

**APPLICATION FOR APPEAL**

Department of Planning and Economic Development
Zoning Section
1400 City Hall Annex
25 West Fourth Street
Saint Paul, MN 55102-1634
(651) 266-6589

Zoning Office Use Only

File #:

Fee:

Tentative Hearing Date:

PD-16
16-030022
440.00
To Be Scheduled
022823 31 0055

APPELLANT

Name Joelle Olson Email joelle.c.h.olson@gmail.com
Address 897 Goodrich Ave
City St. Paul St. MN Zip 55105 Daytime Phone 218-590-6303

PROPERTY LOCATION

Zoning File Name 15-138-929
Address / Location 897 Goodrich Ave St. Paul, MN 55105

TYPE OF APPEAL: Application is hereby made for an appeal to the:

Planning Commission, under provision of Chapter 61, Section 701, Paragraph c of the Zoning Code, of a decision made by the Planning Administrator or Zoning Administrator

OR



City Council, under provision of Chapter 61, Section 702, Paragraph a of the Zoning Code, of a decision made by the Planning Commission

Date of decision: April 15th, 20 16File Number: 15-138-929

GROUND FORS FOR APPEAL: Explain why you feel there has been an error in any requirement, permit, decision or refusal made by an administrative official, or an error in fact, procedure or finding made by the Planning Commission.

See Attached.



Attach additional sheets if necessary

Appellant's Signature Joelle OlsonDate 4/20/2016 City Agent add

Rev 9/4/14

Joelle Olson
897 Goodrich Ave
St. Paul, MN 55105

Attn: Application for Appeal
Dept. of Planning and Economic Development – Zoning Section

I believe errors were made by the staff recommendation, the Board of Zoning and Appeals, and the Planning Commission regarding my application for establishing a non-conforming use permit.

ERROR IN FACT

- 1) *“Lot size of at least 6,000 sq. feet....”*
 - a. Staff Report dated 3/31/2016 states lot size findings **are met**.
 - b. Staff Report dated 7/13/2015 also states lot size findings **are met**.
- 2) Section 62.109(a) *“has been in existence continuously for a period of at least 10 years...”*
 - a. Legal documents confirm tenancy existed during the “duplex” timeframe in question (February 2012)
 - b. A compilation of legal documents and tenant history prove triplex use for 10 years.
- 3) Section 62.109(c) *“Hardship would result....”*
 - a. It was recommend I simply “connect” the basement unit to the main floor unit. This will:
 - i. Cut off a stairwell to the second floor, requiring construction of a new stairwell so the second floor meets fire code requirement of two exits.
 - ii. Laundry will be cut off from the second floor tenant, requiring additional plumbing and reconfiguration of the second floor.
 - iii. Disrupts character of neighborhood and internal character of the home.
 - iv. During the discussion on Aug 13th, BZA committee members discussed there would be hardship; their primary concern was to grant an extension to find additional legal papers showing occupancy for 10 years. See meeting minutes.

ERROR IN PROCEDURE

The first time I was in front of the BZA (Aug 13th 2015), I was given an extension to gather more information supporting my variance request. The information requested was for 10 years of occupancy proof. I contacted the past tenants, one by one, to find the information. I intended to speak in front of the BZA at the April 7th 2016 hearing, and was **denied a chance to speak**. Section 61.203 states *“any person may appear and testify at the hearing, either in person or by a duly authorized agent or attorney.”*

The BZA only had 4 committee members present; this did not allow for thorough discussion with balanced viewpoints.

The BZA did not show acknowledgement they read the additional facts I supplied. The application includes 100+ pages of the documentation, including summaries, notations, exhibits, and photographs. The BZA did not acknowledge these were reviewed and understood.

I have repeatedly asked for clarification on what information I can provide to **meet the code requirements** and responses have varied from vague to direct **avoidance of the question**.

ERROR IN FINDING

It is unclear if the BZA and the Planning Commission reviewed all facts in the application, including legal documents for tenant occupancy.

Joelle Olson
897 Goodrich Ave
St. Paul, MN 55105

Attn: Application for Appeal
Dept. of Planning and Economic Development – Zoning Section

I believe errors were made by the staff recommendation, the Board of Zoning and Appeals, and the Planning Commission regarding my application for establishing a non-conforming use permit for triplex status of 897 Goodrich Ave. I believe errors were made in the process and don't agree the request for a non-conforming use permit for 897 Goodrich Avenue should have been denied based on:

- 1) **Lot size.**
- 2) **Section 62.109 (a)** *"...continuously for a period of at least 10 years..."*
- 3) **Section 62.109 (c)** *"...hardship would result..."*

See below for an explanation and counter facts to the findings of the committees.

1) LOT SIZE

The triplex conversion guidelines states that staff will recommend denial unless the following guideline is met: *"Lot size of at least 6,000 square feet with a lot width or front footage of 50 feet."*

The lot size of 897 Goodrich Avenue meets the guideline for triplex conversion.

The staff report prepared by Jamie Radel dated 3/31/2016 states lot size findings **are met** because the subject property is 6,000 square feet with front footage of 150 feet. See application for site map.

Additionally, the staff report prepared by Jamie Radel dated 7/13/2015 also states lot size findings **are met**.

I believe the committees erred in the recommendation of denial based on lot size given the aforementioned facts.

2) SECTION 62.109(a)

"the use or a nonconforming use of a similar or greater intensity first permitted in the same zoning district or in a less restrictive zoning district has been in existence continuously for a period of continuously for a period of at least 10 years..."

I disagree with the committee's recommendation of denial based on **continuous use for 10 years. Section 62.109 (a).**

After my first hearing to the BZA in August 2015, I was asked to provide 10 years-worth of evidence of triplex use, and I was granted an extension. (see August 13th 2015 meeting minutes).

Since then, I've submitted dozens and dozens of documents supporting each tenant's occupancy. I've overcome challenges such as tenants moving out of state, getting married, changing names, and one moving out of country by tracking them down and connecting the history, one person at a time.

Below is an overview of the documentation I've provided supporting continuous use for 10 years:

- A) I put together a timeline of the individuals who lived in the triplex over the last 10+ years which includes the person, the unit, the timeframe, and supporting facts submitted in my application.

- a. Timeline is supported by information provided by the former owner, Jane Lynch, who provided an affidavit supporting the facts presented. This includes facts around occupant history, such as leases, CRPs, and emails.
- B) I have provided dozens of documents supporting the 10 year tenant timeline in the application, including:
 - a. Leases
 - b. Certificates of Rent Paid (taxes)
 - c. Tax forms
 - d. A Verification of Rent Form
 - e. Countless emails between the tenants and the former owner which verifies tenancy over many years, such as tenants asking about move in/out dates, or if they can have a pet.
 - f. Emails between past tenants and myself which verifies tenancy occupancy.
 - g. Affidavits supporting the statements of tenant occupancy.
 - h. Public records confirm tenants lived at 897 Goodrich.
- C) I have data showing the basement unit has existed for decades.
 - a. Manufacturer and model numbers on the radiator confirm it dates back to Feb. 1991.
 - b. Kitchen Cabinets were made by the Merrilat Company and have a manufactured year of 1985.
 - c. The basement unit toilet by Kohler Company is dated 10/09/1990.
 - d. The basement floor radiators by TPI Corporation were manufactured in 1998.
 - e. I've confirmed manufactured dates by contacting company representatives and having them search their archives for matching model numbers to validate the timeframe. All supporting documents can be found in my application.

The timeframe of the triplex 'disruption' period within the 10 year span that Jamie Radel mentioned in her report is **February 23, 2012**.

You'll see from the summary of tenant occupancy (in my application), at that time, Andrew Bettenhausen and his friends were living in the basement. The main floor was occupied by Meghan Gusetti and her boyfriend Zach Fox. The second floor was occupied by Adam Chelseth and his girlfriend Maria. Three separate groups of people were occupying the home at that time.

Starting with the second floor, Adam and Maria had occupied it from 2009-2013. In addition to the fact that there are many emails between the tenants and the prior owner, Adam emailed me last August confirming his tenancy spanned the second floor from 2009 – 2013. Adam has since moved out of state, and I've submitted an affidavit supporting his tenancy.

On the main floor, Meghan and Zach were also long time tenants who lived at the home for many years before moving out to purchase a home of their own. There are many emails between Meghan and Zach and the prior owner over the years, as well as Certificates of Rent Paid, and their Verification of Rent form which was needed for their mortgage application and signed by the prior owner – all of which point to the fact that Meghan and Zach occupied the main floor for many years, including 2012 and 2013.

Andrew Bettenhausen and his friends occupied the basement unit in 2012. I have contacted Andrew, who is currently residing in the UK, and he confirmed his occupancy spanned from May 2011- the first part of 2012 before subletting to his friend, Ryan Larson. I have provided an affidavit supporting Andrew's occupancy.

I also submitted an email communication between Ryan Larson and the former owner regarding tenancy.

Additionally, I submitted a communication that took place in late 2012 between the tenants, the prior owner, and the city of St. Paul regarding residential permit parking. That communication confirms that Andrew sub-let to Ryan Larson in 2012 because Andrew wanted to hand off his parking pass to Ryan.

The thing to note here is that Andrew Bettenhausen was a basement tenant on that key date of February 23, 2012 when the city inspection for a Certificate of Occupancy took place.

I was not present on that date in February 2012, but it seems the prior owner temporarily removed the basement door and disabled the kitchen appliances to briefly conform to “duplex status”. It appears the home was disguised as a ‘duplex’ to the city inspector and conceivably only existed this way for **a very short period of time - possibly only on the day of inspection.**

If you follow the breadcrumb trail into 2013, I have supplied a Certificate of Rent Paid form for:

Peter Linsky. Ryan Larson, Molly Grames, Kelsey Jamison, Meghan Gusetti (who now married Zach, so Meghan Fox), Zach Fox, Adam Chelseth. The 2013 lease agreement for Richard Huhn, who occupied the second floor just after Adam and Maria moved out.

All of these tenants were under a legally binding lease in each of these **three** units during 2013, which is when the house was allegedly in ‘duplex’ status. It is very clear the home was being used as a triplex during this timeframe when the active Certificate of Occupancy was enforced.

I believe the fact that Andrew Bettenhausen was a basement tenant during February 2012 establishes continuity of the 10 year timeframe of triplex status, despite city records that state otherwise.

During the BZA discussion on Aug 13th 2015, it is worth noting commissioner Markarios noted *“there was a very significant dispute about the facts. While there is some record of the use as a duplex being abated, there is compelling evidence that it wasn’t in fact abated, even though it shows that on paper”* (source: Zoning Committee Minutes, August 15, 2015). Commissioner Markarios stated the above even before I provided additional documentation showing Andrew Bettenhausen occupied the basement unit at that time. Now that new information was added to my application supporting tenant occupancy for 10 years, it appears that 897 Goodrich was represented to the city as a duplex in February 2012, when it was indeed being used as a triplex.

897 Goodrich has been in the family of the former owner since 1975. The former owner, Jane Lynch wrote a summary letter confirming the basement unit, main floor unit, and second floor unit have been used continuously as separate units for 10 years, even since 2005. In fact, when she sold the home to us in 2014, the basement and second floor had active leases which carried through the sale. Jane Lynch has submitted an affidavit supporting her statements regarding 897 Goodrich Avenue.

I believe that when you add up all the 100+ pages of evidence in my application, especially that around the timeframe in question, one can conclude from my application and that **indeed this home has been used continuously as a triplex for a 10 year period.**

3) SECTION 62.109(c)

“Hardship would result if the use were discontinued.”

I disagree with the committee’s recommendation of denial based on hardship (Section 62.109 (c)).

It was recommended by the committee that I simply “connect” the basement unit to the main floor unit. This is a hardship because doing so will cut off a community stairwell to the 2nd floor. This would mean the 2nd floor **no**

longer meets fire code because it would only have one exit. Therefore, this proposal requires construction of a new stairwell so the 2nd floor meets fire code requirement of two exits.

Should a second stairwell be needed, the only available spot for construction is an external stairwell on the back of the house. At least 20+ stairs would need to be constructed. This is a risk to the existing and future tenants, for stairs will be hazardous and slippery during Minnesota winters, not only for able-bodied residents, but riskier for families with small children or seniors. Additionally, it would require noise and construction to a peaceful neighborhood. Lastly, it will be an eyesore to this historic 100+ year old home.

The recommendation to connect the basement to the main unit will also result in shared laundry will be cut off from the second floor tenant, requiring additional plumbing and reconfiguration of the second floor. The committee states that “*some* reconfiguration of the layout of the space should a laundry facility continue to be shared between the two units”. If you’ve ever seen construction work to old homes, you will know that breaking into a stucco wall, removing original molding, modifying plumbing to meet current code comes with significant challenges and is not diminutive. It is impossible to match the any wood that is over 100 years old. The wood in this home has a specific grain and stain that is best left alone to show its historic character.

It is worth adding commissioner Merrigan stated in the BZA hearing August 15, 2015 that the “*structural changes that would need to be made to convert the upstairs and downstairs use together are significant from an architectural and safety point of view.*”

Note: Photos supplied in my application can assist with providing a visual of the layout.

Based on the aforementioned information, I believe the hardship finding is met.

ERROR IN PROCEDURE

The first time I was in front of the BZA (Aug 13th 2015), I was given an extension to gather more information supporting my variance request. The information requested was for 10 years of occupancy proof. I contacted the past tenants, one by one, to find the information. I intended to speak in front of the BZA at the April 7th 2016 hearing, and was **denied a chance to speak**. Section 61.203 states “*any person may appear and testify at the hearing, either in person or by a duly authorized agent or attorney.*”

The BZA only had 4 of the 8 committee members present on the April 13, 2016 meeting; this did not allow for thorough discussion with balanced viewpoints.

The BZA did not show acknowledgement they read the additional facts I supplied. The application includes 100+ pages of the documentation, including summaries, notations, exhibits, and photographs. The BZA did not clearly acknowledge these pages were reviewed and understood.

Additionally, I have repeatedly asked for clarification on what information I can provide to **meet the code requirements** and responses have varied from vague to direct **avoidance of the question**. In an email dated Thursday, March 31st 2016, I asked Jamie Radel specifically what other information I needed to provide to meet the code requirements, however the response stated she would be out of office for the weekend and she’ll pass on the rest of my application documents – thereby avoiding the question posed. How is an applicant supposed to know what to provide if there isn’t reasonable assistance provided? I have a day job, and have tried my best to familiarize myself with the process and expectations of the committees involved and it is unfair to be subject to lack of clear communication around a topic that is critical to my family’s living situation.

Based on the above, I believe the committees erred and the request to establish a triplex at 897 Goodrich Avenue should be reconsidered by the City Council.