

FILE
13-222492

**CITY OF SAINT PAUL
BOARD OF ZONING APPEALS RESOLUTION
ZONING FILE NUMBER: 11-253290
DATE: August 8, 2011**

WHEREAS, Paul Ormseth, Architect for owner David King, has applied for a variance from the strict application of the provisions of Section 66.231 of the Saint Paul Legislative Code pertaining to a variance of the required rear yard setback. A 25 foot rear setback is required, 8 feet is proposed, in order to build a new garage attached to the back of the house by a deck and arbor in the R4 zoning district at 1075 Lombard Avenue. PIN: 112823220072; and

WHEREAS, the Saint Paul Board of Zoning Appeals conducted a public hearing on August 8, 2011 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.*

Finding 1, which states that the variance is in harmony with the general purposes and intent of the zoning code is met. This is a single family dwelling with two existing sidewalks in the front yard. Off-street parking is available in the one-car tuck under garage and there is a walkout basement off the rear yard. The applicant states that the existing tuck-under garage which is only 8 feet by 16 feet is not sized for current vehicle standards. The existing garage will no longer be used for parking. The front driveway will be disconnected from the existing garage by removing a section of the driveway and the remaining section left for front yard parking. Front yard parking is not allowed under the code.

The applicant is proposing to construct a new two-car garage attached to the back of the house by a deck and arbor with access from the alley. The applicant is proposing to remove the existing driveway in the rear and replace it with the proposed deck connecting the house to the new garage. A small bathroom addition to the principal structure is being constructed as part of the garage building permit, but it is not part of this variance. The proposed new garage will not be used for living space or commercial purposes.

The property has some unique topography. There is a retaining wall supporting the elevated grade of the alley and a driveway running from the front of the property to the alley through the existing tuck-under garage. The alley and the front of the property are at the same elevation but the rear yard is basically a large depression. The rear yard which sits one story below the front entrance and main floor of the building can be best put to use as proposed by the applicant.

FILE
13-222492

File #11-253290
Resolution

The surface of the proposed deck with arbor is 8 feet above the grade of the rear yard and would serve as a bridge connecting the two structures with stairs provided under for structural support. The applicant states that without the deck, going back and forth between the garage and the house would require descending one story to the rear yard and climbing back up one story to reach the main floor of the house, which can be difficult especially during the winter months.

There are several garages on this block that are located in the rear yard with access from the alley. The proposed garage will reinforce the existing pattern of the block. The exterior of the house is constructed with wood shingles with a tiled roof. The proposed garage is designed to match the exterior finish of the house and will have a tiled roof also. It will be a great improvement of the property and will have a positive impact in the neighborhood. Conserving and improving properties is in keeping with the general intent and purposes of the code.

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

Finding 2, which states that the variance is consistent with the comprehensive plan is met. The proposed garage would be replacing the existing tuck-under garage and its location in the rear yard is consistent with existing garages in the neighborhood. Providing off-street parking to lessen congestion in the public street is a goal of the comprehensive plan.

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.*

Finding 3, which states that the applicant has established that there are practical difficulties, other than only economic considerations, in complying with the provision and that the property owner proposes to use the property in a reasonable manner not permitted by the provision is met. Because of the unique physical condition of the lot due to the depression in the rear yard, the applicant is proposing to connect the garage to the house with a deck. The slope in the back makes it difficult to move back and forth between both structures especially during the winter months. Constructing the garage in the rear yard to follow the pattern of existing garages creates continuity in the neighborhood. The proposed garage with a deck is a creative way of putting the rear yard to use and it is a reasonable request that cannot be accomplished under the strict application of the code.

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

FILE
13-222492

File #11-253290
Resolution

Finding 4, which states that the plight of the landowner is due to circumstances unique to the property not created by the landowner is met. The depression of the lot in the rear yard makes it difficult to construct a garage that meets current code requirements without a variance. This is not a circumstance created by the current land owner.

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

Finding 5, which states that the variance will not permit any use that is not allowed in the zoning district where the affected land is located is met. Garages are allowed in all zoning districts and the proposed garage even though attached to the house with a deck will not change the zoning classification of the property.

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

Finding 6, which states that the variance will not alter the essential character of the surrounding area is met. The new garage will be located in the rear yard in consistence with the location of several garages in the neighborhood. Provided that the garage is not used as an additional living space or for commercial purposes, the requested variance will not change or alter the essential character of the area.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Board of Zoning Appeals that the provisions of Section 66.231 are hereby waived to allow a rear yard setback of 8 feet, for a variance of 17 feet, ***subject to the conditions that: 1) The exterior finish of the proposed new garage matches the exterior finish of the house. 2) The proposed new garage is not used as a living space or for commercial purposes. 3) The existing driveway and curb cut in the front yard must be completely removed and replaced with a new curb and gutter. All work on curbs, driveways, and sidewalks within the public right of way must be done to City Standards and Specifications by a licensed and bonded contractor under a permit from Public Works Sidewalk Section (651-266-6120). The front yard must then be sodded with grass,*** on property located at 1075 Lombard Avenue; and legally described as Slaytons Add To Ridgewood Pk Ex E 25 Ft Lot 12 And All Of Lot 11 Blk 1; in accordance with the application for variance and the site plan on file with the Zoning Administrator.

MOVED BY: Bogen

SECONDED BY: Morton

60

File #11-253290
Resolution

FILE
13-222492

IN FAVOR: 6
AGAINST: 0

MAILED: August 9, 2011

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 August 8, 2011 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