

**CITY OF SAINT PAUL
BOARD OF ZONING APPEALS RESOLUTION
ZONING FILE NUMBER: 13-222492
DATE: September 16, 2013**

WHEREAS, David M. King has applied for a review by the BZA under Section 61.108 of the Saint Paul Legislative Code pertaining to a condition of approval of a variance (File #11-253290). In 2011, he was granted a variance by the BZA for a rear yard setback to construct a new two-car attached garage accessed from the alley. The variance was granted subject to conditions including: "The existing driveway and curb cut in the front yard must be completely removed and replaced with a new curb and gutter. All work on curbs, driveways, and sidewalks within the public right of way must be done to City Standards and Specifications by a licensed and bonded contractor under a permit from Public Works Sidewalk Section (651-266-6120). The front yard must then be sodded with grass." The applicant built the garage and removed the original front driveway and garage door but constructed a new parking space in the front yard. Because compliance with this condition has not been met, staff is requesting that the Board of Zoning Appeals review the case under Section 61.108 of the Zoning Code which permits the BZA to revoke the variance or impose additional conditions, modify existing conditions, or delete conditions which are deemed by the Board to be unnecessary, unreasonable or impossible of compliance in the R4 zoning district at 1075 Lombard Ave PIN: 112823220072; and

WHEREAS, the Saint Paul Board of Zoning Appeals conducted a public hearing on September 16, 2013 pursuant to said application in accordance with the requirements of Section 61.601 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 original driveway lead to a legal parking space which in this case, was the tuck-under garage. This use was legal under the zoning code. However, once the legal parking space (the tuck-under garage) was removed, the driveway became illegal because it no longer leads to a legal parking space. Therefore, the nonconforming use section cited by the applicant is not applicable in this case.
2. At the 2011 BZA public hearing for the garage variance, the applicant argued against the proposed condition to remove the driveway and install a new curb and gutter as a condition of approval of the variance. After hearing the applicant's testimony, the BZA moved to approve the variance with that condition attached. The applicant did not appeal the BZA's decision.

File #13-222492
Resolution

3. The applicant constructed the new garage, removed the tuck-under garage, regraded the front yard and constructed a new parking space where the original driveway was located in the front yard, even though it did not meet the condition of the variance granted.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Board of Zoning Appeals that the request to modify the variance (File # 11-253290) under the provisions of Section 61.108 to allow the deletion of the condition stating that: "The existing driveway and curb cut in the front yard must be completely removed and replaced with a new curb and gutter. All work on curbs, driveways, and sidewalks within the public right of way must be done to City Standards and Specifications by a licensed and bonded contractor under a permit from Public Works Sidewalk Section (651-266-6120). The front yard must then be sodded with grass." on property located at 1075 Lombard Avenue; and legally described as Slaytons Add To Ridgewood Pk Ex E 25 Ft Lot 12 And All Of Lot 11 Blk 1; in accordance with the application for variance and the site plan on file with the Zoning Administrator.
IS HEREBY DENIED.

MOVED BY: Bogen
SECONDED BY: Ward
IN FAVOR: 7
AGAINST: 0

MAILED: September 17, 2013

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.

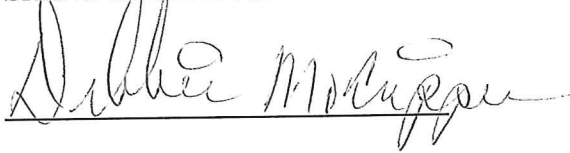
APPEAL: Decisions of the Board of Zoning Appeals are final subject to appeal to the City Council within 10 days by anyone affected by the decision. Building permits shall not be issued after an appeal has been filed. If permits have

File #13-222492
Resolution

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 16, 2013 and on record in the Department of Safety and Inspections, 375 Jackson Street, Saint Paul, Minnesota.

SAINT PAUL BOARD OF ZONING APPEALS



Debbie M. Crippen
Secretary to the Board