



## CITY OF SAINT PAUL

DEPARTMENT OF SAFETY AND INSPECTIONS  
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### Board of Zoning Appeals

#### Staff Report

**TYPE OF APPLICATION:** Major Variance **FILE #: 25-020339**

**APPLICANT:** Mark Schwartz

**HEARING DATE:** April 14, 2025

**LOCATION:** 438 Daly Street

**LEGAL DESCRIPTION:** STINSON'S SUB OF B25 STINSON B LOTS 10 AND LOT 11 BLK 25

**PLANNING DISTRICT:** 9

**PRESENT ZONING:** B2

**ZONING CODE REFERENCE:** § 65.162

**DATE RECEIVED:** March 18, 2025

**REPORT DATE:** April 11, 2025

**120 DAY DEADLINE:** July 15, 2025 **BY: David Eide**

A. **PURPOSE:** The applicant is proposing to remodel a portion of this building to establish a supportive housing facility for up to 22 adult residents. Two zoning variances are requested: 1.) The zoning code states that supportive housing facilities shall be a minimum distance of 1,320 feet from specified congregate living facilities with more than six (6) adult residents; this facility is 1,044 feet from another congregate living facility with more than six (6) adult residents, for a zoning variance of 276 feet. 2.) In the B2 zoning district, the facility must serve sixteen (16) or fewer facility residents; 22 are proposed, for a variance of 6 residents.

B. **SITE AND AREA CONDITIONS:** This is a 0.14-acre property wrapped by Daly Street, James Avenue, and 7<sup>th</sup> Street West. A mixed-use building occupies the entire property with retail and a 22-room roominghouse.

Surrounding Land Use: The 7<sup>th</sup> Street surroundings are mixed-use in nature. A religious institution is located to the west across Daly Street and low-density housing occupies properties to the north.

C. **ZONING CODE CITATION:**  
**Sec. 65.162. - Supportive housing facility.**  
One (1) main building, or portion thereof, on one (1) zoning lot where persons with mental

illness, chemical dependency, physical or mental handicaps, and/or persons who have experienced homelessness reside and wherein counseling, training, support groups, and/or similar services are provided to the residents.

This definition does not include:

- (1) Foster homes as defined in this Code;
- (2) Residential treatment programs physically located on hospital grounds;
- (3) Regional treatment centers operated by the commissioner of human services;
- (4) Licensed semi-independent living services for persons with mental retardation or related conditions or mental illness, if the license holder is not providing, in any manner, direct or indirect, the housing used by persons receiving the service.
- (5) Community residential facilities, licensed correctional, as defined in this Code.

Standards and conditions:

- (a) The facility must be a minimum distance of one thousand three hundred twenty (1,320) feet from any other of the following congregate living facilities with more than six (6) adult residents, except in B4-B5 business districts where it must be at least six hundred (600) feet from any other such facility: supportive housing facility, licensed correctional community residential facility, emergency housing facility, shelter for battered persons, or overnight shelter.
- (b) In RL-H2 residential, T1 traditional neighborhood, Ford, OS-B3 business and IT-I2 industrial districts, the facility must serve sixteen (16) or fewer facility residents.
- (c) In RM1-RM3 residential, T1 traditional neighborhood and F1 Ford districts, a conditional use permit is required for facilities serving more than sixteen (16) facility residents.
- (d) In T2-T4 traditional neighborhood districts, the density is regulated as for multifamily uses.

#### D. FINDINGS:

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

This property contains a mixed-use building with ground-floor retail and a 22-room roominghouse on the second floor. The applicant is proposing to convert the second floor into a 22-resident supportive housing facility. This proposed facility supports the zoning code's goals of providing for housing choice and affordability. **This finding is met.**

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

The proposed supportive housing facility is consistent with Policy H-15 of the City's Comprehensive Plan, which encourages a diverse range of culturally appropriate housing types to serve residents across all stages of life and abilities. By offering supportive housing, the proposal advances this policy objective. **This finding is met.**

- 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.*

The intent of the 1,320-foot separation requirement between supportive housing and similar facilities is to ensure integration into the broader community and avoid concentrations that

resemble institutional settings. This proposed facility would be 1,044 feet from a 32-resident community residential facility, licensed correctional at 855 7<sup>th</sup> Street West. While the applicant asserts a longer walking distance, staff has determined that no significant geographical barriers exist, and the linear distance falls short of the required separation by approximately 40 feet.

The applicant is also requesting a variance from the B2 zoning district's limit of 16 residents in supportive housing to allow 22 residents. However, the practical difficulty for exceeding the occupancy limit has not been clearly articulated. Staff presumes the request is based on the number of rooming units historically approved for the property, though this alone does not constitute a practical difficulty under zoning criteria.

The applicant has not met the practical difficulties standard for the following reasons:

- The applicant could house up to six adult residents at this property by right without meeting the required separation;
- the fact that this property is within 1,320 feet of a community residential facility, licensed correctional is not a practical difficulty, but rather due to the owner's choice to pursue this use at this location; and
- it is owner's decision to pursue supportive housing rather than other available housing options; and
- the difficulty is the result of the owner's decision to pursue supportive housing at the proposed resident number;
- the owner has not demonstrated that there are practical difficulties to open a supportive housing facility at the number allowed by-right by the ordinance;
- there are other locations that the applicant could pursue within the City of Saint Paul;
- there are other available uses for the property that would not require a variance.

**This finding is not met.**

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

There are no unique physical characteristics or site constraints associated with this property that prevent compliance with the separation requirement or support the need for increased occupancy. The ability to house up to six residents without a variance indicates that alternative, compliant use is possible. Other properties within 1,320 feet of the same congregate living facility are in compliance with this standard. Given that the separation requirement affects other properties within the 1,320 feet proximity to the supportive housing facility, the plight is not unique to the landowner, but general to the surrounding area. As such, the condition prompting the request is not due to circumstances unique to the property, but rather the applicant's desired program scale. **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.*

Supportive housing is a permitted use within the B2 Community Business zoning district. The requested variance pertains only to the separation distance and occupancy limit, not the

use itself. Therefore, granting the variance would not permit a use otherwise prohibited in this district. **This finding is met.**

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

Granting the requested variance could result in a concentration of congregate living facilities within a short distance of one another, potentially replicating an institutional setting for residents within, undermining the goal of community integration which could alter the essential character of the surrounding area. The proposed variance is contrary to the ordinance which was implemented by the City Council to protect against such clustering in order to promote the public health, safety, morals, and general welfare of the city. **This finding is not met.**

- E. **DISTRICT COUNCIL RECOMMENDATION:** As of the date of this report, staff have not received a recommendation from District 9 - West 7th/Fort Road Federation.
- F. **CORRESPONDENCE:** Staff received a letter speaking against the requests.
- G. **STAFF RECOMMENDATION:** Based on findings 3, 4, and 6, staff recommend denial of the requested variances. Minnesota Statutes § 462.357 and Zoning Code § 61.601 require that all six findings must be met in order to grant a variance.