

From: [Diatta, YaYa \(CI-StPaul\)](#)
To: [Zimny, Joanna \(CI-StPaul\)](#); [Moermond, Marcia \(CI-StPaul\)](#); [Warner, Peter \(CI-StPaul\)](#)
Cc: [Torstenson, Allan \(CI-StPaul\)](#); [Omar, Farhan \(CI-StPaul\)](#)
Subject: RE: meeting re: 360 Wheelock Parkway
Date: Thursday, October 28, 2021 5:00:12 PM
Attachments: [360 WHEELLOCK PKWY E Amanda screenshot.PNG](#)
[360 Wheelock Pkwy.pdf](#)
[360 WHEELLOCK PKWY E BZA staff report.pdf](#)

Marcia et al,

I did a little more digging into this property and what I found is that the building was determined to be legally nonconforming by DSI staff based on evidence submitted in 2001 as part of an application for legal nonconforming status pursuant to the Sec.62.102 below, which reads in parts: **“A use or structure will be presumed legally nonconforming if it can be demonstrated by clear and convincing evidence that prior to October 25, 1975, the use or structure was established, converted, or expanded and occupied pursuant to building permits issued by the city...”**. There are two separate units here (basement unit with its own access independent from the main floor unit which also has a separate access with no interior connection between the two). Based on this determination, DSI records were updated accordingly in 2001(see the screenshot attachment 1 sent by Farhan Omar on October 4 to the homeowner) confirming the use as a legally nonconforming duplex. Other attachments include the application for legal nonconforming status by previous owners and a BZA staff report from 2016 which also identified the property as a legal nonconforming duplex.

What caused this confusion is that somehow, it appears, another DSI employee from outside zoning erroneously edited the information to state the use as a single family dwelling after Farhan provided the duplex status to the homeowner. I am not sure what prompted it, but it shouldn't have happened without consulting with zoning staff. The record will be re-updated to reflect the duplex use with a copy of this email attached in Amanda for the record.

Please, let me know if you have any questions.

Thanks

-----Original Appointment-----

From: Zimny, Joanna (CI-StPaul) <joanna.zimny@ci.stpaul.mn.us>
Sent: Friday, October 22, 2021 9:51 AM
To: Moermond, Marcia (CI-StPaul); Warner, Peter (CI-StPaul); Diatta, YaYa (CI-StPaul)
Subject: meeting re: 360 Wheelock Parkway
When: Wednesday, October 27, 2021 1:30 PM-1:45 PM (UTC-06:00) Central Time (US & Canada).
Where: Microsoft Teams Meeting

Requested by Marcia Moermond. Attached is the packet from the appeal for your review.

I will update and attach minutes once they are completed. **MINS ATTACHED 10/22/21 -JZ**

Microsoft Teams meeting

Join on your computer or mobile app

[Click here to join the meeting](#)

Or call in (audio only)

[+1 612-315-7905,,320625174#](#) United States, Minneapolis

Phone Conference ID: 320 625 174#

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BOARD OF ZONING APPEALS STAFF REPORT

=====

TYPE OF APPLICATION: Major Variance **FILE #16-**
056641

APPLICANT: Amy Her

HEARING DATE: August 15, 2016

LOCATION: 360 WHEELLOCK PARKWAY EAST

LEGAL DESCRIPTION: Dawsons Fifth Addition Subj To Pkwy & Vac Idaho Ave Accruing Ex Wly 49 7/10 Ft Lots 4 Thru Lot 7 Blk 2

PLANNING DISTRICT: 5

PRESENT ZONING: R3

ZONING CODE REFERENCE: 63.501 (b) (2)

REPORT DATE: July 26, 2016 **BY:** Jerome Benner II

DEADLINE FOR ACTION: September 5, 2016

DATE RECEIVED: July 8, 2016

A. **PURPOSE:** 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.

B. **SITE AND AREA CONDITIONS:** This is a 75 by 160-foot lot with a legal nonconforming duplex located on a corner of Wheelock Parkway East and Edgemont. There is on-street parking along the side street on Edgemont and off-street parking located in the rear yard of the property.

Surrounding Land Use: The surrounding land uses are predominately single family dwellings with some multi-family dwellings to the south and east of the subject property.

C. **BACKGROUND:** The existing house previously had an attached garage that was accessed from Wheelock Parkway East but was

converted into additional living space prior to the applicant purchasing the home in 2007. In conjunction with the Wheelock Ground Round Project scheduled this year, this property was determined to have a nonconforming parking space in the front yard. The applicant is requesting a variance in order to allow the curb cut to remain for access to the existing front yard parking.

D. FINDINGS:

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

This variance request is in keeping with the Guidelines for Variance Requests to Allow Parking within a required yard adopted on February 6, 2012, by the Board of Zoning Appeals as follows:

- a) *If the parking space is already there, the parking space has been in existence and used continuously for the past ten (10) years.*

The driveway at one time led to an attached garage located in the front yard of the property. When the garage was converted into additional living space, the driveway remained and has been in use since 1985 according to aerial photographs. The existing surface of the driveway is concrete. This finding is met.

- b) *The applicant can demonstrate hardship in that there is no feasible alternative location for the parking space. For the purpose of this condition hardship shall include: a disability by a resident of the property that qualifies for a State Handicap Parking Permit, topography that makes rear yard parking impossible, the lack of alley access to the property, or insufficient lot size to provide off-street parking in a non-required yard.*

The applicant states that the garage was already converted into additional living space prior to her purchasing the home in 2007. She also states in order to convert the garage back into living space, it would require significant reconstruction of her home. There is also no alley access to the property, however, there is an existing gravel parking pad located in the rear of the property that is accessed from Edgemont Street. The driveway has the capacity to store four (4) vehicles in a stacked position. This would be a reasonable

alternative to the parking in the front yard. This finding is not met.

- c) The applicant submits a petition signed by 2/3 of property owners within 100 feet of the property along either side of the subject property and from property across the street stating that they have no objection to the parking.*

The applicant was required to obtain three (3) signatures and they received 11. The applicant has submitted a sufficient number of signatures. This finding is met.

- d) The parking space is paved or the applicant agrees to pave the space within 120 days.*

It was observed from a site visit that the parking space is paved. This finding is met.

- 2. The variance is consistent with the comprehensive plan.*

The applicant's request would allow the homeowner and other residents to park on the property, limiting the need to park on the street. This is consistent with a goal of the Comprehensive Plan to provide off-street parking in order to lessen congestion on public streets. This finding is met.

- 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.*

This building is a legal non-conforming duplex. It requires three off-street parking spaces and the parking in front allows for at least three off-street parking spaces. However, the parking located in the rear of the property that is accessed from Edgemont Street can provide parking for four (4) vehicles in a stacked position. There is enough room to enlarge the existing parking to accommodate a third space that would not require the vehicles to be stacked, and meet the parking requirement for a duplex. This finding is not met.

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

The garage was converted into additional living space prior to the

current owner purchasing the house in 2007. This circumstance was not created by the current landowner. This finding is met.

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

The proposed variance would not permit any use that is not allowed in the zoning code. This finding is met.

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

There are five (5) other properties within the surrounding area that also have existing parking in the front yard. However, these properties have driveways leading to garages in the front. Parking in a driveway that leads to a legal parking is allowed under the zoning code. The applicant's property would be the only one located on a corner lot that has front yard parking. This finding is not met.

E. **DISTRICT COUNCIL RECOMMENDATION:** Staff has not received a recommendation from District 5.

F. **CORRESPONDENCE:** Staff has not received any correspondence.

G. **STAFF RECOMMENDATION:** Based on findings 1(b) (c), 3 & 6, staff recommends denial of the requested variance.

Description	Value
▼ Ungrouped Info Fields (25)	
Police Grid	p13
Police District	EASTERN
Existing Primary Use	R-Duplex
Legality of Existing Use	Legal Non-Conforming
Parkway	<input checked="" type="radio"/> Yes <input type="radio"/> No
# of Dwelling Units	2
Building Total Sq. Ft.	2232
Year Built	1960
Mechanical Inspection Area	33

Application for Legal Nonconforming Status

Saint Paul Legislative Code, 62.102a: For purposes of this section, a use will be presumed legally nonconforming if it can be demonstrated by clear and convincing evidence that prior to the effective date of this Ordinance (12-13-76) the use was established, converted, or enlarged pursuant to building permits issued by the City of St. Paul; or if it can be demonstrated by clear and convincing evidence that the particular use had been in existence continuously for twenty years prior to the effective date of this Ordinance. The burden of proof shall be on the applicant for a permit or certificate of occupancy as the case may be.

Fill Out Completely

ADDRESS 360 East Wheelock Parkway St. Paul, MN 55101

PRESENT USE OF PROPERTY Single Family Home with Mother in Law Apt. NUMBER OF UNITS 2

NAME OF OWNER Jeff Myers PHONE NUMBER _____

MAILING ADDRESS 360 East Wheelock Parkway St. Paul MN 55101

Fill Out A or B

A. I affirm that the present use of this property as stated above was established pursuant to building permits issued by the City of St. Paul.

SIGNATURE OF OWNER

The following evidence is presented to support this claim:

B. I affirm that the present use of this property as stated above has been in existence prior to and continuously since

1961 1975

This date to be determined by the Zoning Staff

Jeff Myers

SIGNATURE OF OWNER

The following evidence is presented to support this claim (any statement from a previous or current tenant, neighbor or other must be notarized and must express briefly how they are familiar with the property):

Pictures of downstairs kitchen, signed letter from neighbor who lived there in the 60's

FILL OUT APPLICATION AND RETURN WITH YOUR

NOTARIZED STATEMENT TO:

Zoning Administration
350 St. Peter Street, Suite 300
St Paul, MN 55102

FAX: (651) 266-9099
Phone: (651) 266-9008

Notary Public
OK
Jeff Myers 5/10/01
4/98

1247 W. 14th Street
Hastings, MN 55033
May 4, 2001

To Whom It May Concern:

I have been a friend of the Myers families who own the home at 360 E. Wheelock Parkway in St. Paul since the late 1960's. Ever since I began visiting this home in the 1960's, it has had a kitchen in the finished lower level.

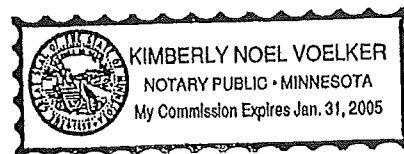
If you need any additional information from me, please call me at 651-437-2022 or email me at shabenson@earthlink.net.

Yours truly,

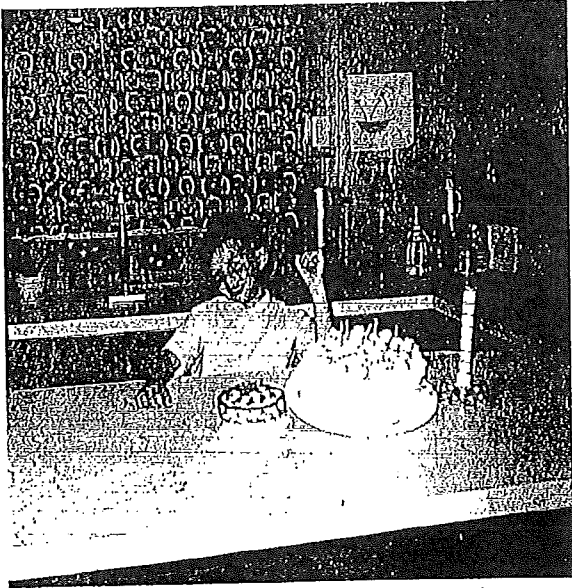
Sharon Benson

Sharon Benson

Kimberly Noel Voelker 5/4/01
Notary Public



1968



SEP 68



SEP 68

May 4, 2001

To Whom It May Concern,

This letter is to verify that the kitchen in the lower level at 360 E. Wheelock PKwy, was finished and usable in the 1960's when we lived in the house.

We are sending pictures of our oldest sons birthday (his 7th) in 1968. The date is printed on the side of the pictures.

We would like the pictures back. You can mail them in the self addressed envelope. If you have any further questions, you can call us at 651-437-2374.

Tom + Darlene Myers

ZONING WORKSHEET

Duplex?

ADDRESS: 360 E Wheelock Fwy
 PIN: 20-29-22-22-0011 dist 1

BUILDING CARD INFORMATION:

CONSTRUCTION DATE: 10.10.59 PERMIT: 87349 TYPE OF STRUCTURE: SFD

PERMITS COUNTY ASSESSOR'S RECORDS LICENSE RECORDS CITY DIRECTORY

1960-SFD
 1970-4
 1985-"
 1987-dwl has bsmt apmt - rear w/o entrance
 1989- same
 1999- same
 1984-zonothing

LEGAL DESCRIPTION: Subj. to pkwy + ex w/ly 49 7/10 ft. Lots 4-7 B/K2
Dawson's 5th Add

LOT SIZE: 9800[#]

CROSS STREETS: Desoto & Hoyt

ZONE	USE (C/NC)	UNITS PERMITTED	REQUIRED LOT SIZE	LOT SIZE (C/NC)
X	C			C
1922				
1960			50' 7500 [#]	C
1964	A-Res	C		
1975			50 6000 [#]	C
R-3	NC	ROOMS: UNITS:		

ZONING STATUS FOR _____ COMMERCIAL USE: _____ PLANNING: _____
 _____ duplex RESIDENTIAL USE: _____ ZONING FILE _____
 _____ LEGAL - CONFORMING _____ NO RECORD _____
 _____ LEGAL - CONFORMING USE WITH NON-CONFORMING LOT SIZE (for residential)
 _____ LEGAL - NON-CONFORMING USE
 _____ X ILLEGAL

4.28.01
KZ