

**MINUTES OF THE MEETING OF THE BOARD OF ZONING APPEALS**  
**CITY COUNCIL CHAMBERS, 330 CITY HALL**  
**ST. PAUL, MINNESOTA DECEMBER 02, 2019**

PRESENT: Gloria Bogen, Daniel Miller, Luis Rangel Morales, Robert Clarksen, Danielle Swift, Diane Trout-Oertel, Matthew Graybar DSI, Yaya Diatta DSI, Maxine Linston DSI, Kaozouapang Yang DSI,

ABSENT: Thomas Saylor, Peter Warner City Attorney, (Excused)

The meeting was chaired by Rangel Luis Morales -Co-Chair

**Laid over cases from November 18, 2019- None**

Approval of minutes from November 18, 2019. Is there a motion. Move approval by Miller Is there a Second; Second by Bogen. Can we get a voice call all in favor say "I" Any opposed like sign. All voted in favor.

**New Cases:**

**35 Winthrop Street North 19-097169**

Mr. Morales- The first application is 35 Winthrop Street North the applicant recently paved a parking pad in the front yard without prior City approval he's requesting a variance from the parking regulations that prohibit off-street parking spaces within the front yard.

Mr. Graybar- that is correct. This is a 65 by 130 lot with a 1 car attached garage with no alley available. The existing driveway this is from the applicant's survey or the site plan ID submitted with the new parking pad so we're looking at 14 feet wide by thirty feet deep parking pad. We're not counting that little triangular portion up in the corner just because you can't park the car there. It's more of like an access to the front door. So that's where the new parking pad is. so, as you can see, there's no additional curb cut. There's a tree in the way so that would mean they'd have to get rid of the tree in order to install the curb cut. That's a picture of the new parking pad. It's made of concrete which is a permitted surface in the zoning code and the driveway is made of asphalt which also permitted surface because it's three cars wide that looks like they are not intending to do anymore parking width wise. So this is from the front of the house as you can see on the far right of the screen. I put a little description says new parking pad. And as you're looking up hill you can see that on the left-hand side across the street. There are people parking on the street. This is looking down the hill and then there's people parking on the street on the other side as well. And as you can see what the new parking pad is, thank you. For findings. The first finding is met because the proposal meets the intent of zoning code to lesson on street congestion. The second finding is met since the new parking area is consistent with the comprehensive plan to promote aesthetics of the community. The third finding is not met since on street parking is available and there is no practical difficulty to grant this variance request. The fourth finding is met because the lack of alley access and the inability to access the rear yard

is not a circumstance created by the applicant. The fifth finding is met since off street parking is permitted and all zoning districts and the six finding is not met since there are no other houses on the block with parking in the front yard or have a wider driveway than what is permitted and would alter the essential character of the neighborhood. The District Council has not provided a recommendation. Correspondence, you'll find that in Pages 34- 37. Staff received two letters in *opposition* to the variance from the homeowner homeowners at 1365 Idaho Avenue East just about three houses down and 1380 Idaho Avenue East, which is about two houses down and two letters of *support* from the property owners at 21 and 27 Winthrop Street North. The staff reports on pages 26 to 29. The resolution is on pages 30 through 40 staff recommends denial. The requested variants based on findings 3 & 6

Mr. Morales- Thank you. Any questions for staff?

Mr. Clarksen- when we were going through the pictures one thing I notice and I'm not quite sure how it might influence my vote yet. So I wanted to talk about it a little more was look like the street in front of this house in particular gets pretty narrow, perhaps narrower than each direction that you showed us as you look one way or the other and that was just one observation and maybe that could lead one to conclude that perhaps it might be more difficult for this particular homeowner to park on the street or not. Looking at the bull nose between the two driveways but there's nothing on the street either. So on the other hand it all it's also relatively open. Is this street as narrow as it appeared?

Mr. Graybar-The street is pretty wide. I can if you give me a couple minutes, I have to look that up online to be sure.

Mr. Morales- While Mr. Graybar looks that up, is the applicant present? please come up. And if you haven't signed in please sign in to the book and then you can sit down and give us your name and address for the record as well.

Chue Vang- My name is Chue Vang my address is 35 Winthrop Street North.

Mr. Morales-is there anything you'd like to add to the staffing report?

Mr. Vang- Yes. So the parking in the picture, the pad intent isn't for the full path to be parking. Most of it next to the existing is meant for parking but the other side is really meant for access to the house. I have more recent pictures of the house and with the construction going on. I Have added a double door and this is intended to open up access when you walk into the house. So you can imagine the car in one picture where my car was parked there. This side the right side is really a sidewalk or a walkway that will give access up to the front door. That's also why that little curve is there. So it's just to make a very aesthetically pleasing. So right now, the whole front door is under construction that single black door is replaced with a double-door access. So it's a really nice access in terms of the street parking because of the tea you can see in the picture. There was a tea there during the winter cars get stuck there all the time if they don't speed up to get past it they get stuck there. In fact, yesterday somebody got stuck there with the snow. So yes, I can park there but I would prefer not to park there because every comes there the slip and

slide right in that area it's just not a good idea to park right there. In the summer there's no problem; it's in the winter. Then it becomes, you know, not necessarily smart thing to do.

Mr. Morales- Any questions for the applicant?

Mr. Yang- I just also want to state that the project there was no intent on skipping the permit. I hired a contractor. I verified with the contractor that they had apply for the permit and the contractor emailed back saying the permit was applied and granted and on the contractors, process they actually said on 8-2 they had applied for the permit and that's why the go-ahead was given to do the work only.

I only realized that after David inspector said hey, you don't have a permit and then I asked the contractor and they just kind of said well, I thought Joe did a Joe thought John did it and it didn't happen.

Mr. Morales- Thank you. Thank you for that clarification to okay. Is there any question for the applicant?

Ms. Swift- I'm not sure if this is for the applicant or Mr. Graybar, So once you realize that you needed to pull the permit then you applied for the permit or was it something that was generated on our side?

Mr. Vang- I think the contractor is supposed to do all the permitting because they did all the work. I didn't do any of this work and from my understanding what the contractor told me was I don't do any of that because they're responsible for the project. The variance was suggested by David. He said hey you could apply for a variance and here's the process so he helped me and gave me information how to go about getting a variance and then he directed me to Mr. Graybar, so I worked with Matt and David and that's why I'm here.

Ms. Swift- Okay. Thank you.

Mr. Morales- Thank you, sir. Will if we need to we'll call you back up. Otherwise, we'll move on.

Mr. Graybar. Thank you. Mr. Chair Commissioners just for reference. We don't need a permit to do a parking pad in the front yard. We just need a site plan review from zoning and we did not receive one prior to the installation of that. So it might have been the contractors may have been mistaken. Hopefully not fraudulently so but just maybe made a mistake while doing it. Also measured the street width at 30 feet from curb to curb.

Mr. Clarksen- It's pretty narrow. Ms. Swift-Okay. What is it? Mr. Morales- Mr. Graybar. Do you know what the typical street is?

Mr. Graybar- I unfortunately do not know what the typical street width is.

Mr. Morales- Thank you. Is there anybody to speak in favor of this application? Anybody who's speaking? Please come up and sign in and then say your name and address for the record, please. My name is Colleen Osborn- I'm the daughter of the owner at 27 North Winthrop Street, I'm sorry, the South neighbor, the uphill neighbor. I live at 4537 Margaret Street in White Bear Township. I did write you written comments and I've included two pictures. What I'd like to state for you is the reason I included the two pictures is downhill there is another house that has their garage on the side and because of that they have to have in yard concrete. So when I looked at it recently I thought well that looks awfully nice. You know, they have good landscaping but it's a lot of concrete in the front of the yard. I think Mr. Vang will do similar with good landscaping and making sure that his house is presentable seeing as he's putting in new siding and a double door. I think it'll look equally as aesthetically pleasing. So I'm in favor of doing it, knowing that we have snow emergencies. I don't know where else he can park the cars. People have other Solutions on the lawn that make a muddy mess in the spring in my neighborhood and I feel like he's at least being proactive to find a solution that will make him continue to be a good neighbor.

Mr. Morales- Thank you very much. Is there anybody else to speak in favor of this application? anyone to speak in favor and final call, anyone to speak in favor? Is there anyone here and to speak in opposition of the application anyone to speak in opposition? Anyone to speak in opposition, with that I will close the public portion of the hearing and any questions for staffs or motion.

Mr. Graybar- Mr. Commissioner. I just wanted to add 71 Winthrop Street North has a legally conforming driveway and there's no extradition parking pad in the front yard. It's with about a 16 feet wide driveway that extends about 30 feet to the front of the property line, which is permitted so you can go four feet wider than the garage door for 30 feet. So this 71 street is a legally conforming parking driveway.

Mr. Morales- Thank you, Mr. Graybar.

Ms. Trout-Oertel- I would say that I appreciate there is a difficulty with the street teeing right in front of this house, I would feel uncomfortable parking there in the winter with ice on the street. It's very possible that someone would slide into the car for example, so, I don't know, I haven't made up my mind yet, but I think that's something we should evaluate.

Mr. Morales - So just a reminder staff recommended denial based on findings 3 & 6. If there's a motion to approve there would have to be independent findings for three and six as to why to approve otherwise, it would be a motion to deny.

Ms. Swift- being that the concrete is already laid, if we deny the variance what does that mean for the applicant does he has to take up the concrete?

Mr. Graybar- Commissioners, that is correct. He would have to take up the concrete or he could appeal the BZA decision to the city council.

Ms. Swift- typically when we see variance request coming through and someone's doing a

project with a contractor does it usually come from the contractor?

Mr. Graybar- Commissioners, sometimes it does sometimes it doesn't it depends on the project and the ability of the homeowner or the property owner to do their own work.

Ms. Bogen- I move based on findings 3 and 6 for denial of the variances.

Mr. Morales- Motions been made. Is there a second?

Mr. Clarksen- second by commissioner Clarksen.

Mr. Morales- is there any discussion on the motion? Hearing none. Can we get a voice call.

Ms. Pang- Miller-Yes.; Swift-No; Bogen-Yes; Clarkson-Yes; Trout-Oertel-No; Rangel Morales-No

Mr. Morales- with that the motion has failed, it was 3-to-3.

Ms. Bogen- If we vote again most likely it will be a 3 to 3 vote on the other way. I suggest that we continue this for two weeks.

Mr. Morales- Is there an advantage to this? I guess we might have an additional person to be here and that we could break the tie.

Mr. Graybar- keep in mind that the deadline fractionous is December 26, 2019. This was laid over from the first application they were supposed to be on the last one in November just because the public hearing notice that went out only specified the parking in the front yard. It did not specify the driveway width because they are extending that so that's why we wanted to postpone it and push it back to this hearing and then we send out the 10-day with the accurate information letting the neighbors know what it actually they're requesting.

Mr. Morales-and that has not been provided? Mr. Graybar- that was sent out. Mr. Morales- Okay, thank you.

Mr. Commissioner Clarksen. so, you're pointing out that the next meeting is the 26th, I mean the 16th. Are we in a 60-day problem here a hundred and twenty days has there been any consideration for extending it?

Mr. Graybar- Commissioners if we make the 16th and a decision is made on the 16th, then we will be fine. However, if the applicant does not get a favorable response to what they're looking for, they could always appeal it, then we would have to extend the 60-day rule.

Mr. Clarksen- We still have the ability to extend.

Ms. Swift- is a cost associated with appealing?

Mr. Graybar- Commissioners. Yes. That is correct.

Ms. Swift- What does that cost? Mr. Graybar-I can look that up for you, I believe it's \$407 believe.

Ms. Trout-Oertel- my question is for Mr. Gray bar. I'm not sure that there's enough room between the public sidewalk and the parking pad where the car the truck there is parked in this picture that we're looking at. Would there be room to saw cut some of the parking pad out at the sidewalk the public sidewalk would a car still be able to park? In the parking pad it would have to angle over just as it does now, but I don't know if there's enough room for that radius.

Mr. Graybar- Commissioners you're stating that for this picture if we took part of the grass area out and then made that a maneuvering lane or like extra concrete.

Ms.Trout-Oertel- No, I'm suggesting saw cutting on the house side of the public sidewalk, and I'm wondering if there's enough room for a car to maneuver into the new parking space in the front yard. I'm asking because we could perhaps do a condition where they'd have to saw cut out and provide landscaping between the public sidewalk.

Mr. Graybar-Commissioners. The new parking pad width depth is 30 feet. The normal typical parking space is 9 by 18 however, you still need to have access to that parking spot. So maybe if you could cut like a triangle, like a wedge so that way they could still access the pad then they might be able to do that. I would need to see a plan.

Ms. Trout-Oertel- course yes.

Ms.Bogen- Do they also need to have a curb cut?

Mr. Graybar-Commissioners if they're going to be expanding that or just cutting it because right now they don't have a curb cut.

Ms. Bogen- I'm just asking if we give them this variance do they have to have a curb cut also because you mentioned the tree coming down.

Mr. Graybar- Commissioners. If you did Grant the variance, then they would not have to get a curb cut unless you conditioned it. Which would then have to work with/coordinate with Public Works or the Forestry Department. Because they would have to remove the tree to expand that curb cut. Because I think you can't cut within three feet of a tree because the roots below it.

Ms. Trout-Oertel- what I suggested would not involve changing the curb cut all at.

Mr. Clarksen- the plan that we have doesn't show any alterations to the curb right either.

Mr. Graybar- Commissioners. If you did grant a variance it would be as-is.

Ms. Osborne- can I say something? Not even that the City took the tree out this fall and planted a small one.

Mr. Morales- the public portion has been closed, so we can't take any additional information.

Ms. Bogen- I moved to continue this for two weeks so that we can have a seventh board member.

Mr. Miller – Second.

Mr. Morales- It's been moved and seconded. Is there any discussion on the motion?

Mr. Morales- So just for clarification, Mr. Graybar, if this is not approved in two weeks and it's denied as staff recommends. We would not be able to hit the sixty-day deadline?

Mr. Graybar- Commissioners. If you did lay it over until the December 16th hearing, that would give him ten days after that to file an appeal for the city council. If he so chose too, then we would have to extend the 60-day clock to accommodate the City Council.

Mr. Morales- But would that responsibility fall on us?

Mr. Graybar- Not the board, but us and over there in the City and DSI.

Mr. Morales - Okay, so there's nothing wrong with laying it over. Mr. Graybar- you could lay it over. Yes. That is correct.

Mr. Morales- So there's been a motion and a second to see if we can get another board member that could help with the deadlock.

Mr. Clarksen- One thought would be in addition to that perhaps the applicant would have some time to work with staff to perhaps come up with an amino alternative solution based on the discussion about kind of cutting that off on an angle. If not, that's fine as well.

Mr. Graybar- Commissioners. Maxine/Pang if you could go to slide 5. So as you see that tree is cut down that was taken from our zoning inspector to show that was removed. So if you did put your thoughts about approving or denying these variances based on that then there's your answer.

Mr. Morales- So there's been a motion and it's been seconded. Can we get a voice call to layover. We can do that, just as an all-in favor. **(Say I)**. Any opposed-no. This matter will be laid over for two weeks and hopefully we can reach a resolution in two weeks.

Moved By; Bogen Second By: Swift

**Tie Vote Laid over for two-weeks**

Submitted by: Maxine Linston  
Matthew Graybar

Approved by:  
Daniel Miller, Secretary