

CITY OF SAINT PAUL
BOARD OF ZONING APPEALS RESOLUTION
ZONING FILE NUMBER: 22-083509
DATE: September 6, 2022

Deadline for Action: October 3, 2022

WHEREAS, Salamatu Forte has applied for variances from the strict application of the provisions of Section 63.501(b)(2) and 63.312 of the Saint Paul Legislative Code pertaining to off-street parking in front yards and off-street parking space setbacks. The applicant is proposing to create an off-street parking area in their front yard. Two variances are requested: 1.) The zoning code states that off-street parking spaces shall not be located within the front yard; the applicant is proposing to place off-street parking in the front yard, for a variance of this requirement. 2.) Parking spaces shall be a minimum of four (4) feet from all lot lines; the applicant is proposing parking 3' from the north and west property line, for a variance of this requirement in the R3 zoning district at 1712 Orange Avenue East PIN: 222922440122; and

WHEREAS, the Saint Paul Board of Zoning Appeals conducted a public hearing on September 6, 2022 pursuant to said application in accordance with the requirements of Section 61.303 of the Legislative Code; and

WHEREAS, the Saint Paul Board of Zoning Appeals based upon evidence presented at the public hearing, as substantially reflected in the minutes, made the following findings of fact:

1. The variance is in harmony with the general purposes and intent of the zoning code.

The applicant is proposing to create an off-street parking area in their front yard. Two variances are requested: 1.) The zoning code states that off-street parking spaces shall not be located within the front yard; the applicant is proposing to place off-street parking in the front yard, for a variance of this requirement. 2.) Parking spaces shall be a minimum of four (4) feet from all lot lines; the applicant is proposing parking 3' from the north and west property line, for a variance of this requirement.

By providing additional off-street parking in the front yard, this variance request is in harmony with Sec. 60.103 of the Zoning Code to flexibly address travel and parking demands from new and existing development. **This finding is met for the front yard parking variance request.**

It is not clear why the applicant is not electing to provide the required 4' setback, given that the proposed area in the front yard is large enough to allow for setbacks and at least 2 parking spaces. The setback requirement is intended to mitigate negative externalities that surface parking may cause, including drainage. This part of the proposal is contrary to Sec 60.103 of the zoning code, to fix reasonable standards to which buildings, structures, and uses shall conform and to protect the general welfare of the community. **This finding is not met for the setback variance request.**

2. The variance is consistent with the comprehensive plan.

This proposal is contrary to LU-14 in the comprehensive plan, which encourages reducing the amount of land devoted to off-street parking. **This finding is not met for both variance requests.**

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 applicant cites the lack of accessibility to a rear garage on the property and vandalism to vehicles as the main reasons to request a zoning variance for front yard parking. However, it appears that the applicant has not ever had rear vehicular access to the accessory structure and purchased the property in the current configuration. It is not clear how this lack of access creates a practical difficulty. The applicant cites vandalism and a desire to remove vehicles from the street for this request. However, the applicant currently has a 16' wide two-car garage and could construct a driveway by-right that is four feet wider than that garage (20'). The zoning code allows vehicles to be parked in driveways that lead to legal off-street parking spaces. This means that the applicant could have four vehicles parked off-street if they were to use the garage and driveway. Parking on the portion of the driveway apron in the right-of-way, as was discovered during staff's inspection, is prohibited.

Staff inspected the property and noted available street parking and several vehicles on site. A two-car garage, which already exists and associated driveway, as the property owner could have by right, is perfectly reasonable. It appears that this property owner is creating the need for this variance themselves by keeping a larger-than-typical number of vehicles. Given that street parking is available, and that the property owner has a two-car garage and driveway, it appears that there are not practical difficulties in complying with this provision. **This finding is not met for both variance requests.**

4. *The plight of the landowner is due to circumstances unique to the property not created by the landowner.*

A two-car garage and associated driveway, as the property currently has, is perfectly reasonable. There are not circumstances unique to the property that would warrant the granting of these variances, as the circumstances appear to be created by the landowner. **This finding is not met for both requests.**

5. *The variance will not permit any use that is not allowed in the zoning district where the affected land is located.*

Off-street parking accessory to a single-family dwelling is permitted and will not change the use. **This finding is met for both requested variances.**

6. *The variance will not alter the essential character of the surrounding area.*

The property owner installed a fence to screen the front yard. Granting the request will not alter the essential character of the surrounding area. **This finding is met for both variance requests.**

File #: 22-083509
Resolution

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Board of Zoning Appeals that the request to waive the provisions of Sections 63.501(b)(2) and 63.312 to allow surface off-street parking in the front yard with a 3' setback from the west and north property line on property located at 1712 Orange Avenue East PIN: 222922440122; and legally described as Gerardine's Garden Lots Subj To St, The W 45 Ft Of E 106 Ft Of N 1/4 Of Lot 21; in accordance with the application for variance and the site plan on file with the Zoning Administrator, **IS HEREBY DENIED.**

MOVED BY: Rangel Morales

SECONDED BY: Saylor

IN FAVOR: 4

AGAINST: 0

MAILED: September 8, 2022

TIME LIMIT: No decision of the zoning or planning administrator, planning commission, board of zoning appeals or city council approving a site plan, permit, variance, or other zoning approval shall be valid for a period longer than two (2) years, unless a building permit is obtained within such period and the erection or alteration of a building is proceeding under the terms of the decision, or the use is established within such period by actual operation pursuant to the applicable conditions and requirements of the approval, unless the zoning or planning administrator grants an extension not to exceed one (1) year.

APPEAL: Decisions of the Board of Zoning Appeals are final subject to appeal to the City Council within 10 days by anyone affected by the decision. Building permits shall not be issued after an appeal has been filed. If permits have been issued before an appeal has been filed, then the permits are suspended and construction shall cease until the City Council has made a final determination of the appeal.

CERTIFICATION: I, the undersigned Secretary to the Board of Zoning Appeals for the City of Saint Paul, Minnesota, do hereby certify that I have compared the foregoing copy with the original record in my office; and find the same to be a true and correct copy of said original and of the whole thereof, as based on approved minutes of the Saint Paul Board of Zoning Appeals meeting held on September 6, 2022 and on record in the Department of Safety and Inspections, 375 Jackson Street, Saint Paul, Minnesota.

SAINT PAUL BOARD OF ZONING APPEALS

Maxine Linston
- Hilinda Kamas
Maxine Linston
Secretary to the Board

