

CITY OF SAINT PAUL
BOARD OF ZONING APPEALS RESOLUTION
ZONING FILE NUMBER: 23-035038
DATE: May 30, 2023

Deadline for Action: June 22, 2023

WHEREAS, 2285 Hampden LLC (c/o Thomas Nelson, Exeter Management LLC) has applied for a variance from the strict application of the provisions of Section 65.143(b), 66.531 & 63.312 of the Saint Paul Legislative Code pertaining to allowable uses on the first floor of a mixed residential commercial building and parking along with a building in a required front yard. The applicant is proposing to demolish the existing structures on this property and construct a new mixed residential commercial building. The following variances are requested: 1.) In the I1 light industrial district, residential uses are not permitted on the first floor; the applicant is proposing residential dwelling units on the first floor, for a variance of this requirement. 2.) At least 80% of the first floor shall be devoted to principal uses permitted in the district, other than residential uses; the applicant is proposing to utilize 6.5% of this floor for commercial uses, for a variance of 73.5%. 3.) A front yard setback of 25' is required on portions of this property across the street from land zoned RM2; 9' is proposed, for a variance of 16'. 4.) Surface off-street parking spaces shall not be located within the required front yard; the applicant is proposing surface off-street parking spaces in the required front yard, for a variance of this requirement in the I1 zoning district at 2285 Hampden Avenue PIN: 292923420153; and

WHEREAS, the Saint Paul Board of Zoning Appeals conducted a public hearing on May 30, 2023 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 demolish the existing structures on this property and construct a new mixed residential commercial building. The following variances are requested: 1.) In the I1 light industrial district, residential uses are not permitted on the first floor; the applicant is proposing residential dwelling units on the first floor, for a variance of this requirement. 2.) At least 80% of the first floor shall be devoted to principal uses permitted in the district, other than residential uses; the applicant is proposing to utilize 6.5% of this floor for commercial uses, for a variance of 73.5%. 3.) A front yard setback of 25' is required on portions of this property across the street from land zoned RM2; 9' is proposed, for a variance of 16'. 4.) Surface off-street parking spaces shall not be located within the front yard; the applicant is proposing surface off-street parking spaces in the front yard, for a variance of this requirement.

The intent of the mixed residential and commercial use standard not allowing principal residential uses on the first floor is to separate residential units vertically from surrounding commercial and industrial uses. It is to ensure that the first floor is used in a commercial manner in alignment with the industrial district that it is in to be supportive of well-paying jobs. This primarily residential building would be in conflict with the intent of the light industrial district to to accommodate wholesale, warehouse, and industrial operations.

The front yard parking and building setback requirements are to buffer industrial uses from residential uses across the street. It is reasonable to require the proper setback across the street and these requests are in conflict with Section 60.103(o) in the Zoning Code, which states that the intent of the code is to fix reasonable standards to which buildings, structures and uses shall conform. **This finding is not met for all requested variances.**

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

This parcel is zoned I1- Light Industrial. Mixed Commercial-Residential buildings are permitted. However, the applicant is proposing to provide so little commercial space that the result would be a primarily residential structure. A primarily residential structure conflicts with Saint Paul 2040 Comprehensive Plan Policy LU-46, which encourages retaining and protecting current industrial land from conversions to residential or institutional uses unless guided otherwise in a city of Saint Paul adopted plan. This land is guided industrial in the 2040 Saint Paul Comprehensive Plan.

This proposal conflicts with PO-1 in the West Midway Industrial Area Plan, an addendum to the Saint Paul Comprehensive Plan, policy PI-1, to retain and protect current industrial land from conversions to non-industrial uses. Although the plan contemplates conversions in circumstances where development will be high density and proximate to regional transportation, this property is outside of the Raymond Avenue Green Line Station Area. The venue to discuss conversion of land is not at the Board of Zoning Appeals, rather, through a rezoning request. The applicant is instead applying to vary the standards as to what constitutes a mixed residential commercial use building.

In addition, the area on this property across from the RM-2 zoning district is specifically noted as a vulnerable land use edge in the West Midway Industrial Area Plan. The applicant is proposing to construct the building and parking spaces in the required front yard, which is contrary to SD 1-20, which states that landscaping shall be maintained and infilled along both sides of this edge. **This finding is not met for all 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 applicant states that they have tried marketing the property for seven years for commercial uses, however, they have not had success. They state that lowering the amount of first level commercial space to align with market conditions is preferable and that if the required commercial space were constructed, it would be vacant. Given these statements, it appears that the practical difficulties are primarily economic in nature.

The applicant states that the building has large areas that are set back further than what the code requires for courtyards. It is not clear why the applicant cannot alter the building and surface off-street parking facility to comply with the 25' front yard setback in the limited portion of the lot where this requirement applies. **This finding is not met for all requested variances.**

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

This request is driven by primarily the applicant's desire to construct a primarily residential structure with their desired layout, rather than circumstances unique to this property. **This finding is not met for all 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 mixed residential commercial building is permitted in the I1 light industrial zoning district. **This finding is met for all requested variances.**

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

The proposed mixed residential commercial building would not significantly alter the essential character of this commercial area. **This finding is met for all requested variances.**

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Board of Zoning Appeals that the request to waive the provisions of Section 65.143(b), 66.531, and 63.312 in order to permit a mixed residential commercial building with residential uses on the first floor, 6.5% of the first floor with commercial uses, a front yard setback of 9', and parking spaces in the required front yard on property located at 2285 Hampden Avenue PIN: 292923420153; and legally described as St Anthony Park Addition Sely 4 Ft Of Lot 4 And All Of Lots 5 Thru ...Ext Of Nwly Line Of Lot 5 Blk 72; in accordance with the application for variance and the site plan on file with the Zoning Administrator, **IS HEREBY DENIED.**

MOVED BY: Benner II

SECONDED BY: Rangel Morales

IN FAVOR: 5

AGAINST: 0

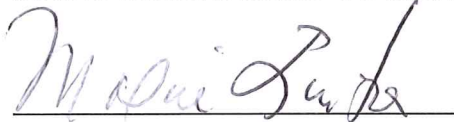
MAILED: June 2, 2023

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 May 30, 2023 and on record in the Department of Safety and Inspections, 375 Jackson Street, Saint Paul, Minnesota.

SAINT PAUL BOARD OF ZONING APPEALS



Maxine Linton
Secretary to the Board

