

BOARD OF ZONING APPEALS STAFF REPORT
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TYPE OF APPLICATION: Major Variance **FILE #**14-332913
APPLICANT: RAFIC CHECHOURI
HEARING DATE: October 27, 2014
LOCATION: 945 GRAND AVE
LEGAL DESCRIPTION: Summit Park Addition Tost Pa Lot 23 Blk 27
PLANNING DISTRICT: 16
PRESENT ZONING: BC; Sign-Grand Ave Special Sign District
ZONING CODE REFERENCE: 66.431 & 66.442
REPORT DATE: October 3, 2014 **BY:** Yaya Diatta
DEADLINE FOR ACTION: November 20, 2014
DATE RECEIVED: September 22, 2014

A. **PURPOSE:** Variances of the setback and off-street parking requirements in order to enlarge an existing retail store. 1) A front yard setback of 25 feet is required; a zero foot setback is proposed, for a front yard setback variance of 25 feet. 2) A 4 foot setback is required from side property lines; the addition would be in line with the building on both sides but the existing setback is 3.5 feet from the west property line for a variance of .5 feet. 3) The existing use requires 5 off-street parking spaces but only 3 spaces are available; the use in the proposed expanded building requires 7 off-street parking spaces for a variance request of the difference in parking between the existing use and the proposed use which is 2 parking spaces.

B. **SITE AND AREA CONDITIONS:** This is a 40 by 150 foot lot with alley access to a one-car detached garage in the rear yard and surface parking along the alley. A handicap ramp access is provided on the east side of the house. The house has an attached deck in the front and sits three feet above the surface of the street.

Surrounding Land Use: Mixed commercial and residential uses.

C. **CODE CITATIONS:**

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Sec.66.431 Density and dimensional standard table requires a 25 foot setback from the front and a 4 foot setback from the side property lines in the BC, community business (converted) district.

Sec. 66.442. - Parking requirements in the BC community business (converted) district.

In the BC community business (converted) district, when existing buildings are converted from residential to business use, when existing buildings are enlarged, and when new buildings are erected, off-street parking shall be provided as follows:

- (a) Off-street parking spaces shall not be located within a front yard and must be set back at least two (2) feet from a side lot line.

Table 63.207 Minimum Required Off-Street parking by Use.

Residential Uses	Minimum number of parking spaces
One- and two family dwelling unit	1.5 spaces per unit.
Retail	1 parking space per 400 sq. ft. GFA

- 1. *The variance is in harmony with the general purposes and intent of the zoning code.*

The building on this site has a mixed commercial retail use and a two-bedroom dwelling unit. The first floor is occupied by both the commercial and the residential use but the second floor is residential only. The building is currently located 25 feet from the front sidewalk and sits about three feet above the street elevation. The applicant is proposing to remove the existing attached front deck and constructing a one-story addition to the front of the building with a zero setback from the front property line.

The proposed addition will have parking implications. However, it has been difficult to exactly determine how many parking spaces will be needed because the applicant's plans keep changing. Plans initially submitted showed a building floor area of 1,830 square feet and a parking arrangement consisting of 4 spaces stacked in the driveway, one parking space in the garage and one parking space behind the fence along the alley for a total of 6 parking spaces.

When it was pointed out to the applicant that a stacked parking arrangement

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cannot be counted toward meeting the required parking without a full time attendant, he subsequently revised his plans. The revised plans indicate that the existing commercial space is now 800 square feet. The plans also show that 5 parking spaces could be provided.

However, this parcel is 40 feet wide and off-street parking must be set back 2 feet from property lines in the BC district. Additionally, a standard parking space is 9 feet wide by 18 feet long, therefore, only three parking spaces, including a handicapped space, can legally be provided, meeting the parking requirement for the existing use.

According to the applicant's plans, the proposed addition plus the existing commercial use would occupy 1,319 square feet of commercial space on the first floor at street level which is currently the basement of the existing building. It appears that the current first and second floors would be one residential dwelling unit.

Assuming that the revised plan indicating that the commercial space is 800 square feet is accurate, the requested variance changes from 2 parking spaces to one space (the difference between 3 spaces required for the existing use and 4 spaces required for the proposed use).

According to the applicant, the purpose of the proposed addition is to address a number of issues on this site. A zero setback from the front property line would make the building more accessible to his customers, who are mostly elderly, and allow them to safely get in and out of the retail space at street level. The applicant states that his building is shielded by the adjacent building to the west which was built right up to the sidewalk, causing eastbound traffic on Grand to often miss his business. The proposed setback will improve the visibility of his building.

The BC community business (converted) district is intended to allow businesses with minimal traffic impact to operate in existing residential structures within commercial areas, and at the same time to retain the visual character of the building forms and open space associated with residential uses such as front yards, side yards and parking. The applicant's request to construct an addition that leaves no front yard is not in keeping with the purpose and intent of the BC district.

Parking is a major problem on Grand Avenue and the one space variance request is not in keeping with an intent and purpose of the zoning code to lessen congestion in the public streets. This finding is not met for both variance requests.

2. *The variance is consistent with the comprehensive plan.*

The Area Plan Summary of the Summit Hill/District 16 Neighborhood Plan is an addendum to the Comprehensive Plan. It includes a strategy H9 Mixed-Use Buildings (Commercial Plus Residential) which seeks to “ensure that new and renovated mixed-use buildings on Grand Avenue respect the historic nature and character of the neighborhood, as well as providing dedicated off-street or underground parking for residents and tenants.” Buildings on Grand Avenue have various setbacks, with some closer to the sidewalk than others. The request to bring the building closer to the sidewalk is not inconsistent with this strategy. This finding is met for the setback variance. However, it is not met for the parking variance (see Finding 1).

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.*

Because the BC district is intended for parcels to visually look more like a residential lot than a commercial lot, yards and setbacks typical of residential uses must be provided. The setback variance request is intended to address some of the challenges presented by the topography of the parcel. The existing handicap access ramp is located in the rear yard and it is not convenient for elderly customers especially during winter months. The lot is three feet above the street elevation and access to the front of the building requires using stairs. This is challenging for the applicant’s elderly customers. Also, the view of the applicant’s building from eastbound traffic is shielded by the building on the adjacent parcel to the west, which according to the applicant, has negatively affected his business.

Although the lot has topographical challenges, other alternatives could be explored. For example, since the retail store would be on the street level, excavating the building in the front could be sufficient to resolve accessibility issues without the need to extend the building forward. There are other commercial buildings within the immediate area that are similarly set back from the street. A handicapped ramp could be built into the front slope with switch-backs to accommodate the elevation change. Allowing the proposed zero setback for this building may trigger a snowball effect on front setback variances from other businesses to be closer to the street. This request although reasonable is not due to any practical difficulty. This finding is not met for the front setback variance. Without the additional commercial floor space, additional parking is not needed and there is no practical difficulty for the parking variance; this finding is not met.

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

This property, like many others, is typical of converted, original residential properties along Grand Avenue. The streetscape of Grand Avenue is unique with various building setbacks and various zoning districts. In this case, nothing about this property is unique to justify the requested setback variance. This finding is not met.

The request for the parking variance was triggered by the applicant's intent to enlarge the building; it is a circumstance created by the applicant. This finding is not met.

5. *The variance will not permit any use that is not allowed in the zoning district where the affected land is located.*

The requested variances if granted will not change the zoning classification of the property. This finding is met for both variance requests.

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

Although located in the BC zoning district, the requested setback variances will not alter the character of the area which consists of buildings with various setbacks and façade designs. This finding is met for the setback variance request.

The parking variance could alter the character of the area. This finding is not met.

- D. **DISTRICT COUNCIL RECOMMENDATION:** Staff has not received a recommendation from District 16.
- E. **CORRESPONDENCE:** Staff received letters from property owners at 940 and 951 Grand Avenue in support of the variances.
- F. **STAFF RECOMMENDATION:** Based on findings 1, 3 and 4, staff recommends denial of the setback variance request. Staff further recommends denial of the parking variance request based on findings 1, 2, 4 and 6.

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**CITY OF SAINT PAUL
BOARD OF ZONING APPEALS RESOLUTION
ZONING FILE NUMBER: 14-332913
DATE: October 27, 2014**

WHEREAS, Rafic Chechouri has applied for variances from the strict application of the provisions of Sections 66.431 and 66.442 of the Saint Paul Legislative Code pertaining to setback and off-street parking requirements in order to enlarge an existing retail store. 1) A front yard setback of 25 feet is required; a zero foot setback is proposed, for a front yard setback variance of 25 feet. 2) A 4 foot setback is required from side property lines; the addition would be in line with the building on both sides but the existing setback is 3.5 feet from the west property line for a variance of .5 feet. 3) The existing use requires 5 off-street parking spaces but only 3 spaces are available; the use in the proposed expanded building requires 7 off-street parking spaces for a variance request of the difference in parking between the existing use and the proposed use which is 2 parking spaces in the BC Sign-Grand Ave Special Sign District at 945 Grand Avenue. PIN: 022823310078; and

WHEREAS, the Saint Paul Board of Zoning Appeals conducted a public hearing on October 27, 2014 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.*

The building on this site has a mixed commercial retail use and a two-bedroom dwelling unit. The first floor is occupied by both the commercial and the residential use but the second floor is residential only. The building is currently located 25 feet from the front sidewalk and sits about three feet above the street elevation. The applicant is proposing to remove the existing attached front deck and constructing a one-story addition to the front of the building with a zero setback from the front property line.

The proposed addition will have parking implications. However, it has been difficult to exactly determine how many parking spaces will be needed because the applicant's plans keep changing. Plans initially submitted showed a building floor area of 1,830 square feet and a parking arrangement consisting of 4 spaces stacked in the driveway, one parking space in the garage and one parking space behind the fence along the alley for a total of 6 parking spaces.

When it was pointed out to the applicant that a stacked parking arrangement cannot be counted toward meeting the required parking without a full time attendant, he subsequently revised his plans. The revised plans indicate that the existing commercial space is now 800 square feet. The plans also show that 5 parking spaces could be provided.

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However, this parcel is 40 feet wide and off-street parking must be set back 2 feet from property lines in the BC district. Additionally, a standard parking space is 9 feet wide by 18 feet long, therefore, only three parking spaces, including a handicapped space, can legally be provided, meeting the parking requirement for the existing use.

According to the applicant's plans, the proposed addition plus the existing commercial use would occupy 1,319 square feet of commercial space on the first floor at street level which is currently the basement of the existing building. It appears that the current first and second floors would be one residential dwelling unit.

Assuming that the revised plan indicating that the commercial space is 800 square feet is accurate, the requested variance changes from 2 parking spaces to one space (the difference between 3 spaces required for the existing use and 4 spaces required for the proposed use).

According to the applicant, the purpose of the proposed addition is to address a number of issues on this site. A zero setback from the front property line would make the building more accessible to his customers, who are mostly elderly, and allow them to safely get in and out of the retail space at street level. The applicant states that his building is shielded by the adjacent building to the west which was built right up to the sidewalk, causing eastbound traffic on Grand to often miss his business. The proposed setback will improve the visibility of his building.

The BC community business (converted) district is intended to allow businesses with minimal traffic impact to operate in existing residential structures within commercial areas, and at the same time to retain the visual character of the building forms and open space associated with residential uses such as front yards, side yards and parking. The applicant's request to construct an addition that leaves no front yard is not in keeping with the purpose and intent of the BC district. This finding is not met for the setback variance request.

Although parking may be a problem on Grand Avenue, one parking space seems minimal. Additionally, the applicant intends to reconfigure the rear yard to allow additional if necessary which would be in keeping with a purpose and intent of the zoning code to lessen congestion in the public streets. This finding is met for the parking variance request.

2. *The variance is consistent with the comprehensive plan.*

The Area Plan Summary of the Summit Hill/District 16 Neighborhood Plan is an addendum to the Comprehensive Plan. It includes a strategy H9 Mixed-Use Buildings (Commercial Plus Residential) which seeks to "ensure that new and renovated mixed-use buildings on Grand Avenue respect the historic nature and character of the neighborhood, as well as providing dedicated off-street or underground parking for residents and tenants." Buildings on Grand Avenue have various setbacks, with some closer to the

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sidewalk than others. The request to bring the building closer to the sidewalk is not inconsistent with this strategy. For the parking variance (see Finding 1). This finding is met for both variance requests.

- 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.*

Because the BC district is intended for parcels to visually look more like a residential lot than a commercial lot, yards and setbacks typical of residential uses must be provided. The setback variance request is intended to address some of the challenges presented by the topography of the parcel. The existing handicap access ramp is located in the rear yard and it is not convenient for elderly customers especially during winter months. The lot is three feet above the street elevation and access to the front of the building requires using stairs. This is challenging for the applicant's elderly customers. Also, the view of the applicant's building from eastbound traffic is shielded by the building on the adjacent parcel to the west, which according to the applicant, has negatively affected his business.

Although the lot has topographical challenges, other alternatives could be explored. For example, since the retail store would be on the street level, excavating the building in the front could be sufficient to resolve accessibility issues without the need to extend the building forward. There are other commercial buildings within the immediate area that are similarly set back from the street. A handicapped ramp could be built into the front slope with switch-backs to accommodate the elevation change. Allowing the proposed zero setback for this building may trigger a snowball effect on front setback variances from other businesses to be closer to the street. This request although reasonable is not due to any practical difficulty. This finding is not met for the front setback variance.

The variance request for is due to the narrow width of the lot; a practical difficulty to provide additional. Based on the applicant's testimony, the additional parking space could be provided. This finding is met for the parking variance request.

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

This property, like many others, is typical of converted, original residential properties along Grand Avenue. The streetscape of Grand Avenue is unique with various building setbacks and various zoning districts. In this case, nothing about this property is unique to justify the requested setback variance. This finding is not met for the setback variance request.

The width of the lot is a circumstance unique to the property not created by the applicant. The finding is met for the parking variance request.

5. *The variance will not permit any use that is not allowed in the zoning district where the affected land is located.*

The requested variances if granted will not change the zoning classification of the property. This finding is met for both variance requests.

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

Although located in the BC zoning district, the requested setback variances will not alter the character of the area which consists of buildings with various setbacks and façade designs. The variance request for one additional parking space will not alter the character of the area. This finding is met for both variance requests.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Board of Zoning Appeals that the request to waive provisions of Sec.66.442 is granted to allow a parking variance for two additional off-street parking spaces in order to enlarge an existing retail store on property located at 945 Grand Ave; and legally described as Summit Park Addition Tost Pa Lot 23 Blk 27; in accordance with the application for variance and the site plan on file with the Zoning Administrator.

IS APPROVED.

NOW, BE IT FURTHER RESOLVED, by the Saint Paul Board of Zoning Appeals that the side yard setback request of .5 feet from the west property line was withdrawn by the applicant and the request to waive provisions of Sec. 66.431 to allow a zero foot front in order to enlarge an existing retail store on property located at 945 Grand Avenue; and legally described as Summit Park Addition Tost Pa Lot 23 Blk 27; in accordance with the application for variance and the site plan on file with the Zoning Administrator.

IS HEREBY DENIED.

MOVED BY: Courtney
SECONDED BY: Bogen
IN FAVOR: 4
AGAINST: 2

MAILED: December 09, 2014

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.

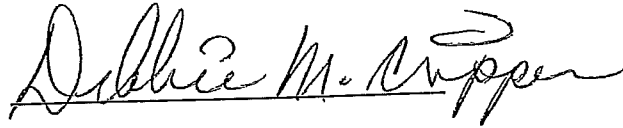
APPEAL:

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 October 27, 2014 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