

MINUTES OF THE MEETING OF THE BOARD OF ZONING APPEALS
CITY COUNCIL CHAMBERS, 330 CITY HALL
ST PAUL, MINNESOTA, AUGUST 15, 2016
Continued from August 1, 2016

PRESENT: Mmes. Albert, Bogen and Trout-Oertel; Messrs. Rangel Morales, Saylor of the Board of Zoning Appeals; Mr. Warner, City Attorney; Mr. Diatta; Mr. Benner and Ms. Crippen of the Department of Safety and Inspections.

ABSENT: Joyce Maddox*, Daniel Ward*

*Excused

The meeting was chaired by Gloria Bogen, Co-Chair.

Amy Her (#16-056641) 360 Wheelock Parkway East: A variance in conjunction with the Wheelock Ground Round Project in order to allow the curb cut to remain for access to the existing front yard parking.

Mr. Benner reviewed the case history from the previous meeting, with a recommendation for denial.

No further correspondence was received opposing the variance request.

No further correspondence was received from District 5 regarding the variance request.

Ms. Her sent in a narrative and the signatures from her neighbors within 100 feet of her property supporting her variance request.

Ms. Trout-Oertel asked Mr. Benner if stairs were required from the lower parking area up to the front of the home. Mr. Benner stated that no stairs are required; however, if the applicant had taken that option it would have been appropriate to add stairs from the lower parking section up to the front of the home. He stated that he measured from the lower parking area up to the front of the home and it is about 60 feet away.

Ms. Bogen stated that the applicants have now complied with finding 1(c), is staff's recommendation still for denial. Mr. Benner replied yes, it seemed to be more of a financial distress than anything else.

Ms. Bogen stated that the hearing was closed at the last hearing.

Ms. Trout-Oertel asked whether the Board needs to take into consideration whether this should be grandfathered in. Mr. Warner stated that an item is grandfathered if it was installed originally under the laws. There would have been a building permit or it would have had some long standing existence. He stated that he does not know what the standard is for non-conformities in St. Paul. There is some evidence that the curb cut was in place in 1977, he is unsure whether staff has determined whether the curb cut was installed with a building permit or not. Mr. Benner replied no we have not. He did check in the Amanda database system and he looked at some old history index cards in Public Works with Al Czaia who works with sidewalks we could not find anything legalizing the rear curb cut. Mr. Warner stated that he does not know that this property would meet the test in order to be grandfathered in. Ms. Trout-Oertel asked if staff knew when the ordinance saying that parking was not allowed in a front yard unless it leads to a legal parking space. Mr. Diatta stated that the zoning code changes over time, he is unsure when the ordinance was implemented but parking in a driveway in the front yard is allowed only if it leads to a legal parking space. Ms. Trout-Oertel stated it was a garage at one time. Mr. Diatta stated that there was a garage at one time, the driveway lead to a legal parking space in the garage. Once the garage was converted into living space, then it made parking in the driveway illegal. It might have been

helpful to know when the garage was converted because the driveway and curb cut should have been removed at that time. Ms. Trout-Oertel stated that it was not converted by the applicant. Mr. Diatta replied correct. Ms. Bogen stated it was converted at least 9 years ago because they purchased it in 2007. Mr. Diatta replied that is correct, according to the applicants they purchased the house and the garage was already converted.

The applicant **AMY HER**, 360 Wheelock Parkway East, was present but was not called to testify again.

There was no opposition present at the hearing.

The public portion of the meeting had been closed at the previous meeting.

Mr. Saylor stated that this is a complicated case; the Board does not have all the facts and he is struggling to get past the staff findings which recommend denial. He has not found evidence that will allow the Board to approve this request.

Mr. Saylor moved to deny the variance and resolution based on findings 1(b), 3 & 6.

Ms. Albert seconded the motion, which failed on a roll call vote of 3-1(Trout-Oertel). This does not pass because there needs to be at least 4 votes in for approval or for denial.

Ms. Bogen stated that she could not make a motion to continue this. Someone else can make that motion or if not the end of September will come and they will get the variance.

Mr. Saylor moved to continue the matter for two weeks until the Board has more members in attendance.

Ms. Albert seconded the motion which passed on a voice vote 4-0.

Mr. Rangel Morales arrived a little late and the Board decided to re-vote on the variance request.

Mr. Warner suggested that the Board may want to reopen the hearing to take another vote with the addition of Mr. Rangel Morales. It would save the applicants two weeks. Ms. Bogen asked Mr. Warner who has to make the motion. Mr. Warner stated someone from the side that made the previous motion on this case.

Mr. Saylor moved to reopen the case in order to take another vote.

Ms. Albert seconded the motion which passed on a voice vote 5-0.

Mr. Saylor moved to deny the variance and resolution based on findings 1(b), 3 & 6

Ms. Albert seconded the motion, which passed on a roll call vote of 4-1(Trout-Oertel).

Submitted by:

Approved by:

YaYa Diatta

Thomas Saylor, Secretary