm Rich Pakonen, and I'm the owner of the site.

Mr. Miller- Okay, actually, could I get an address for each of you? It could be your work address?

Todd Knutson- I live at 5757 Wentworth. That's also where I do business out of, Minneapolis.

Rich Pakonen- My office address is 275 East 4<sup>th</sup> Street, Suite 720, in St. Paul.

Mr. Miller- Thank you. Anything you guys would like to add to the staff report?

Todd Knutson- Nope.

Mr. Miller- Any questions for the applicants? Saylor.

Mr. Saylor- I have one just curious. What you'd expect the timeline for completion of the project?

Todd Knutson- Immediately.

Rich Pakonen- Six months ago.

Mr. Saylor- touché. All right. Thank you.

Mr. Miller- Any other questions? Okay, you guys can go ahead and take a seat, we'll call you back up if there is any opposition. Is there anyone here to speak in favor of this variance request? Anyone to speak in favor? Is there anyone here to speak in opposition to this variance request? Anyone in opposition? Not seeing any, I will close the public portion of the hearing. Is there a discussion or motion?

Mr. Saylor- I move based on findings 1 through 6, I recommend approval of the staff recommendation.

Mr. Miller- Is there a second?

Ms. Porter- I'll second.

Mr. Miller- Second by Porter. Okay, so can we get a roll call please?

Ms. Koski- Swift-Yes. Saylor-Yes. Porter-Yes. Trout-Oertel-Yes. Rangel Morales-Yes. Miller-Yes.

Mr. Miller- Your variance request has been approved. That decision is final unless appealed to the City Council within 10 days. Yeah, thanks for your patience too. Thank you.

**Moved by: Saylor /Second by: Porter**

**Approved 6-0**

**722 Grand Avenue:** Mr. Miller- Next order of business suit 722 Grand Avenue. The applicants are proposing to tear down an existing two car detached garage and construct a new larger four car detached garage behind this four unit Condo building. Accessory buildings are required to be set back three feet from interior lot lines. A 1.5 foot setback is proposed from the eastern and western property lines for a variance of 1.5' each. Go ahead Mr. Eide.

Mr. Eide- Thank you, chair Miller and board members. David Eide again with the Department of Safety and Inspections. 722 Grand Avenue, this is a .13-acre parcel on the south side of Grand Avenue between Grotto and St. Albans Street South with alley access along the south side of the property.

It's right here in the middle of the screen. Surrounding land uses, there's a mix of uses including commercial and residential properties to the east west and north and residential to the south. This is the Walgreens to the west. 63.501 is the section code that the applicant's requesting a variance from, which, essentially need a 3-foot setback from interior lot lines for accessory structures such as a garage like the applicant's proposing.

Finding one regarding the variance being in harmony with the general purposes and intent of the zoning code. You heard the purpose statement. They're proposing a 3-foot set back (sic) from interior lot lines on both the east and west side. So that's two variances, they want.

Audience member- (inaudible)

Mr. Eide- 18 inches?

Mr. Miller- You will have a chance to clarify when I call you back up

Mr. Eide- The proposed garage would accommodate four vehicles with one space per unit, compared to the current garage that accommodates two vehicles. Provided the proposed garage is constructed with gutters and downspouts to direct with stormwater runoff away from adjacent properties, the requested variances are aligned with 60.103 of the zoning code to promote and protect the public health, safety, morals, aesthetics, economic viability, and general welfare of the community, to conserve and improve property values, and to flexibly address travel and parking demands from new and existing development. That finding is met for both requests. Two, regarding the comprehensive plan. The requested variances would allow the applicants to replace the garage in the rear yard with a similar set back along the east side while allowing expansion of the west accommodate four vehicles. That request aligns with LU-5 in the comprehensive plan which aims to encourage flexible building design to ensure ongoing functionality and viability and to respond to new market opportunities. It's also consistent with H1 to ensure upkeep and maintenance of the aging housing stock. This finding is met for both requested variances. Three, regarding practical difficulties. This is a four unit building that has been operating with a two-stall garage for many years. The request for a setback variance is a result of applicant's intent to construct a four-stall garage. The applicant could build a three stall, excuse me, three car garage and meet the required side setback without a variance. Other than the applicants desire to construct a four-stall garage, no practical difficulties exist to support this finding. That finding is not met for both requests. Four, regarding the plight of the landowner being due to circumstances unique to the property, not created by the landowner. There are no unique circumstances to this property that warrant this request. So, the plight of the landowner is self-created. That finding is not met for both requests. Five, regarding uses. An accessory garage is permitted in the RM2 zoning district, finding is met for both requests. Six, regarding the essential character. The garage will comply with the height standards required of accessory structures along with the required setbacks along in the alley. The south side of the valley is lined with garages and accordingly the proposed garage will not alter the essential character of the surrounding area. This finding is met for both requested variances.

**Correspondence:** Regarding the District Council, staff did not receive a recommendation from District 16 Summit Hill Association. Staff did receive one letter of support for the project and based on findings, one through four, sorry, three and four staff recommend denial of the requested variances.

So I can pull up the plan so you can see that the applicant is proposing 18 inches from the east side and the west side. So East and West. If you have any questions, I'm happy to answer.

Mr. Miller- Any questions for staff? Ms. Trout-Oertel.

Ms. Trout-Oertel. Yes. Thank you, chair Miller. Mr. Eide, do we know what the occupancy of the property to the east to the right?

Mr. Eide- To the right. It's a restaurant.

Trice Strohkirsch- Coconut Thai.

Mr. Miller- You'll have a chance to answer questions. Thank you.

Mr. Miller- David is this lot size correct? 39.73?

Mr. Eide- Chair Miller, let me check, the applicant did submit a survey and I believe that sounds... Yep. That's correct. They did a lot line survey.

Mr. Miller- Any other questions for staff? Okay, we'll go ahead and call the applicants up. You can step forward. Once you get seated, state your name and address, either personal or business and sign into the book.

Trice Strohkirsch- 722 Grand Avenue, Trice Strohkirsch, owner of property.

Jack Wussler- Jack the Carpenter, licensed contractor, trying to build them a garage that works for them.

Mr. Miller- First and last name, unless it is "the carpenter?"

Jack Wussler- Jack Wussler.

Mr. Miller- Okay, and then your address.

Jack Wussler- 999 Summit Avenue.

Mr. Miller- Okay, thank you.

Jack Wussler- Yeah. So can you put up the site plan again? I want to clarify what we're asking. The 18-inch setback on the east side is grandfathered in because the existing garage is 18 inches. Excuse me, 18 inches, 18 inches from the property line so we get that, no matter what happens here, we get that. We're asking for 18 inches on the other side, so we can build a four-car garage for four units of the condos, so they each get a garage. So there's a little misnomer there that we're, we're asking. We're not asking as much as David said we are, we are only asking for 18 inches.

Trice Strohkirsch- On one side.

Jack Wussler- So I don't know if that influences anything, but I mean we're only asking 18 inches. And the reason. Here's the reason.

Mr. Warner- Sir, we can't hear you when you're over there. You got to stay by the microphone.

Mr. Saylor- It's being recorded by law.

Jack Wussler- I can't see it.

Mr. Warner- Well, welcome to the world. I can't see it either.

Jack Wussler- I'm getting older. So the building code requires 16-inch walls, minimum.

Ms. Trout-Oertel- Sixteen-inch walls.

Jack Wussler- Sixteen inch, so we've got two 16-foot doors so that's 32 feet. We need 3/16-inch walls, that's 4 feet. That's 36 feet. So we so if we were just doing the 3 foot setback on the left on the west side and 18 inch setback on the east side, we'd be 6 inches short to do this correctly.

Trice Strohkirsch- To do it to code.

Jack Wussler- To do it per code without going here. We need six inches, six. That's all we need. We ask for an additional foot because this little wall right here that carries the load of the roof because the roof...

Mr. Warner- Sir.

Jack Wussler- I'm sorry I'm a carpenter.

Mr. Warner- Yep.

Jack Wussler- So the roof is like this, the load.

Mr. Warner- So I'm going to interrupt you. We'll take a full timeout here. Okay, I'm a lawyer and we have to have a record so if it's not on the record you're actually hurting yourself.

Jack Wussler- Okay. So it's easier to sit here and just look okay, that's fine. I should have brought better glasses but so the roof load, all the weight is on the back wall and the front wall. So, the two corners are strong because they're tied into the side wall. This is a carpenter talking. So the middle wall, we need an additional six inches. We asked for another foot so the middle wall is a little wider to support the load of the roof, disperses the weight, gives them a few more inches when they open their doors. Because they're going to put four cars in there. And the beauty of this is we're taking four cars off of the Grand Avenue. They're next to restaurants, they got that 80-unit building going up across the street, a couple houses down.

Trice Strohkirsch- You can't go park there right now.

Jack Wussler- So, and when I was first applied for this, not knowing I'd have to do this, as a general contractor. The woman in the office says that you want density. Well, here it is. It's a four-car garage, for a four condo unit. So we're not asking that much. We need six inches, we're asking for 18 on one side. Currently on that side is a CVS Walgreens fence, which is three feet from that property PIN right there, so, which is irrelevant. I'm just telling you how it is, right now. Now, the other big thing is, David, can you put up the alley, the garages of the alley? The garages on the other side of the alley, there's four garages in row, there's no three-foot setback. They all but together.

Trice Strohkirsch- They've been doing it for...

Jack Wussler- Let me finish me, then you can talk, because I'm on a roll, I got it in my head, let me get it out. So on the 4-under, on the left side, on the corner. Is there a pointer to point to it?

Mr. Rangel Morales- We can see.

Jack Wussler- All right, I don't know that. They're all butted together, the garages. Those are tight versus, there's no 3-foot setback. So there's really no consistency, so that's that. What we want is 18 inches. That's all we're asking for 18 inches, come on. That's that much. That's all it is. I build 30 garages a year and I know the setbacks, three feet. But if the garage is where it was originally, you can build it there. You can't go any closer, so that's called grandfathering in. So we're not asking that much. I'm stunned that the other people lost, but whatever. So I'm now I'm really focused on trying to get this to go through. I think I've said everything I need to say. Density, easement, alley across the street, building code, 35/6 feet. We need 36 feet and we're asking for additional 12 inches. So that's my, that's what I got to

say. Now, this is a homeowner, he might have a whole different story on how it is living there. But if you want to ask me questions first as long as I'm focused right now?

Mr. Rangel Morales- Just a technical question you keep saying you need 6 inches, but you keep saying 6 inches but your requesting 18?

Jack Wussler- Right.

Trice Strohkirch- We want to be a little bit the car doors in the middle.

Jack Wussler- I mentioned it. Otherwise, there's a foot. There's, okay, there's 16 inches but when you get four cars and you open the doors you kind of get pinched. And the other reason is, so the building, the load of the wall of the roof is more dispersed on the footing. I mean, that really make sense, as a builder, but we're talking zoning now, so.

Mr. Miller- I guess I'll comment on this. Of course, it's difficult to build a four-car garage on a 40-foot lot. Yes, you're constricted by building code. That's without engineering. You can get this engineered, you can turn your trusses, you can put the roof system on differently. There's a bunch of different ways to get four cars across there, in a foot-and-a-half less. You're asking for a variance of three feet.

Jack Wussler- No, we're asking for 18 inches, you, that's where that's where you're wrong.

Mr. Miller- I'm sorry, who?

Trice Strohkirch- The information, alright, because we're up against the property line already. Because the garage already built there and it's on a retaining wall. So, at that point, so it's grandfathered in, right? Because it's already built there, we're tearing it down, and we're gonna build it on the exact same spot. So, apparently, that's there. So, for some reason...

Jack Wussler- Would you put up the site plan again so we can clarify that?

Trice Strohkirch- So it's actually only.

Jack Wussler- We're only asking for 18 inches, that other, that 18 inch, we get that, because our existing garage is at 18 inches. We get that.

Mr. Miller- Let's ask staff if they agree with your assessment because it doesn't seem that they do.

Jack Wussler- What's that now?

Mr. Miller- Lets ask staff if they agree with that assessment because once you tear the structure down...

Mr. Eide- Chair Miller, they're changing the gable. So that's going to increase the height along that side. So you don't get to expand your height within the non-conforming setback.

Jack Wussler- Well, that's a new one to me, but we're grandfathered in at the 18 inches, is that correct?

Trice Strohkirch- That's where the old garage was.

Mr. Eide- In the exact same height and everything, yes. But when you increase the height, no.

Trice Strohkirch- We're not increasing the height, are we? That's why we're building this way so it stays shorter. We can make our height two feet lower by shorter trusses.

Jack Wussler- Well, the existing gable is like this.

Trice Strohkirch- It's the other way.

Jack Wussler- Right. So.

Trice Strohkirch- That way. So it high. We're going to go the other way so it's not so high.

Jack Wussler- But we are in, we were increasing that wall height. Yeah, so he is correct on the wall height but the actual 18 inches. If we did the roof the other direction, which would be really a long truss, then it would work as far as the 18-inch setback, I stand corrected.

Trice Strohkirch- Then we'd be too high.

Jack Wussler- Then we'd be too high. So there are difficulties in building a four-car garage but still we're only asking for 18 inches when it all when it's all said and done that's all we're asking. Now if you give us 6, we would take it. But that's a whole different, a whole different meeting then, I think. And then we're running out of time to get it built because we got to tear it down, get the concrete in before Thanksgiving and we're up against. We started early spring. Here we are at the at the last chance, really, to get this done this year. And I don't think it's unreasonable to ask for 18 inches when across the alley they don't have any. It's zero setback. So it's going to look even better than the garages across the alley.

Trice Strohkirch- So we are taking down a two-car garage that looks cruddy.

Jack Wussler- Well yeah that's got to come down.

Trice Strohkirch- You know it's going to make the neighborhood look nicer and it is going up against a parking lot and a parking lot. It's not going up against a house, it's business business and parking lot parking lots, which are. Coconut Thai is at the front of Grand, their parking lot is in the back. So our garage is going to butt up against their parking lot, parking. And then we're going to Walgreens parking lot. So it's not, we're not.

Jack Wussler- So that extra wall height really doesn't affect sight lines because it's a parking lot. It doesn't really affect anything. It's just what we have to do to build this.

Mr. Saylor- I appreciate that. I'm not a carpenter. I love to listening to people like you talk, I mean, because your, expertise is so much different than mine. I'm a History Professor. Okay,

Jack Wussler- I'm licensed, I've got to know this stuff.

Mr. Saylor- And my other colleagues here who just know that's their business. It's not mine. But here's the question. These six criteria that we're required to apply to variance requests like this. So, I look at one of these, and it's number 3, and about practical difficulties, right? Okay, and what I read here is the applicant could build a three-car garage and meet the required side yard setback without a variance. Other than the applicants desire to construct a four-car garage, desire to construct a four-car garage, no practical difficulties exist to support this finding.

Jack Wussler- Correct.

Mr. Saylor- So it seems to me, I get, I get it, 4 and 4, four garage spots, four units, okay.

Jack Wussler- Four less parking spaces for, four more parking spaces for the businesses.

Mr. Saylor- Actually, two, because you've already got two, you'd only be adding two parking spaces, right?

Jack Wussler- Well, alright, because we're already using two. Correct again!

Trice Strohkirch- I can't find the two now. I can't find one on that street. And now they're building a new...

Mr. Saylor- Ah. So. Okay. So. Just build three.

Trice Strohkirch- No, no, no. We've got two now. That's the problem.

Mr. Saylor- I know. But so now you'd have three.

Trice Strohkirch- Who's? Yeah, why build that, we're not going to spend that money. Leave one person out...

Mr. Saylor- So you're not going to build the garage because there's one spot that you can't have? You can have. I get it. I mean I get it. I just had my phone open to look into into the visuals. It's an alley, it's garage. It's like a, it's like a façade.

Trice Strohkirch- That's for protection.

Jack Wussler- Ours is going to look better than that. We're not going to have a façade.

Mr. Saylor- I know. But it's like it's like just garages. So I understand. You look across the alley and you see garages with no setbacks, right? I understand that perspective. Who knows how old those are, right? There's the zoning code that came in, so you have to deal with the zoning code as it exists now. So that seems to me, construct a three-car garage and then we're not sitting here, right? I'm just saying. So what's?

Trice Strohkirch- That doesn't help the building. That hurts the building.

Jack Wussler- The reason we're here is to ask a group of people for reasonable outcome so we can do what we want to do.

Trice Strohkirch- Is there something that...

Jack Wussler- And not and not do something that we don't want to do which is one homeowner of the condo is out. And you, density.

Trice Strohkirch- We've still got to pay for that somehow. And how do you do that?

Jack Wussler- I mean, I know you can approve it. I know you can do it. I mean, you just got a vote and do it. I know you can.

Mr. Saylor- Technically, we need to apply these criteria and the staff finding has already said, has already, has...

Jack Wussler- You can overrule the staff.

Mr. Saylor- Well, it's not quite that easy.

Jack Wussler- Sure you can.

Mr. Rangel Morales- I think that the vision is to try to get more people to ride transit, just so you guys know, that's the vision, but between the vision and getting there and the reality of today is that people still drive a lot of cars. And in your particular area, I can see why with the building going in front of the street, it's going to create more, sort of demand for the street parking that's already really limited. I think that that for right now, for where, your particular property is located, I do think that you have a unique circumstance and that what you're requesting is just to be able to park the car. So, I think personally, I think that you have a unique circumstance to your particular property in the area that's located with the development is going on around it. Now, I also thought that you had practical difficulties based on your expertise to comply with the side requirements, based on the, you know, your expertise in building this thing, right? And at least when you were conveying was that, you needed it for support and you needed it for the...

Jack Wussler- Yeah, we need 16-inch walls in the front plus...

Mr. Rangel Morales- I am not an expert in this, I don't build roofs, I don't build buildings, but I do take Commissioner Miller's, point, who does do this. And when he's saying that he thinks that this could be re-engineered so that it doesn't need the, require, need the variances, then that doesn't necessarily become a practical difficulty anymore. So here's my question. So when he had proposed that there was a practical way of re-engineering this so that, I believe he said the trusses are...

Jack Wussler- It's the wall, the middle wall.

Mr. Rangel Morales- My question is, is do you disagree with that? That's it.



Jack Wussler- I think an engineer could design the middle wall, which is only 12 inches, the city might pass it, but it's still, we still lose that elbow room. When you open your doors up. The practical part of that, you putting four cars in there and your doors open up and there's not much room between cars. So that so, yeah, I mean, we could hire a structural engineer to try and design that middle wall to meet the building code. We'd probably have to beef it up. You know, whatever they do to make it super strong, you know, 3/4 sheathing on both sides or something like that, but it still doesn't give us the, the niceness of opening doors and as a builder, I want to do the right thing for our customer. We only do, we get one chance with this and then it's there. So, but do we have to meet all the criteria? That's my question? And two of them failed, according to David. And his word is it?

Mr. Saylor- No.

Trice Strohkirch- What were the two that failed? The 18 inches and 18 inches?

Jack Wussler- No, no, no. It's the practical. It's the practical. I don't have that piece of paper.

Mr. Saylor- The applicant, may I? I'll just read that.

Jack Wussler- Yeah, there's two of them we failed out of six or seven?

Mr. Saylor- The applicant has established that there are practical difficulties in complying with the provision, that the property owner proposes, leave that so practical difficulties in complying with the provision. That's that's number three. And number four, the plight of the landowner is due to circumstances unique to the property, not created by the landowner.

Trice Strohkirch- What does that mean? Both of those? Sorry, I don't know, what does that mean?

Mr. Saylor- I'll refer to staff to explain the provisions but those are the two we are dealing with.

Jack Wussler- I didn't know. David, I thought you were on our side, but I guess you're just, no, I really did. I really did. I was stunned when I saw something about that. And I was going to call you. I never did, because it's your job but I thought you are you're advocating for us, but your neutral party? Is that kind of it?

Mr. Eide- correct.

Jack Wussler- Interesting. Interesting. So we've got to submit to these guys, so your seems like you should be on our side.

Trice Strohkirch- The city, that's our taxes, right? What, can you explain to these what these are?

Jack Wussler- Why we fail them, I guess?

Mr. Eide- So finding three is practical difficulties.

Trice Strohkirch- Practical difficulties of what?

Mr. Eide- Practical difficulties with complying with the code. So that's why.

Trice Strohkirch- That's the sixteen inches we need. That's our sixteen inches.

Mr. Eide- The building code thing could possibly be a situation. A good way to explain this is, let's say you have a giant slope on your property and the only flat part is in the front yard setback. Then maybe there'd be a reason to grant a variance to build there because it's not reasonable, or that's a practical difficulty finding or circumstances unique to the proper that you didn't create or the property, landowner didn't create.

Trice Strohkirch- Like so people building restaurants and businesses around us is in creating a need for this because like, right now, if I go home, I have to drive around for a half hour to try and find a parking spot, and unless I go and use one of the businesses. So, I mean, that's.

Jack Wussler- What was the finding four, then? I didn't clearly get that.

Mr. Eide- That the plight of the landowners due to circumstances unique to the property not created by the landowner.

Jack Wussler- Not created by the landowner...

Trice Strohkirch- Yeah, this is businesses building around us and taking parking spots. So it would be nice to be able to park off the street.

Jack Wussler- Well, there's an easy way around this. You do, you do variances, 18-inch variances for a lot of people, you can just do it.

Trice Strohkirch- That's true.

Jack Wussler- I mean, I don't see what the big problem is here. 18 inches.

Trice Strohkirch- It's a nice neighborhood. We're taking down an old car garage, and putting up a nice new one.

Jack Wussler- I think you can do it without David's approval. No, I really do. I think you guys are independent homeowners and businesspeople, I don't know who you are.

Mr. Rangel Morales- I think it's a very reasonable project, honestly, without all the selling of it.

Jack Wussler- Do you have any weight?

Mr. Rangel Morales- I think it's a reasonable project for the area. And I'm trying, I'm trying to understand the actual difficulty in needing the to go. So say for example, do you need to build the wall higher so that you don't get the grandfather part in?

Jack Wussler- No, we're just doing a regular eight-foot wall but you see, the gable end is under that side. So that makes the wall higher, currently the garage the only 8 feet because we're switching the pitch of the roof. Right now, it's like this. Now we're going like this so that makes the gable end is higher. Otherwise, we'd have a 36-foot truss.

Trice Strohkirch- But we're not going over code though. We're not going higher than code. I don't even know what that means.

Jack Wussler- That's but that's such a minor...

Trice Strohkirch- Hang on, we're not going higher than code. So why is that brought up? Yes. Because we're not going higher than code.

Jack Wussler- We get the 18 inch.

Trice Strohkirch- They're talking about the height, they're talking about the height at the peak. So that's where.

Jack Wussler- We're not, we're not we're not going over the height. It's 15 feet.

Trice Strohkirch- Yeah, he thinks we are. That's why we go that way.

Jack Wussler- But it seems such a minor detail that the gable end is a little higher than the existing wall.

Trice Strohkirch- That's not what they're talking about. That's not what they're asking.

Jack Wussler- You know, it's in a parking lot where, who cares? I mean you drive up you go in the restaurant, you leave, there's a garage there.

Trice Strohkirch- That leaks. Its falling down.

Jack Wussler- So some of these rules are so, I run across them all the time because I'm a general contractor and I just I just try and do it per code, but we're not doing it per code because we're trying to get four cars in the space, and we can do it. We're asking for 18 inches. I just...

Trice Strohkirch- Okay, so we are not going over height.

Jack Wussler- No, we're not over the height limit.

Trice Strohkirch- Well why did you say that would change the trusses? We can't change the trusses? Because we're not going over height? We're going this way with them instead, if we went up to four car garage that way, it would be over height? So that's why we're changing the angle of the gabled wall this way then, you know, the run line? So it's the long way? And then the trusses are shorter, so we're not going over height there?

Jack Wussler- Correct.

Mr. Diatta- Can I can I chime in?

Mr. Eide- That's, Mr. Diatta. He's the Zoning Administrator.

Mr. Miller- Go ahead.

Mr. Diatta- Thank you, chair. I just wanted to sort of clarify something, so, so if look at a height there's a misnomer that height is the highest point. It's not it's not the case for zoning. So depending on the type of roof you have the height is measured differently. So typically, it's for gables or gambrel roof, you go on the midpoint between the peak in the eave. That's what max height is, right? It's going to flat roof, we're going to top. So based on that, I'm not looking at. I'm not seeing such a cell phone. I'm not looking at pictures. But the determination is made that you going higher. And so that the nonconformity claiming, you don't have it.

Jack Wussler- I understand that now, and I didn't realize that. But we're still, the code is 15 feet to the midpoint of the truss. We're going to be under that quite a bit, either way. So we're not changing the code on that.

Mr. Rangel Morales- The question for Mr. Eide, why don't they qualify for the grandfather part on the right side?

Jack Wussler- Because we're doing a gable. Oh, oh, oh, oh, oh, oh, oh.

Mr. Eide- Chair Miller, commissioner Rangel Morales. It's because they're changing the gable. So right now it's uh the gable faces the alley and they want to change the gable so it faces both of the side properties.

Jack Wussler- Because it's four, its 36 feet, it would be a monster truss.

Trice Strohkirch- If you went that way, then you'd have to go up higher.

Jack Wussler- And that's why we're doing gutters. So we're going to take care of all the water issues, I mean no bitching about water like this other one. Get it all in the alley, and there's no complaining. There's. It's a clean job. I mean it's clean, it's going to look good. I just, you know, don't see why you just can't do it. I know you can do it. In your heart, you can do it. But you know, if you upset David, then you know, then that's life. You've got to live with David. I don't. Does he always get his way? No, I'm serious. Does he always get his way?

Ms. Swift- No.

Jack Wussler- Okay. All right. Thank you. So, you guys got to live with him. I don't. I just met him. I talked to him on the phone. He's a nice guy. I didn't know you wasn't on our side; I just didn't know that. I thought you were, Dave.

Mr. Eide- Chair Miller. Well, I do want to bring up a code section, 63.501, where is it (D) where they could actually get a maintenance easement with the neighbor to do this by right, and they would not need a variance. If the neighbor agrees.

Jack Wussler- We tried that. Walgreens, they're awful. We all know that that store is awful with all the bad reports on Nextdoor. You know it, and you're laughing but that's a terrible store. They're terrible owners. He wouldn't do anything for us, nothing.

Trice Strohkirch- That's originally why I wanted to build a garage from property line to property line too is because of the trouble that we have with the drug dealers and the people shooting up on the side of our building and it was cutting people through along the traffic there. So actually I had to put up a fence, I had to put up multiple fences to keep them from cutting through our yard and doing drugs on the side of the house. So it's kind of a safety thing too, for the alley. That's, all the neighbors did come up and say hey, we're happy you're doing it. That's going to cut down on people cutting through, because of Walgreens. That does bring trash; people have been sleeping in my basement. Because they're shooting up and they're waiting for their needles when Walgreens opens at 6:00 in the morning, 7:00 in the morning. And then also we're cleaning up a building that is basically you know, the siding is falling off. There are holes in the roof. You know, it's cleaning up the house. It's cleaning up the neighborhood. It's putting a new building up to make it look nice.

Jack Wussler- We tried that route, he called their attorney four or five time, he got nowhere. So the next step was here to David and the next step is the engineer, because the wall is still narrow. We need a little more room for the doors. This is a simple project here. It's a garage, we're not talking a house where it's site lines...

Trice Strohkirch- You're not impeding, we're impeding on garages or driveways, parking lot.

Jack Wussler- Their fence is three feet off of their property line, Walgreens. They don't really care, they just don't want to do anything for us. We could easily grant that, they could easily do it, they won't do it, they won't do it. We're not even on their property.

Mr. Rangel Morales- Going back to my question again because you're changing the gable. You have to change it because in order to go four feet, otherwise it would be too high. And then you'd be requesting a height variance.

Jack Wussler- Either way we're not going to be too high.

Trice Strohkirch- No, if we went the one way we would. Yeah.

Jack Wussler- No we wouldn't.

Trice Strohkirch- If we went that way with it.

Jack Wussler- No, It's only 4/12 pitch. It's only.

Trice Strohkirch- No, he's asking if we went this way with a four-car garage and be up 20 feet in the air because the trusses. You'd have to.

Jack Wussler- No it wouldn't. It's a mathematical number. I know what it is.

Mr. Rangel Morales- Then why did you do that?

Trice Strohkirch- We do it that way then?

Jack Wussler- Well that alive does is give us the 18-inch grandfather on the east side. We don't need that. We need of the 18 inches on the other side.

Mr. Rangel-Morales- I mean, I think that's you just kind of answered a question of how you could make this variance.

Trice Strohkirch- You can't. It would be too high. The trusses have to. We have to have the trusses going that way.

Mr. Miller- Several of the buildings in the surrounding area are flat roofed.

Trice Strohkirch- They all go that way.

Mr. Miller- You could have flat roof trusses. I mean, they have these rules in place for a reason, like there's a place to bring out your trash cans and keep your trash cans. If you go property line to property line, you just have trash cans kind of like what's right there right now.

Jack Wussler- Well, the trash will be on the corner of each garage. That's not a problem.

Trice Strohkirch- Or inside. Recycling inside, garbage outside.

Mr. Miller- If you, uh..

Jack Wussler- Inside too, you could do that. I just calculated a roof, the roof will be six feet high if we went the long way, plus 8 feet, that's 14 feet it's 15 feet to the midpoint, so we still are under the code.

Mr. Rangel-Morales- The other way.

Jack Wussler- Yeah, the other way, but we but that doesn't that doesn't help, really, we still need the 18 inches on this side. That really doesn't figure into this discussion that much, because we get the 18 inches anyways. David we get that, the 18 inches?

Mr. Eide- If you keep the same height.

Jack Wussler- Okay? But the garage has been there for all these years. We can certainly put it back at that edge.

Mr. Eide- To the same height, yes.

Jack Wussler- Okay.

Mr. Eide- But same exact location.

Mr. Miller- It gives you an extra foot and a half. It gives you the 18 inches. So you won't need a variance for the right side of the property but you will need a variance for the left side of the property. that's more than the server asking for. Or if you don't need one for the right side and you keep it to three feet on the other side by changing around your roof loads, and engineering a little bit, then you won't need any variances. And we'd like to me, it seems like that's the most logical way to go.

Jack Wussler- Right. That's really where we're at if you deny us, and it looks like you're going to. That's fine. That's your job. But still.

Trice Strohkirch- We wanted the room.

Jack Wussler- Would you want to be in that garage and open your doors? No, come on. None of you would. None of you would. You know what I'm talking about. You're tight. It's tight when you open doors, give us the 18 inches, good God. I mean really, we live in St. Paul. I just don't see what the big deal is. It's not like any neighbor is going to care one way or the other. Really!

Mr. Saylor- I have a question. So I appreciate the discussion. Technically speaking, I'd defer to the Architect and the Builder here. The feasibility of different, sounds like there's a, from the Builder, a technically feasible alternative, from the architect too, I mean, put this into English for me. So I, is this, is there another way of to help these people get what they want without the only model we've seen today?

Jack Wussler- It's too tight.

Mr. Saylor- Let her answer.

Ms. Trout-Oertel- Well, they can switch the gable and it will be higher, but as has been pointed out, it won't be too high, so they could do that. Then they wouldn't need the 24 inches that you see on plan at the middle of the rear wall, which

is there because it has the support the roof when it goes in the other direction. So they can build this without a variance is my, what I think.

Jack Wussler- We still need one, on the west side.

Mr. Saylor- Hang on a minute. Thank you. Mr. Miller?

Mr. Miller- Yeah. And I think this project can be done without a variance and the other alternative is a three-car garage with a parking pad, which doesn't have the same setback requirements, is that, is that right?

Mr. Eide- Four feet.

Trice Strohkirch- So we wouldn't have enough room there.

Jack Wussler- No. No. We pour concrete right up the property lines on garages. We do that all of the time.

Mr. Saylor- Okay, so thank you. That's what I want to hear. It is, it is possible with just some technical modifications. Okay, thank you.

Mr. Saylor- Okay, it's technically feasible with modifications so why don't you do that? Then, you don't need a variance.

Jack Wussler- But then the garage is tight.

Mr. Saylor- Is that correct?

Jack Wussler- It's going to be tight, and you know it. You know darn well its going to be snug.

Mr. Miller- You've got a 16-foot overhead door that you put two cars in. There's no two feet in between those two cars? Your argument is that you want the two feet in between two sets of cars, but you pull two cars into those 16-foot doors, there's not two feet in between those. So why do you need the two feet in the middle for elbow room? Your first argument was that you needed it for structure, which is valid unless you get engineering.

Jack Wussler- We need 16 inches right now. So really we need six inches, which, but you not going to give us six either.

Trice Strohkirch- Can we ask for six?

Jack Wussler- You're not even going to give us six? Which is...

Trice Strohkirch- And then we don't have to change anything, then we can do the plans we have, with 6 inches, we just, we can do it. We can do it with six inches.

Mr. Miller- Well, you would need an application that reflects what you're actually asking.

Jack Wussler- I know, the whole process would be another six weeks. And we don't know. There's not a guaranteed they're going to do it.

Trice Strohkirch- That's what I'm asking right now. If they can. We just need to get a structural engineer, like they said, just make the wall smaller in the middle and call it a day.

Mr. Rangel Morales- There's two variances, right? One for the west and one for the East. And so I think we could approve one of them and deny the other one then?

Trice Strohkirch- That's at least a good thing, that we know that we have that in writing.

Mr. Eide- Chair Miller, Rangel Morales. I believe you could. Which one though, I guess? I was wondering? Just you would just do the west and not the East?

Jack Wussler- The East. That's 18 inches.

Mr. Rangel Morales- And so, the one you need, that would be the west?

Jack Wussler- That's what we came here for. But I was corrected that technically we need both, because we changed the wall height, I didn't know that I'm sorry, I didn't know that. I was not told that either when we were going through the process.

Mr. Eide- So if they kept the wall height, the same placement exactly the same, on this side and they could keep this. And then you, yes, you could do the one if you found reasoning with the findings.

Jack Wussler- It would be a long truss. I'd have to get a crane, I think, to set it. 36 feet. Six-inch truss. That's a long truss. That would certainly give us the 18 inches on that side.

Mr. Miller- You had the 18 inches on the west side that. I think there's a few different ways that you could do it and you can come up with the best solution, you know.

Jack Wussler- It's just squeezing the garage for doors, for doors, opening doors.

Mr. Miller- But according to what you thought you were asking us. This would give you that.

Jack Wussler- We're still short 6 inches either way because...

Mr. Miller- You're asking one foot six, on each side of the garage to the property line. That's exactly what you wanted.

Mr. Saylor- That's right in here. Yeah.

Mr. Miller- That's what you're saying.

Ms. Porter- I have a question. Are in some ways. Are we putting the cart before the horse? I mean, in terms of, has this gone through like plan review? What comes first? Because that has to be, it sounds like we're trying to engineer and design this, and that's not really our book of business.

Jack Wussler- No, I'm not asking you to do that. I can do that.

Ms. Porter- No, no, I hear you but I'm just saying that's what...

Mr. Eide- Chair Miller, commissioner Porter, I believe that plan review did look at what is in front of you. I don't think it's been approved per se, but I think that they did make modification based modifications based upon Plan Review's comments.

Ms. Porter- Okay, thank you.

Jack Wussler- Can you put up the site plan again?

Mr. Miller- I want to get I want to get a clarification here from the attorney.

Mr. Warner- Chair Miller and Commissioners, it seems to me that we've reached the point where it's beginning to become circular and what would be better is to have the applicant draw a more cogent plan, present it to the staff, let staff evaluate whether or not they need one or two or more variances or no variances and proceed that way. But I think it's very difficult to make any sort of decision with the plan set that's before you today and the conversation we've had. So I think it's almost the point where you it's almost unproductive for the applicants and for the board.

Mr. Saylor- So, clarification, Mr. Warner, like a set of architectural drawings where we could actually? Is that what you were referring to, or?

Mr. Warner- Something more than, more than what we have here. And I don't know. Staff can help the applicant, do a, you know, you can do it on a napkin for all that matters, but it just has to be more clear what they're proposing.

Jack Wussler- It shows an elevation, shows the elevations and shows an elevation section and it shows the site plan. That's all you need for building code.

Mr. Warner- We're not talking about the building here, we are talking about the zoning code.

Mr. Miller- It would certainly be in your best interest to do that.

Mr. Saylor- Yeah. To move this forwarding and get you where you want to be.

Mr. Miller- Because we could potentially not say no right now. Get some more information from you and...

Jack Wussler- No to what?

Mr. Warner- The present application that's before the board.

Jack Wussler- Then why don't you?

Mr. Warner- Because the recommendation is to deny and, quite frankly, I can't hear, I've not heard any facts that would compel any other conclusion but the staff recommendation at this point.

Jack Wussler- So staff is what you go by, basically.

Mr. Miller- What we're saying is that this will get denied unless you give us some better information and it's in your best interest to do that. If you don't want to, we can vote on it right now. Probably deny it, and you can go to the city council or you can redesign anyway, or you could come up with maybe a better designed plan with more information on it. So we know exactly what we're voting on. And then, in two weeks time...

Jack Wussler- Well, we can also come in with a three foot step back on the left hand side, and an 18 inch on the right side, not increase that wall height and we don't even need to talk to you again. Because we're not...

Trice Strohkirsch- That's what we need to do. Either we get a smaller garage door...

Jack Wussler- Request 18 inches. Nobody cares about 18 inches.

Trice Strohkirsch- They do.

Mr. Saylor- Yeah. What he's saying is... We want to help you move the process along towards success. Right? Right. I'm a teacher, I want to help people. That's, so...

Mr. Saylor- I know. From what I've heard, I just don't see it happening.

Mr. Saylor- We, we wouldn't tell you this. I'm talking straight with you now. I'm not the chair. I'm not the attorney. I'm not, I'm just, I'm listening. I want to help people get things, move towards success, right? It doesn't help anybody. Not your tenants, not the city of St. Paul, nobody, to say "ha, we got you, no" That doesn't help anybody. So what can what chair Miller has suggested is take two weeks? We don't have to vote now, we don't, let's not vote. Now, give you two weeks to week will lay this over for two weeks, what we will see you again in two weeks and in the meantime, right, he'll give you the specifics of what will help us see this in a way that we can possibly move you towards success.

Jack Wussler- But you're not going to give us the variance, the 18 inch on the one side

Trice Strohkirsch- He's saying he might, if we get better information. But we need to do anyways...

Jack Wussler- Better information...

Mr. Miller- Yes, I think you should talk to staff about that and if you're willing to come back and in two weeks and give them some more information on some more information. That's just our next hearing day.

Jack Wussler- And we just give the information to David and he e-mails up to you and then we show up again?



Mr. Miller- Yeah. And you'll get to go first next time, if that helps yes.

Mr. Saylor- Yeah, two weeks. Please.

Mr. Eide- Chair Miller, board members. Can you clarify what exactly you mean? Like, architectural drawings that are done in CAD or something or what kind of information?

Jack Wussler- We need an 18 inch variance, don't we?

Trice Strohkirch- Not if we do it structurally.

Mr. Warner- Better design.

Mr. Miller- I'd like to see...

Mr. Rangel Morales- I think the problem is that you're sort of talking yourself out of why you can comply with, or you can comply without a variance, but I think, even if, like you, like you said, even if you reconfigure it, to the point where you've addressed the structural stability and all the other requirements of the building code, you still might end up needing some form of variance to get the practicality out of the.

Jack Wussler- That's what I'm saying, the practicality of it.

Mr. Rangel Morales- But I think even through your own admissions today or to what you've been conveying is that there are ways in which you can redraft this so that what you're actually requesting is the least amount of what to get to the point of what you absolutely need. And it seems like you don't absolutely need everything you're requesting today, which makes it really hard for us to be able to say, yes.

Trice Strohkirch- Can you pull up the plan or the drawing again that he had the showed the distance? So the distance in the middle, there are 25 inches, right? So we could bring that down to 19 inches and have enough room.

Jack Wussler- Six inches then we don't even need to come here.

Trice Strohkirch- I know, why don't we just get a structural engineer to draw that up to say that that's strong enough to make it was 16 with 19 inches. And then we don't even have to come here. That's it.

Jack Wussler- The middle wall has to be six inches wide.

Ms. Porter- Would it help to show this like a section? You know, just cutting through it and then showing the dimensions that doing something else can either the question is a bit with actually showing cars, sketched in there, or some form and just cut it through section view. And then he's talking about the distance from one end of the wall to the other. But I'm saying, pictorially, if that's what you need to?

Mr. Miller- If you want to prove that you don't need the variance on one side of the garage, you need to show how you're going to do that by keeping the wall height the same.

Jack Wussler- Yeah well, we can change the trusses.

Mr. Miller- Okay, so you need to show that.

Jack Wussler- And I can do that, well I could do that right now, but.

Mr. Miller- And if you if you think that you can do it if you think that you can do it without the 18 inches, then do it without the eighteen inches, you don't have to come back. If you think if you really think that you need those 18 inches, then come back and explain why you need that 18 inches in particular.

Jack Wussler- We've done it for the practicality. That's the reason, the practicality. We can change the roof trusses and don't increase their wall height on the east side and that's a given, that's a given. So but the practicality is the other side.

That's where we've been going around. We can fix the right side no problem due to trusses this way it's cheaper that way, anyways, but whatever. So, what we would accomplish is still, we need some more room on the left side in order to get the practicality, that's a good word, I didn't use that, but I will for now on; the practicality of a four-car garage so for the...

Trice Strohkirch- If we show the one side and come back and still ask for the 18 inches are we going to be able to get that?

Jack Wussler- You are here right now. I mean, you're here, and can kind of sense that what's going on.

Trice Strohkirch- So what we can do is, take out the middle and make that ask someone to give us an engineer saying that we can make that structurally sound.

Jack Wussler- I'd rather build it, a wider garage.

Mr. Rangel Morales- Or you get an engineer who says you can't do that. If you can't reduce that middle space. And then you absolutely need the space.

Jack Wussler- That would sway you?

Mr. Miller- If engineer says, it's impossible to do without that extra 18 inches than yeah.

Jack Wussler- Interesting.

Mr. Miller- But also keep in mind if you switch the direction of your trusses, you don't, you don't need that bearing wall with the garage trusses.

Jack Wussler- Well, it still needs to be 16 inches. That's the trouble. We're still five inches short. We're still six inches short no matter what we do. We're still six inches short. Then what we need is a six inch variance.

Mr. Miller- Hold on one second.

Jack Wussler- Would you give us a six inch variance?

Mr. Warner- Sir let me just tell you this we are not in the position to bargain. So here's my request. Can you work with staff in the next two weeks and come up with some sort of a, work with them to come up with the plan, whether it's this exact same plan or something different, and you can come back here and then make your presentation to the board and so the board can make a decision. Right now, just my advice to my clients is you're really in no position to make a decision here. The more productive thing to do would be to simply lay the matter over for two weeks and it would get laid over. And then work with staff.

Jack Wussler- We can lay it over for two weeks but we might not show up.

Mr. Warner- Well it will be in your best interest to show up. But having said that, I think it will just be better for everyone if you can work with staff, okay. They can take the time to explain it to you because we're not in the business of disappointing people. We're just in the business of applying the rules. I suggest we close the public hearing, allow the applicant work with staff and come back with something in two weeks and then perhaps reopen it for the limited purpose to allow the applicant to explain because there is nobody here for or against.

Jack Wussler- The chance of getting a structural engineer and having this done in two weeks is slim, it's slim.

Mr. Miller- I suggest you work with staff and getting a more clarified design and we can make a decision about it.

Trice Strohkirch- Do we even have to come back if we just turn in new plans that show it structurally fine?

Mr. Miller- That's a conversation that I have with staff later. We've received your testimony and I think with more information we will be able to make an informed decision, like you said. So we're going to, we're going to close the

public portion hearing so you guys can just take a seat for a second. This will take like two minutes. And then we're going to vote to lay this over for two weeks.

Mr. Miller- Okay? So, we are going to close the public hearing, you can take a seat and we are going to vote to lay this over for two weeks allow the applicant to work with staff and come back with something in two weeks and then perhaps reopen it for the limited purpose of having the applicant explain since there's nobody here to explain to testify for.

Mr. Saylor- You know you know your next step?

Jack Wussler- Yes. Thank you.

Mr. Rangel Morales- I move to lay over 2 weeks.

Mr. Saylor- I second.

Mr. Miller- Moved and second.

**Moved by: Rangel Morales/ Second by: Saylor**

**Voice Vote- Unanimous. Laid Over 2 Weeks**

Mr. Miller- Meeting adjourned.

Submitted by: Maxine Linston

  
Maxine Linston (Oct 18, 2022 15:33 CDT)

David Eide



Approved by:

Diane Trout-Oertel, Secretary

  
Diane Trout-Oertel (Oct 18, 2022 15:25 CDT)