

MINUTES OF THE MEETING OF THE BOARD OF ZONING APPEALS
CITY COUNCIL CHAMBERS, 330 CITY HALL
ST PAUL, MINNESOTA, MARCH 14, 2016

PRESENT: Mmes. Maddox, Albert, Trout-Oertel and Bogen; Messrs. Courtney, Ward, Saylor and Wilson of the Board of Zoning Appeals; Mr. Warner, City Attorney; Mr. Diatta and Ms. Crippen of the Department of Safety and Inspections.

ABSENT: None

RECUSED: Vincent Courtney

The meeting was chaired by Joyce Maddox, Chair.

Ryan Burke (#16-012819) 1174 Grand Avenue: The applicant is requesting variances of the setback and lot coverage requirements in order to construct an eight - unit apartment building. 1) A front yard setback of 23.4 feet is required, a setback of 22 feet is proposed for a variance of 1.4 feet. 2) A rear yard setback of 25 feet is required, a setback of 22 feet is proposed at the southeast corner to accommodate a stair tower and a trash enclosure for a variance of 3 feet. 3) A side yard setback of 9 feet is required, a setback of 7.5 feet is proposed from both the east and west property lines for a variance of 1.5 feet on each side. 4) A building footprint occupying a maximum of 35% of the lot or 3,339 square feet is allowed, the proposed building would occupy 47.5 % or 4,528 square feet of the lot for a variance of 12.5 % or 1,189 square feet.

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

One petition was submitted by the applicant signed by business owners along Grand Avenue, supporting the variance request. The neighbors also submitted a petition in opposition to the variance request and most of those neighbors live on the Lincoln side of this block. An additional letter was received opposing the variance request.

One letter was received from District 16 supporting the front variance request and denying the rest of the variance requests.

Ms. Maddox stated that the last time this Board heard this and granted the variances the City Council overturned our decision. She stated that she would like to see the minutes from that hearing to see why they overturned the decision and who said what to make that decision. Mr. Diatta stated that the vote was 3-4, some of the council members did not think that the building fit because there are so many variances requested. That was an indication that the building did not fit and that it is too big for the lot, which was the driver for the reversal of the BZA (Board of Zoning Appeals) decision.

Ms. Bogen stated that she thought that this new plan has a bigger footprint than the plan the Board saw last time, it has larger setbacks in some places. Mr. Diatta stated that the footprint is smaller than before, initially they asked for 51.4% that has gone down to 47.5% of the lot. The footprint is smaller, they have a greater setback in the rear but the sides and the front are the same as previously proposed. Ms. Bogen stated that the only thing that changed was the rear yard setback and that made the footprint go down by 4%, about 60 square feet. She further questioned if the City Council was only concerned about the rear setback or all the setbacks. Mr. Diatta replied that the City Council was concerned about all the variances. The number of variances requested proved that the lot is too small for what the applicants want to do. That was the driving decision for the reversal of the BZA's decision. Ms. Bogen stated that granted that the City Council has two new people on it now. She does not think that the Board should try to guess what the City Council is going to do if the BZA passes this and there are not a lot of changes in it. It would be nice to see the minutes from the City Council.

81

Mr. Ward stated that if the driving factor was that in City Council's opinion that they thought that this particular lot was too small, according to the current zoning the code what size building is allowed to be built. Mr. Diatta stated that the current zoning allows a building to occupy 35% of the lot. The largest building that they could build is 3,339 square feet under the zoning code. Mr. Ward questioned even the adjacent buildings by today's standards could not be built because they are larger than the proposed building. Mr. Diatta replied, they are comparable. He stated that they can build a building that is 3,339 square feet that is not the problem; however, providing a building of that size with the required parking is the challenge here. It has to be something that fits into the neighborhood, the pattern of the block, the front setback and buffer between the buildings while providing the underground parking, which is the challenge.

Ms. Bogen and Mr. Diatta discussed the site plan on page 39 of the packet. She asked how many off street parking spaces they need with 8 units in the building. Mr. Diatta replied eleven off-street parking spaces are required. Ms. Bogen stated then if the applicants were to build a building like the plan on page 39 they would only need one additional off-street parking space variance. Mr. Diatta stated right with just the surface parking and no underground parking.

Mr. Saylor asked Mr. Diatta about the plans on page 39 questioning if the numbers are correct for the size of the neighboring buildings. Mr. Diatta replied that what the Board is looking at on page 39 was prepared by staff. Mr. Saylor asked Mr. Diatta if the square footage requested is 4,528 square feet. Mr. Diatta replied yes, that is correct.

The applicant **RYAN BURKE**, 22 Geneva Boulevard, Burnsville, Suite 500, was present with **KYLE LINDEN**, 1174 Grand Avenue. Mr. Linden and Mr. Burke went through the handout that they submitted to the Board which discussed how they got from the original request to the current request. They went with what the City Council seemed to want which was the underground parking and high density. Arguing that they could build without the variances, however, the building would not be a quality building that would bring in the income to support the neighboring businesses, nor would it have the required parking. They explained the difference between building condos rather than apartments.

Chad Skally, 1215 Highland Parkway and has a business at 624 Grand Avenue, he is here to speak in favor of the project. He thinks that this condo building is a good fit for the neighborhood. Ms. Bogen stated that Mr. Skally lives in Highland Park and his tax service is on Grand and Dale, he is not located very close to this project as far as living or working near it. Mr. Skally replied no, he also manages apartment buildings but none of his apartment buildings are near this. Mr. Ward asked how Mr. Skally heard about this particular project. Mr. Skally stated that knows Mr. Burke from his parish, he also knows Jim Fritz who is a business owner nearby who also talked to him about this project. He also used to be on the neighborhood board and heard about the project through there.

Kathy Plessner, 2038 Summit Avenue, stated that she is not an adjacent neighbor to the project. She is glad this has been an arduous process and thinks that these conversations make for better projects and supports this project.

Jodi Klepack, 500 Commons Drive, Woodbury, she is a realtor. She agrees with the previous speaker that this has been an arduous process. She stated that housing for ownership is needed in this area and across all of Minnesota particularly in the eastern suburbs. There is going to be a need for density sooner or later and it may not come in as desirable a structure as has been proposed by Mr. Burke and Mr. Linden. She contended that they have worked very hard to meet the desires and requests of the people in the neighborhood. This building will fit into Grand Avenue both inside and out.

82

There was opposition present at the hearing.

Amanda Karls, 1171 Lincoln Avenue, stated that although there are only a few residences in attendance here today opposing this variance request there are numerous neighbors that are opposed to the project but could not attend the hearing. This has been going on for over a year now with many meetings and the whole residential part of the block supports her position. She stated that if GABA were in favor of this then we would have a letter from GABA, there may be select individuals or select businesses that are in favor of this but not all of them are in favor. Ms. Karls wanted the Board to know that there is not full support for this project. She contended that some of the information provided to the Board, from the applicants is inaccurate. The neighbors have asked repeatedly for a scale rendering and they have not provided one, it is impossible to really judge the scale without a scale rendering to evaluate next to the other buildings. She stated that this building will be taller than the buildings on either side and will stick out. Combining the large footprint of the building and multiplying it by the height of the building make it a massive building. There is no practical difficulty here so it is being presented as a profitable building for the City. She asked that the Board deny this variance request because the Board does not have the information to fairly evaluate the scale and mass of the building. Ms. Karls asked that if the Board does approve this that they attached some conditions on the variance. The neighbors do not want the building more than three feet taller than the buildings next to it, they do not want porches and balconies above the third floor on the south facing side for privacy concerns. They also want mirrors installed at the ends of the alley so that the traffic coming in and out has a better view of what is happening in the alley. Because this is a dead-end alley they want most of the deliveries to be handled from Grand Avenue rather than the alley which is a one way alley.

Mr. Ward and Ms. Karls discussed that she lives right behind this property. Mr. Ward stated that the zoning code allows the applicants to build up to 40 feet, Ms. Karls seems to be saying that as long as the applicants build according to what is already there then they are ok with it. But the law is that they can build up to 40 feet in height. Ms. Karls stated that the point is that if they build within the zoning code the footprint would be smaller and it would have less of an impact on the neighbors. She argued that the applicants are not entitled to the variances by law and if the Board is going to give them variances cap it with a reasonable condition that they come down in height. Mr. Ward stated but then we are limiting their property rights as property owners. As a property owner in the state of Minnesota he cannot impede another's property rights. As a member of the Board of Zoning Appeals if the City allows certain things, we can only make changes based on reasons why something should be allowed within certain circumstances. But we cannot just arbitrarily say we do not like something, it's too high, when the applicants are working within the law. Ms. Karls argued that the applicants are coming to the City requesting an exception to the law and they have not satisfied the exception to be granted the requested variances. But she is willing to accept as a compromise if they will come down in height. She argued that it should not be approved just because it is a good project; it is good for development, or it is good for the tax base. It sounds like these guys have worked with the neighbors and made all these changes but the truth they have not made changes that the neighbors want. The only difference between this plan and the last is three feet.

Ms. Bogen stated that it is not just Ms. Karls that has these comments everybody in the alley signed this petition, some on Grand Avenue and some across Lincoln Avenue as well, everybody close to the proposed building.

Lori Brostrom, 710 Summit Avenue, stated that she is also on the Summit Hill Board and is a member of the Zoning and Land Use Committee. The East Grand Avenue neighborhood is very concerned about

83

preserving the historic nature of the Summit Hill and Grand Avenue corridor and the character of the neighborhood. The East Grand Avenue overlay district is a mixed use residential and light commercial district. One of the things that it brings from a value standpoint is light, green space, a certain amount of charm, walkability and appeal to both the residences and the visitors. The applicants keep talking about the four apartment buildings, two on either side of the property. There seems to be a sense that from an equity standpoint they should be able to build something with a comparable footprint, but those buildings were built in the 1920s when people did not need parking or own cars and most people use mass transit, street cars went up and down Grand Avenue. Parking was not something that had to be provided for. Times have changed and we have become a car centric society that we have needed to accommodate and the zoning code has done that. If the buildings that are there today were to be built today they would not be allowed to be as large as they are because they would need to accommodate for a different use. The concern of the neighbors and others in the Summit Hill neighborhood is that this is just too large of a building for the lot. She stated that yes the zoning code allows the property owners to build up to 40 feet, however, the code also restricts the building size to 35% of the lot coverage and they are considerably beyond that. One of the reasons that they need so much space for cars is because they have so many units in this building. This is a three and a half story building surrounded by two and a half story buildings and beyond that single family homes, many of which have been converted to commercial use. She argued that the zoning code restrictions really point to building something that is less dense on this property in order to fit all the code requirements. She contended that adding density at an Ad hoc basis is not the way to go. It should be done with a comprehensive plan and with input from the neighborhood and with extensive studies that talk to the impacts of increased density in an established neighborhood. Infrastructure, environmental impacts and the historic nature of the neighborhood also needs to be kept in mind.

Mr. Ward asked Ms. Brostrom if she thinks that this development is too large, what does she think would be an appropriate number of units for this particular location. Ms. Brostrom replied that she is not an architect so she would be the wrong person to ask, but she thinks that if the applicants go back to a two and a half story structure rather than a three and a half story structure and however many units that would allow would be more appropriate to the neighborhood. Mr. Ward asked if Ms. Brostrom would approve a parking variance if the building comes down to a two and a half story structure and there is no longer any underground parking, would she support the parking variance. Ms. Brostrom stated that looking at some of the earlier plans when the structure was smaller and there was onsite parking she would be ok with that. She stated that the area is not anti-development, the right kind of development that is respectful of the heritage of the neighborhood.

Winnie Moy, 1185 Lincoln Avenue, stated that the neighborhood supports what Lori and Amanda said. The neighborhood has spent a lot of time on this usually the neighbors are not so talkative. Many of the neighbors would have liked to be here but had to work.

Mr. Burke stated that a smaller building that conforms in the footprint has a larger mass at 40 feet height plus a stair tower, it will have a bigger visual impact. It will be just as far from the alley at 25 feet. There will not be the tax revenue to help maintain the historic Grand Avenue, there will not be the disposable income to help sustain and improve the businesses along Grand Avenue. It will not have the curb appeal with a lesser quality envelope. He stated that he could build a smaller building without problems but he would be doing an injustice to these neighbors' concerns by having more windows on the back more patios and more decks more square footage to look at. He stated that as developers they are coming in and trying to please everyone and not everyone will be pleased. Claiming that is why they have tried over the last thirteen months because the alternatives do not make sense for anybody. He stated that the people on Lincoln Avenue may be against this but there is no opposition from the people on Grand Avenue. He

contended that the neighborhood makes up more than the one street behind them. Some small variances are needed over a blanket zoning code to make a better product for everybody.

Ms. Bogen stated that she looked at the list of people supporting the variances and there are only four that fall within the 350 feet circle radius. She stated that she does not see anything from 1180 or 1168 Grand Avenue nor from 1186 or 1160 Grand Avenue. Mr. Burke stated that the property owner to the west of his property has not ever responded to any correspondence. Ms. Bogen stated she does not see anything from either of the two buildings on the east or the west. Mr. Burke replied that he has an e-mail from the neighbor on the east and have been working with him diligently. But they are not opposed; they may not want apartments on this lot because they do not want the competition.

Mr. Ward asked how many units would be in the building if the underground parking is eliminated and the building is only two and a half stories. Mr. Burke replied eight units with four off-street parking spaces in the rear. Mr. Ward stated that the neighbors would support a parking variance. Mr. Burke replied that the City is the one that dictates that and it will not happen.

Mr. Ward and Mr. Burke discussed that the variances that are being requested are small most at a foot and a half to three feet. Mr. Burke asked that the Board grant the variances for a better product.

Ms. Bogen stated that there would still be the need for a lot coverage variance.

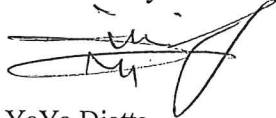
Hearing no further testimony, Ms. Maddox closed the public portion of the meeting.

Ms. Maddox stated that she would really like to see the minutes from the City Council meeting and seeing what was said there would help her make a decision; the Board also received a lot of information in the handouts and did not have a chance to read it all during the testimony. Mr. Ward stated that he would like to lay this over because of the minutes. Commissioner Bogen made an excellent point of their being two City Council members that are no longer on the Council and the neighbors are very adamant about their concerns. He stated that to do the best job that we can he thinks that the Board does need to see the minutes from the City Council Appeal of the last BZA decision on this case. To be able to evaluate all conditions because this has gone on for a while, he would like more information to have the best project. The highest and best use of the property for the neighborhood and mold something that is going to be in place in order to help all development along Grand Avenue, he does not think that this is the last time the Board will hear this.

Ms. Bogen moved to continue the matter for two weeks until March 28, 2016, so that staff can provide the minutes from the City Council meeting from the appeal.

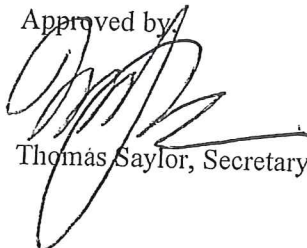
Ms. Albert seconded the motion, which passed on a roll call vote of 5-0.

Submitted by:



YaYa Diatta

Approved by:



Thomas Saylor, Secretary

MINUTES OF THE MEETING OF THE BOARD OF ZONING APPEALS
CITY COUNCIL CHAMBERS, 330 CITY HALL
ST PAUL, MINNESOTA, MARCH 28, 2016

Continued from March 14, 2016

PRESENT: Mmes. Bogen, Maddox and Trout-Oertel; Messrs. Courtney and Saylor of the Board of Zoning Appeals; Mr. Warner, City Attorney; Mr. Diatta and Ms. Crippen of the Department of Safety and Inspections.

ABSENT: Daniel Ward, Katrice Albert*

*Excused

RECUSED: Vincent Courtney

The meeting was chaired by Joyce Maddox, Chair.

CORRECTED

Ryan Burke (#16-012819) 1174 Grand Avenue: The applicant is requesting variances of the setback and lot coverage requirements in order to construct an eight - unit apartment building. 1) A front yard setback of 23.4 feet is required, a setback of 22 feet is proposed for a variance of 1.4 feet. 2) A rear yard setback of 25 feet is required, a setback of 22 feet is proposed at the southeast corner to accommodate a stair tower and a trash enclosure for a variance of 3 feet. 3) A side yard setback of 9 feet is required, a setback of 7.5 feet is proposed from both the east and west property lines for a variance of 1.5 feet on each side. 4) A building footprint occupying a maximum of 35% of the lot or 3,339 square feet is allowed, the proposed building would occupy 47.5% or 4,528 square feet of the lot for a variance of 12.5% or 1,189 square feet.

The public portion of the hearing had been closed at the previous hearing. Ms. Maddox opened the meeting for the Board discussion.

Ms. Bogen stated that she appreciated getting the City Council minutes from the appeal of the last BZA (Board of Zoning Appeals) decision. The minutes clarified many questions she had as she was not in attendance the last time the BZA heard this case. It was nice to be able to compare what was requested previously to what has been requested this time. The applicants are asking for the same front and side yard setbacks, the rear yard setback has been changed a little to get three extra feet on the southeast corner. The footprint of the building is slightly smaller, however, when she did the math it did not feel like it was that much more and it seems that the Board will be sending the same problem back to the City Council. She is also not sure that she is in favor of it anyway.

Ms. Trout-Oertel stated that she is in favor of this project. Compared to what could be built on the lot it could be a lot more damaging to the neighborhood. If the builders were to build as high as they could that would be a greater concern than the extra width of the building. She agrees that it is a substantial amount of lot coverage, however, she thinks it will fit into the block and she thinks that the concerns that the neighbors brought to the last hearing are concerns that they would have with anything that is built on this lot.

Hearing no further testimony, Ms. Maddox asked for a motion.

Mr. Saylor moved to approve the variance and resolution based on findings 1 through 6.

Ms. Maddox stated that if she lived in the neighborhood she would like to have that building next to her. She thinks that the Board is just handing back to the City Council the case exactly the way it was before and she thinks that they will just overturn it again.

86

Ms. Bogen stated that what concerns her is that applicants sometimes threaten the neighbors with what they could do with the property if they do not get the requested variances. She does not like when applicants come in with that attitude. She would much prefer if they came in with what they wanted to do and let the Board decide if they are going to allow it or not and if the Board does not approve it then they can build whatever the law allows without variances. That is why we have the standards.

Ms. Trout-Oertel stated that she feels that taking into consideration what the City Council might do on whatever is decided here today is not necessarily something that should have as much weight as to whether this is a legitimate cause for a variance. She would not put that in the equation of the decision the Board makes here today. Mr. Warner stated that is exactly right the Board's decision is based on the standards that are identified in the code, it is not prescribed for the Board to say that they are concerned that the City Council would be considering basically the same plan. The fact that it may be a concern is not a fact to base the decision on.

Ms. Bogen stated that she thinks that the width and volume of the building will be out of place there. What was sent by the neighbors showing the volume of the building compared to the neighboring properties shows it is totally out of place. According to the neighbors they have not gotten a visual of what the building is going to look like. She thinks that the building is too big and out of scale.

Ms. Trout-Oertel seconded the motion, which failed on a roll call vote of 2-2(Bogen, Maddox).

Ms. Bogen moved to deny the variance and resolution based on findings 1, 2, 3, 4 & 6. For finding one it is not in harmony because it is too big. Finding two she thinks it meets the comprehensive plan for infill housing, that finding is met. (Finding 2 was removed from the denial.) Finding three, there are not any practical difficulties, the applicants stated themselves that they could build something else on the lot. Finding four there is nothing unique to the property. Finding six it would alter the essential character of the neighborhood. All of the findings to deny would be based on this building being too big and that the applicant has admitted that they can build something else on the lot without any variances, based on findings 1, 3, 4 & 6.

The motion failed for lack of a second.

The matter was continued for two weeks until April 11, 2016.

Mr. Burke asked if the Board had the District Council minutes he wanted to know what the breakdown was on the decision at the District Council. Mr. Ward was going to look into that he just wondered if that came up. Mr. Diatta replied no, we do not have the District Council minutes.

Submitted by:

Approved by:

YaYa Diatta

Thomas Saylor, Secretary

MINUTES OF THE MEETING OF THE BOARD OF ZONING APPEALS
CITY COUNCIL CHAMBERS, 330 CITY HALL
ST PAUL, MINNESOTA, APRIL 11, 2016

Continued from March 28, 2016

PRESENT: Mmes. Bogen, Maddox, Porter and Trout-Oertel; Messrs. Saylor of the Board of Zoning Appeals; Mr. Warner, City Attorney; Mr. Diatta and Ms. Crippen of the Department of Safety and Inspections.

ABSENT: Katrice Albert*, Vincent Courtney*, Daniel Ward

*Excused

The meeting was chaired by Joyce Maddox, Chair.

Ryan Burke (#16-012819) 1174 Grand Avenue: The applicant is requesting variances of the setback and lot coverage requirements in order to construct an eight - unit apartment building. 1) A front yard setback of 23.4 feet is required, a setback of 22 feet is proposed for a variance of 1.4 feet. 2) A rear yard setback of 25 feet is required, a setback of 22 feet is proposed at the southeast corner to accommodate a stair tower and a trash enclosure for a variance of 3 feet. 3) A side yard setback of 9 feet is required, a setback of 7.5 feet is proposed from both the east and west property lines for a variance of 1.5 feet on each side. 4) A building footprint occupying a maximum of 35% of the lot or 3,339 square feet is allowed, the proposed building would occupy 47.5 % or 4,528 square feet of the lot for a variance of 12.5 % or 1,189 square feet.

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

Ms. Maddox reviewed the case history. Noting that the Board held a public hearing on March 14, 2016, a lot of people talked and there were many handouts, the public portion of the hearing was closed and the Board continued this matter to March 28, 2016. The public portion of the hearing was not reopened, no testimony was taken from the neighbors and the applicant was not allowed to speak. The hearing remained closed; the Board has a ton of information. She asked if the Boardmembers had any questions for staff right now or if they have questions for the applicant or any of the opposing neighbors. The Board had no questions. Ms. Maddox asked if the Board has to take some type of action today because of the deadline for action. Mr. Warner replied correct, he met with Mr. Diatta today before the hearing and the sixty days ends on April 22 and the next BZA meeting is on April 25th, there is no extension from the applicant so the Board would have to take a vote today. A letter from the Summit-Hill Association has been received in the past few days. Last week toward the end of the week staff received a packet of information from a neighbor who requested that the packet be distributed to the Boardmembers for their consideration for today's meeting. He continued that because the record showed that the meeting was closed, he advised Mr. Diatta not to distribute the information, but it is in the file. He wanted to Board to be aware of this because we have a 60 day rule to deal with, there are still some neighbors that feel they would like to submit some additional information, he thinks that procedurally there are two options for the Board to consider. The Board could take a vote today and see what happens because the public hearing has been closed. There needs to be four votes either for or against to deny or approve a request. The other option is if the Board wants to see this additional information, he did not look at it extensively so he cannot comment on it, but he can tell the Board it is there, Mr. Diatta did look at the information. His advice to the Board is if they want to see this additional information in the interest of having a public hearing, to further continue the matter for an additional two weeks, to have a new public hearing, re-notify the public/neighbors so that people that are both for or against and so that everybody who wants to is given an opportunity to be heard. Mr. Warner continued that could certainly be done because the first 60 days has not expired yet, a 60 day extension of time can be sent out because we have a total of 120 days to make a final decision under the case law. The Board can vote today based on the record or his advice would be that the Board continue this for another two weeks and re-notify everybody under the

statutory notice provisions. Ms. Bogen asked the public hearing would be reopened for the new hearing, would everybody be allowed to testify again or would they be limited. Mr. Warner stated that his advice is if they have new information to talk about they could certainly testify, but eventually the point is reached where the information becomes redundant, his advice would be to limit it to new information only. If the Board decides to hold a new hearing he thinks that the Board will have enough time to make a decision. The reason that we do that is to allow for the appeal period that is set in the ordinance, the state severely limits the time allowed for municipalities to hear and decide these. If this does not get laid over and either side does not like the decision they can always appeal it to the City Council. The Board does have to make a decision here because we are running out of time.

Ms. Bogen asked if the appeal is limited to what is before the Board or is it on anything in the case file. Mr. Warner stated that the appeals records are generally what is before the Board and the standard is that the Board made an error based on the record before it. The reality is that an appeal before the City Council can have people that never testified before or shown up and they are not excluded from doing so. Ms. Bogen stated maybe for discussion purposes we can find out what side everybody is on to see if it makes sense to take a vote we could vote, if it does not make sense to take a vote we could vote to continue the case. Maybe we should just continue this. Mr. Saylor asked of the Board could do that. Ms. Maddox replied yes.

Ms. Bogen stated that she would vote against this. Mr. Saylor stated that he would vote for this project. Ms. Trout-Oertel stated she would vote for this.

Ms. Porter asked if it is one piece of information that came in the previous week. Mr. Warner stated that he would not characterize it as one piece of information; he would characterize it as a fairly extensive bit of analysis and a bit of opinion. Mr. Saylor asked if this information just appeared now, this case has been around for quite a while. Mr. Warner replied that perhaps Mr. Diatta can talk about the information packet. Mr. Diatta stated that the information is not new, it is old information, however, what is driving the request to hear more testimony is what the person who wrote the letter deemed an error made by staff. Mr. Diatta explained that we had a public hearing on March 14th, the meeting was laid over until March 28th, so the Board could see the minutes from the City Council, in the meantime information went out and information that went out through the GovDelivery system created a formatting error on the Agenda. Information that was written for another case was misinterpreted as referring to 1174 Grand Avenue, so at the last hearing the neighbors thought it was laid over until today, April 11, 2016, the neighbors did not show up. At the last hearing there was no testimony taken but the person who wrote the letter claimed that staff did not give the neighbors an opportunity to hear other people that did not get a chance to testify at the first meeting, therefore, the meeting should be open so those that did not get a chance to testify on March 14 because city staff provided the wrong dates, based on the letter. The information that came in as far as the variances are concerned there is nothing new, it is the same information. Ms. Bogen stated the Board did not open the public portion of the hearing and we were not going to reopen the public hearing, the Board just wanted to see the minutes from the City Council appeal. Even if the neighbors had come to that hearing they would not have been allowed to speak. Ms. Maddox replied correct. Mr. Warner stated that the Early Notification System(GovDelivery) is not intended to be a notice system, it says that in the early notification resolution, it is for citizens and business owners and other interested parties in the City, telling them what is going on, that there are applications being made or some result happened, but it is not notice. The only notice requirement that the Board has to meet is the notice requirement set forth in the statute, which we met. It is unfortunate that the ENS system created a misunderstanding but there is no procedural error in terms of the required statutory notifications.

Ms. Maddox stated that she is hoping for the layover, she would like to have a full Board for the vote.

Ms. Porter stated that she is leaning toward the continuance. People seem to think that they have not been heard. Ms. Maddox stated she is not sure how much more information the Board could get. She is more concerned that the Board needs four votes either for or against to move this case along.

Ms. Bogen moved to continue the matter for two more weeks, to open a new hearing for new comment that the Board has not heard from people that have not testified before.

Mr. Saylor stated he wants to move this for approval the Board has a staff report here, there has not been a procedural error, we have the information. He thinks that the Board should pass this variance. Ms. Bogen asked what he plans to do if it does not pass, because it takes four votes. Mr. Saylor asked what is the result if doesn't get four votes, it passes anyway after the 60 days, he thinks it should be approved anyway. Mr. Saylor and Ms. Bogen discussed that the Board has had hearings and the possibility of any new information being submitted. The Board discussed that if there had been people in attendance at the last hearing that had not testified, Ms. Bogen may have asked to have the hearing reopened.

Ms. Trout-Oertel asked to have the motion repeated before the vote. Ms. Maddox stated the motion is to continue this for two weeks and reopen the public portion of the hearing for new information and testimony from the applicant and anyone who has not testified before.

Ms. Bogen stated that she wants to have a complete record for the City Council because it will be appealed.

Ms. Porter seconded the motion, which passed on a roll call vote of 4-1(Saylor).

Mr. Warner stated that the information that was submitted to staff will be in the new packet for the next hearing.

Submitted by:

Approved by:

YaYa Diatta

Thomas Saylor, Secretary

90

MINUTES OF THE MEETING OF THE BOARD OF ZONING APPEALS
CITY COUNCIL CHAMBERS, 330 CITY HALL
ST PAUL, MINNESOTA, APRIL 25, 2016

Continued from April 11, 2016

PRESENT: Mmes. Bogen, Albert, Maddox, and Trout-Oertel; Messrs. Saylor and Ward of the Board of Zoning Appeals; Mr. Warner, City Attorney; Mr. Diatta and Ms. Sheffer of the Department of Safety and Inspections.

ABSENT: Vincent Courtney-Arrived after this item.

The meeting was chaired by Joyce Maddox, Chair.

Ryan Burke (#16-012819) 1174 Grand Avenue: The applicant is requesting variances of the setback and lot coverage requirements in order to construct an eight - unit apartment building. 1) A front yard setback of 23.4 feet is required, a setback of 22 feet is proposed for a variance of 1.4 feet. 2) A rear yard setback of 25 feet is required, a setback of 22 feet is proposed at the southeast corner to accommodate a stair tower and a trash enclosure for a variance of 3 feet. 3) A side yard setback of 9 feet is required, a setback of 7.5 feet is proposed from both the east and west property lines for a variance of 1.5 feet on each side. 4) A building footprint occupying a maximum of 35% of the lot or 3,339 square feet is allowed, the proposed building would occupy 47.5% or 4,528 square feet of the lot for a variance of 12.5% or 1,189 square feet.

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

Ms. Maddox stated this matter was continued from the April 11, 2016 public hearing in order to consider new information that had been received. Testimony would be limited to this new information only.

Mark Genereux, 1165 Lincoln Avenue, referred to a letter dated April 6, 2016 submitted on behalf of himself and his neighbors who are in opposition to the variance request. The new proposal is almost exactly the same as what had previously been proposed by the developer and was denied by the City Council. By code, it is a half story too high and is not in keeping with the East Grand Avenue Overlay District. It was his contention that the proposed development will be out of context with the existing properties adjacent to this building. To date, they had not reviewed any renderings which were to scale and were unable to determine the actual proportions of the building. He said that in general, the neighbors were not opposed to multi-family house in the neighborhood; they were merely requesting that the overall size of the new building being proposed not exceed the size of the adjacent properties. He asked that the variance request be denied.

Karyn Wrenshall, 1201 Lincoln Avenue, stated that she, along with her neighbors, was opposed to the proposed new development at 1174 Grand Avenue. It was her opinion that it was not in keeping with the East Grand Avenue Overlay District of the Comprehensive Plan adopted by the City Council in 2006. She pointed to the Oxford Hill Condominium development built in 2005 which is a massive structure as the reason the guidelines had been adopted. She presented photos of the adjacent properties for the Board to review. She believed the new building would overpower the adjacent properties and requested the variance be denied.

Amanda Karls, 1171 Lincoln Avenue,

Lori Brostrom, 710 Summit Avenue, stated that she is also on the Summit Hill Board and is a member of the Zoning and Land Use Committee.

99

The applicant **RYAN BURKE**, 1387 Eleanor Avenue, was present with Jason Lien, **KYLE LINDEN**, .

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

Ms. Bogen moved to approve the variance and resolution based on findings 1 through 6, the condition has been met.

Mr. Saylor seconded the motion, which passed on a roll call vote of 5-0.

Submitted by:

Approved by:

YaYa Diatta

Thomas Saylor, Secretary

92