

**CITY OF SAINT PAUL
BOARD OF ZONING APPEALS RESOLUTION
ZONING FILE NUMBER: 19-016696
DATE: March 25, 2019**

Deadline for Action: 05-02-19

WHEREAS, Jeffrey S. Arundel has applied for a variance from the strict application of the provisions of Section 66.231, 63.501(b) of the Saint Paul Legislative Code pertaining to splitting the zoning lot so that each structure is on its own, separate parcel. Once the lot is split, the accessory building becomes a principal building and must meet all setback and lot coverage requirements. The following variances are being requested: 1) A minimum rear yard setback of 25' is required; a setback of 5.1' is existing for a variance request of 19.9'. 2) Accessory buildings and uses must not be established in a required yard except a rear yard. The minimum required side yard is 8' in the R2, single family zoning district; The proposed side yard setback for the accessory structure is 5' for a variance request of 3' in the R2 zoning district at 5 Heather Place. PIN: 012823320119; and

WHEREAS, the Saint Paul Board of Zoning Appeals conducted a public hearing on March 25, 2019 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 variance is in harmony with the general purposes and intent of the zoning code.

This property is located in a R2, single family zoning district, where only one principal building is allowed on a zoning lot. Currently, there are two buildings on this lot; one is a detached accessory building that includes a three-car garage that provides parking for both buildings. The other structure is the principal building that is connected via a skyway to another dwelling on the abutting lot to the west, 7 Heather Place.

The applicant is proposing to subdivide the lot north-south so that each building is on its own separate parcel. The accessory building would be on the lot labeled as "Parcel A", and the principal building on the lot labeled as "Parcel B" on the site plan. As a result of the proposed lot split, the accessory building on "Parcel A" would now be considered a principal building. Additionally, the applicant is proposing to construct a detached, two-car garage accessed from Heather Drive for building on Parcel B.

The zoning code requires a minimum rear yard setback of 25' for principal buildings. The structure on Parcel A has an existing setback of 5.1' from the rear property line, resulting in the requested rear yard variance.

Additionally, an accessory structure may not be established in a required yard except a rear yard. There is a required minimum side yard setback of 8' and the proposed garage would be

set back 5' from the side property line, resulting in the requested variance for Parcel B.

The proposed lot split is in harmony with the general purposes and intent of the zoning code Sec. 60.103 to:

1. Increase housing choices.
2. Lessen Congestion in the public streets by providing off-street parking.
3. Conserve and improve property values.

This finding is met for all requested variances.

2. The variance is consistent with the comprehensive plan.

The requested variances are consistent with the Comprehensive Plan by allowing the existing property owner in an “established neighborhood” to reinvest in his property and maintain its vitality and preserve and promote the neighborhood (Strategy 2.1 of the Housing Plan). This finding is 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.

Currently, this parcel has two structures, both of which contain dwelling units. The proposed lot split would result in the creation of a new single family structure on Parcel A. Both lots would have sufficient lot area and frontage that would not be compromised as a result of the lot split. Because the existing accessory building is already established, it is difficult to create a new lot that meets all the zoning code requirements without the variance request.

Furthermore, the purpose of setbacks is to provide adequate access to light and air between properties. The rear property line of the proposed Parcel A shares the side yard of the abutting condominium apartments at 500 Grand Hill to the east.

There is an attached garage to the condominium building that sits lower than the residential portion of the building and the accessory building on Parcel A; it will not affect the light and air access between the structures or negatively impact the livability of the units on the west side of the condominiums. This is a reasonable variance request that cannot be accomplished without the requested variance.

The existing principal building on Parcel B has a significant change in grade from the front of the house to the rear. Ideally, garages are constructed in the rear yard along an alley. There is no available alley to this property and the significant changes in grade make it difficult to construct a garage anywhere else on the property.

This finding is met for all requested variances.

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

The location of the existing accessory building on Parcel A and its relation to the rear property line and the grade changes on Parcel B are circumstances unique to the property not created by the landowner. This finding is 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.*

The proposal would not result in a use that is not permitted in the R2, single family residential zoning district. This finding is met for all requested variances.

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

The requested variances resulting from the proposed lot split will not alter the essential character of the neighborhood. Any additions or modifications to the exterior of the property must comply with all Heritage Preservation Commission's guidelines.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Board of Zoning Appeals that the provisions of Section 66.231, 63.501(b) are hereby waived to allow 1) A rear yard setback of 5.1' is existing for a variance request of 19.9'. 2) A side yard setback of 5' for a variance request of 3' on property located at 5 Heather Place; and legally described as Goodkind Terrace Part Of Lots 3 & 4 Ely Of Fol Desc L Beg At Nely Cor Of Sd Lot 3 Th Sely Along Ely L Thereof 53.06 Ft Th Sly At An Angle Of 153 Deg 43 Min 56 Ft To Center Of Top Stone Of Stairway Th Wly Along Top Of Sd Stairway L Thereof Th Sly Along Sd; in accordance with the application for variance and the site plan on file with the Zoning Administrator.

IS HEREBY APPROVED.

MOVED BY:

SECONDED BY:

IN FAVOR:

AGAINST:

MAILED: March 26, 2019

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 March 25, 2019 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