

MINUTES
BOARD OF ZONING APPEALS
15 W KELLOGG BLVD, ROOM 330
ST PAUL, MINNESOTA, JULY 17, 2017

PRESENT: Mmes., Bogen, Maddox and Younkin Viswanathan; Messrs. Rangel Morales, Miller and Saylor of the Board of Zoning Appeals; Mr. Benner II, Ms. Lane and Ms. Crippen of the Department of Safety and Inspections.

ABSENT: Katrice Albert*, Diane Trout-Oertel*

*Excused

The meeting was chaired by Gloria Bogen, Chair.

Andrew Zalinkas (#17-040587) 17 Hall Lane: The applicant is proposing to construct a new single family dwelling and detached garage on a vacant lot with no alley access. 1) The proposed garage will be located in a required front yard; the zoning code states that garages must not be established in a required yard except a rear yard; the applicant is requesting a variance of this condition. 2) Where at least 50 percent of the front footage of any block is built up with principal structures, the minimum front yard setback for new structures must be the average setback of the existing structures. The applicant is proposing that the house would be located in a required front yard; the applicant is requesting a variance of this condition.

Mr. Benner showed slides of the site and reviewed the staff report with a recommendation for approval.

Fifteen letters were received fourteen in opposing the variance request and one supporting the variance request.

One letter was received from District 3 opposing the variance request.

Ms. Younkin Viswanathan asked Mr. Benner II if the DNR's (Department of Natural Resources), decision to not comment, it is not an approval of the application. Mr. Benner II replied that they are saying that they do not wish to provide a comment in either direction.

Ms. Bogen asked Mr. Benner II if there was some problem would they be likely to send a comment? Mr. Benner II replied based on his short experience with the BZA (Board of Zoning Appeals) he is not sure how the DNR goes about notification if there are issues. Perhaps Ms. Lane can give more information about that. Ms. Lane stated that if the DNR had concerns they would certainly bring them up.

Mr. Miller asked staff if this home would be a slab on grade? Mr. Benner II replied yes, this is a slab on grade house. Mr. Miller questioned that they will not be excavating for a basement on the property. Mr. Benner II replied that is correct.

The applicant **ANDREW ZALINKAS** - 1304 11th Avenue, St. Paul Park, was present. Mr. Zalinkas submitted site plans for the property showing the limited the building area. He stated that the first page of the handout shows the lot is approximately 150 feet long, 70 feet of the rear yard is off limits because of the bluff and the required 40-foot setback from the bluff. The front setback is 38 feet and the side yard setbacks are 4 or 5 feet. On the second page of his handout, he demonstrated putting a 20-foot by 20-foot garage, is not an enormous two car garage, with the driveway taking up twelve feet wide all the way to the street from the rear yard would limit what can be done on the property. In addition to the limitation it does not blend what so ever with anything else on Hall Lane. His other concern is about water percolation and looking at the square footage of the hard surface there is no percolating with that volume

of hard surface on that property. He also feels that having the garage in the front blends with what is already on Hall Lane. He feels it will match seamlessly with the neighborhood. Mr. Zalinkas stated that he spoke with Monica from the District 3 Community Council about a week before their last meeting. He offered his name and number to anyone who might be concerned about building a house on this property stating that he would be willing to meet with them anytime to see if there is anything that he could alter or adjust to address neighbors' concerns. He stated that he only had one person take him up on his offer. With the amount of concern that has been raised he was surprised that more people didn't talk to him about their concerns. He thinks that face to face conversations can help to personalize it and it helps to find out what is going on. Mr. Zalinkas stated that what he heard the most of was traffic congestion concerns and bluff stability. There are three large trees on the lot, two burr oaks and one white ash tree in the middle of the yard. The trees do provide stability for the lot and they are not being taken down and that is why the rear deck is located at 41 feet no 40 feet from the bluff, because it accommodates the white ash tree in the center of the yard. In addition to support the stability of that lot he will be planting native prairie through Prairie Restoration, the entire landscape will be zeroscaped(SP) in tall grass prairie. The roots of prairie go down ten to twelve feet and will anchor that land on top of the bedrock better than anything else on that bluff system. It not only anchors the ground but it acts as an enormous sponge when there is a large downpour, prairie is notorious for absorbing a lot of water and stabilizing land. The entire lot other than where the buildings are proposed will be native tall grass prairie and the trees will stay. He stated that the rock falls that have come off that bluff system seem to be coming off more vertical sections of the bluff, even though there was no construction going on above the rock fall. Natural erosion is going to happen in any bluff system, the bluff behind his lot is all vegetated and it is not a vertical drop. It is not an accurate assessment of the bluff behind his property that it is vertical with rocks just waiting to peel off the bluff. He stated for the concern about the congestion of the property, he is building a two-car garage so there is an extra space if he has a visitor they have somewhere to park. There is also a public street a couple of doors up that people can park on. He stated that he does not understand the traffic concern, he is not making the street narrower what is there is going to stay there and the residents have been living with it for a long time. He will not be parking in the alley creating any hazard.

Mr. Rangel Morales stated that the concern about the safety of building on the bluff has been a common thread throughout the comments of the neighbors. Asking if Mr. Zalinkas has any sort of training in the Geotechnical field. Mr. Zalinkas stated that he worked in construction for a couple of years, he is now a nurse. But aside from taking geology courses in college he has no formal training in this subject. Mr. Rangel Morales asked if he would be open to having a study done that says it is ok to build on the lot? Mr. Zalinkas stated that he did evaluate that possibility, and he did propose that to the seller offering to pay half the cost of a geological assessment of the property, contingent on receiving the variance. However, the seller denied his offer. The cost is about \$6,000 or \$7,000 that he would have to pay for the whole study and there would be no guarantee that he could go forward with the project. He stated that with the survey and the appraisal he has already invested several thousand dollars in this project. The geological assessment was cost prohibitive.

Mr. Saylor asked Mr. Benner II about the e-mail from the DNR, they have reviewed the variance application and have no comment. Does that mean that DNR reviewed at any kind of technical data, what exactly have they seen to make no comment? Mr. Benner II stated that in the handout about half way down the page it lists the documents sent to the DNR, Information Cover Sheet, Variance Application, Applicant's Findings, Certified Survey, Site Plan and Elevations of home and garage and a copy of the staff report. Essentially the DNR has seen everything that has been presented to the Board. He is not sure what Ms. Sorenson of the DNR has used to make her determination about the variance.

Ms. Bogen asked Mr. Zalinkas if he attended the River Front Development Committee meeting? Mr. Zalinkas replied no, he was notified the day of and could not attend because of an obligation. Ms. Bogen

addressed Mr. Zalinkas the River Front Development Committee did not hear anything from you. Mr. Zalinkas replied no they did not. He stated that he did speak with the chair the next day just to find out what occurred at the meeting. Through that conversation he learned that there was some opposition to his variance request. Ms. Bogen asked if they asked him to come to the Board meeting after that? Mr. Zalinkas replied he thinks that their next Board meeting is either tomorrow or the next day, it is after this hearing.

There was opposition present at the hearing.

John Purdy, 10 Delos Street West, asked the Board if they had received his three-page letter. Ms. Bogen replied yes. Mr. Purdy stated then he does not have to read the entire letter here. He continued that the rock slides that have occurred on the bluff over the past five years, we do not know what causes them. The Mayor of St. Paul hired a consultant to try and determine that in the bluff down the road. They just say they are at risk. One Boardmember asked if this would be slab construction, but what he knows about that is that there still must be 3.5-foot footings dug, which requires sand under that and requires compacting equipment on the property. Just because the house will be built on a slab does not mean that there will not be any excavation. Mr. Purdy stated that he lives on this bluff and he has seen the rocks come down. The most recent rock fall is on exhibit 3 of the handout. Milly Anderson saw rocks come down just as recently as this April, he is sure that the City engineers that remove rocks from the road also have records of the rock fall. It fell about one block to the north of this construction site, it does not seem to matter to the rocks if there is an aspect to the bluff, they still come down. Mr. Purdy stated that all they are asking for is a proper engineering study of the site. He thinks that requiring an engineering study would be appropriate especially given the City's ordinance of not building on 12% slopes. It is your discretion but it seems that the Mayor's consultant would wish to have understanding on your part the risk you may be assuming with granting this variance.

Katherine Engdall, 19 Hall Lane, stated that she has lived in her home for 30 years. She submitted letters from three neighbors who live on Hall Lane who could not attend this meeting. She requested that staff go back to the photos of the garages. There are three properties that have their only access to the street is Hall Lane. There are several properties that have their front yard on Hall Avenue. She pointed out the homes that have access on Hall Lane and those that have access to their garages on another street. Ms. Engdall stated that 13 Hall Lane has a garage right on the Lane that was grandfathered in, it does not open onto Hall Lane but parallel to the Lane and has plenty of off-street parking for cars. She pointed out 11 Hall Lane which is the other property that faces Hall Lane and he was required to have a 17-foot setback for his garage, he also has parking along the whole side of the garage. Ms. Engdall contended that to say that all the garages on Hall Lane are the same as the one proposed by the applicant is not accurate. These houses face Hall Avenue so they have parking in front of their homes on the street, otherwise they would not have off-street parking either. What makes the applicant's application different from any other on the street is that he does not have any off-street parking. The applicant has said he is going to have a garage for two cars but there are service trucks that come by, there is all kinds of other traffic that comes by. Yes Mr. Zalinkas can have visitors park out on the street and walk but that is not necessarily going to happen. Even though Mr. Zalinkas has stated that is what he is going to do, there is no guarantee that someone else will not be living on that property at some point who does not take that approach and who maybe has three cars, then what? Ms. Engdall stated that she thinks it needs to be clear what the character of this neighborhood is. She stated that she requested and received a copy of Mr. Benner II's e-mail communication with Jennifer Sorenson of the DNR. He had sent the e-mail over to the Ms. Sorenson, at the DNR last Thursday requesting a recommendation about building on this site. Ms. Engdall stated that she had left a message for Ms. Sorenson earlier that day and she called back at 6:30 that night and talked to her about an hour trying to understand what she knew and what her thoughts were and she referenced this e-mail communication with Mr. Benner II, and said that Mr. Benner II requested this of her and that

there is no way that she would be providing it. Her impression is that not taking a position it is not prudent to construe that one way or the other and particularly not to consider that as some kind of stamp of approval on this variance. She wanted to call attention to the letter from the West Side Institute written by Mark Thomas, from 402 Hall Avenue. He gives a lot of useful information about what the geological structure is on the bluff and why it is slipping. She thinks that without having a study, while she commends the planting of prairie grass that Mr. Zalinkas has proposed, she is not confident that would address the concerns, short of a geologic study by experts would suffice. Ms. Engdall stated that Mr. Zalinkas has commented that the bluff below his property is not a shear rock face. She disagrees with that, she got out of her car right below his property is a pumping station and behind it is a shear rock so some of the bluff below his property is shear.

Charles Boiden, 9 Delos Street West, stated that Hall Lane has been called an alley, it has been characterized as a Lane, it is very narrow, it does not have sidewalks or gutters and it does not have sewer. He just wanted to emphasize the point that the neighborhood coalition mentioned is that the Lane that it is so narrow that a 4-foot setback inside of that space is tight at a place where that turn is located.

Mr. Zalinkas stated that the house will be slab on grade but there will be footings. Ms. Bogen asked how far down the footings would be. Mr. Zalinkas replied 52 inches, below the frost line.

Hearing no further testimony, Ms. Bogen closed the public portion of the meeting.

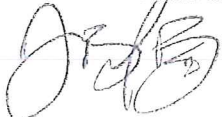
Mr. Miller stated that there seem to be two issues here the construction on the bluff and the actual variance we are hearing. Had this project been proposed without a garage no variance would be triggered and construction could have started immediately. Is that correct? Mr. Benner II replied, yes, that is correct. There were no other issues, pending there could be a glazing requirement for doors and windows when he goes through Design Review, but that would be addressed at that time. Where do these bluff related construction, issues get addresses if there is no variance for something that he thinks is unrelated. Mr. Benner II replied it gets addressed by Plan Review as staff is reviewing it for lot coverage and other standards of the code. Ms. Lane stated that when a property is within a critical area as this one is and it meets the required 40-foot setback from the bluff line as this one does and it is not on a slope, the rest of the construction is not on slope the Zoning Staff would leave it up to the Plan Review Staff to determine if there are soil considerations that need to be looked at. Part of that review is a Structural Engineer. There is a Structural Engineer on staff with the Plan Review section and there is also a Building Official and they would determine, whether or not additional reviews are required. That would be part of the normal Plan Review Section in DSI (Department Safety and Inspections) that would be reviewing any kind of new construction and they determine if additional information is required. Ms. Bogen stated that the BZA (Board of Zoning Appeals) is the first step and the last step is the Design Review. Ms. Lane replied no, the Design Review is part of the Zoning Review than it is referred over to the Plan Review portion and their review is looking for compliance with the building code. As part of the building code the structural engineer reviews it.

Ms. Maddox moved to approve the variance and resolution based on findings 1 through 6, subject to the condition that the minutes and the discussions that we have had be shared with the Plan Review staff so they understand prior to the review that there is a lot of concern with this.

Mr. Saylor seconded the motion, which passed on a roll call vote of 6-0.

Submitted by:

Jerome Benner II



Approved by:

Diane Trout-Oertel, Secretary

