

## BOARD OF ZONING APPEALS STAFF REPORT

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**TYPE OF APPLICATION:** Major Variance **FILE #**16-012819

**APPLICANT:** RYAN BURKE

**HEARING DATE:** March 14, 2016

**LOCATION:** 1174 GRAND AVENUE

**LEGAL DESCRIPTION:** Manson And Simontons addition W 1/2 Of Lot 3 And All Of Lot 4 Blk 3

**PLANNING DISTRICT:** 16

**PRESENT ZONING:** RM2  
Grand Avenue Special Sign District

**ZONING CODE REFERENCE:** 66.231 & 66.232

**REPORT DATE:** March 2, 2016 **BY:** Yaya Diatta

**DEADLINE FOR ACTION:** April 21, 2016

**DATE RECEIVED:** February 22, 2016

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A. **PURPOSE:** 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.

B. **SITE AND AREA CONDITIONS:** This is a 60 by 150-foot lot vacant lot with alley access. A duplex and a three-car garage that previously existed on the site were recently removed. The lot is at a higher elevation than the street.

Surrounding Land Use: Various commercial and residential uses.

C. **BACKGROUND:**

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This property is located in the Hill State Historic District and in 2015, it was evaluated and determined to be a non-contributing property to the historical character of the historic district. In October of 2015, the applicant was granted the following variances (File # 15-163947) by the Board of Zoning Appeals in order to construct an 8-unit apartment building with underground parking for 8 spaces on this site:

Front yard setback of 22 feet (23.4 feet required).  
Rear yard setback of 19 feet (25 feet required).  
Side yard setback of 7.5 feet (9 feet required).  
Maximum building footprint occupying 51.4% of the site (35% maximum footprint allowed).

This approval was subsequently appealed to the City Council (File # 15-172899), resulting in the BZA's decision being overturned on November 18, 2015.

The applicant has since redesigned the rear portion of the building containing a stair tower and a trash enclosure at the southeast corner, resulting in a 22 foot rear yard setback and a building footprint occupying 47.5% of the lot. Although the footprint has been reduced, constructing the proposed building still requires the same variances as previously requested.

#### C. ZONING CODE CITATIONS:

**Sec.66.231.** Residential District Dimensional Standards table requires a minimum front yard setback of 23.4 feet, a side yard setback of 9 feet and a rear yard setback of 25 feet.

**Sec.66.232** limits the lot coverage for principal structures in residential districts to no more than thirty-five (35) percent of any zoning lot.

#### D. FINDINGS:

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

The duplex and three-car detached garage previously located on the site, have been removed and the lot is currently vacant. The applicant is proposing to develop the parcel into a new, three-story eight-unit building (the first and second floors have 2 two-bedroom units and a one-bedroom unit each and the third floor has 2 three-bedroom units) with underground parking for eight vehicles and three surface parking spaces, meeting the off-street parking requirement.

The zoning code requires a 23.4 foot setback from the front property line for this block, a 25 foot setback from the rear property line, a 9 foot setback from the side property lines and limits the footprint of the building to a maximum of 35% of the lot.

The proposed building would be set back 22 feet from the front property line, 22 feet

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from the rear property line, 7.5 feet from the side property lines and would occupy 47.5 % of the lot, which cannot be accomplished without the requested variances.

Among purposes of these dimensional standards and lot coverage requirements are to ensure that buildings are constructed in a manner that provides regularity in pattern and spacing, to not create overly dense sites, and to not overly burden adjacent properties with impacts created by the new development. The proposed building is generally consistent with the size, the form and the setbacks of the immediate multi-family buildings to the east and to the west. The spacing provided would allow adequate light and air access to the adjacent properties, meeting the purpose and intent of the zoning code. The proposed lot coverage is comparable to that of the immediate buildings to the east and to the west and allows underground parking to be provided. This finding is met.

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

The proposed site development would provide housing opportunities. It is consistent with Policy 1.2 of the Housing Chapter of the Comprehensive Plan, which states: "Encourage the development of attached single-family and neighborhood-sensitive multi-family infill housing at appropriate locations as identified in the Land Use Plan and small area plans to increase housing choice." Strategy 3.4 states: [Infill housing should meet] "...design standards so that infill housing fits within the context of existing neighborhoods and is compatible with the prevailing pattern of development". The infill house proposed would fit into the neighborhood character. Although this project is seeking variances from the RM2 requirements, the density conforms to the zoning standards. 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.*

This parcel is similar in size to the adjacent lots immediately to the east and to the west that also have apartment buildings similar in bulk and spacing to the proposed building. Constructing a building that meets current zoning code requirements would require a building footprint of 3,339 square feet, which would be significantly less than the average size of the adjacent apartment buildings (4,515 square feet), thereby affecting the pattern of the block. The requested variances for the proposed 4,528 square foot building footprint are reasonable to allow a development consistent with existing spacing between buildings, the pattern of the block and the form of existing buildings on Grand Avenue. It would provide underground parking, which none of the adjacent apartment buildings have, and would have a greater rear yard setback than most of those buildings. This finding is met.

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

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Due to the size of this parcel, developing any type of multifamily housing comparable in scale, spacing and bulk to the existing multiple-family buildings in the immediate area while meeting the current parking requirements would be rendered impractical by the strict application of the provisions of the zoning code. This finding is met.

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

A multiple-family dwelling is a use allowed in the RM2 multiple-family zoning district and with the proposed eight units, this building meets the lot area requirement per unit. This finding is met.

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

The proposed building would be similar in scale and massing to buildings immediately to the east and to the west and would have a greater rear yard setback than the immediate apartment buildings to the east and to the west; it will not change the character of the area. This finding is met.

- E. **DISTRICT COUNCIL RECOMMENDATION:** Staff has not received a recommendation from District 16.
- F. **CORRESPONDENCE:** The applicant's request includes a petition signed by a number of businesses on Grand Avenue in support of the variances. Staff also received a letter from a property owner at 2555 Oak Court in White Bear Lake and a property owner at 1190 Summit Avenue in opposition to the variances.
- G. **STAFF RECOMMENDATION:** Based on findings 1 through 6, staff recommends approval of the variances.

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**CITY OF SAINT PAUL**  
**BOARD OF ZONING APPEALS RESOLUTION**  
**ZONING FILE NUMBER: 16-012819**  
**DATE: March 14, 2016**

**Deadline for Action: 04-21-16**

WHEREAS, Ryan Burke has applied for a variance from the strict application of the provisions of Section 66.231 & 66.232 of the Saint Paul Legislative Code pertaining to the required setbacks and the maximum allowed lot coverage. 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 in the RM2 zoning district at 1174 Grand Avenue. PIN: 032823410039; and

WHEREAS, the Saint Paul Board of Zoning Appeals conducted a public hearing on March 14, 2016 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 duplex and three-car detached garage previously located on the site, have been removed and the lot is currently vacant. The applicant is proposing to develop the parcel into a new, three-story eight-unit building (the first and second floors have 2 two-bedroom units and a one-bedroom unit each and the third floor has 2 three-bedroom units) with underground parking for eight vehicles and three surface parking spaces, meeting the off-street parking requirement.

The zoning code requires a 23.4 foot setback from the front property line for this block, a 25 foot setback from the rear property line, a 9 foot setback from the side property lines and limits the footprint of the building to a maximum of 35% of the lot.

The proposed building would be set back 22 feet from the front property line, 22 feet from the rear property line, 7.5 feet from the side property lines and would occupy 47.5 % of the lot, which cannot be accomplished without the requested variances.

Among purposes of these dimensional standards and lot coverage requirements are to ensure that buildings are constructed in a manner that provides regularity in pattern and spacing, to



not create overly dense sites, and to not overly burden adjacent properties with impacts created by the new development. The proposed building is generally consistent with the size, the form and the setbacks of the immediate multi-family buildings to the east and to the west. The spacing provided would allow adequate light and air access to the adjacent properties, meeting the purpose and intent of the zoning code. The proposed lot coverage is comparable to that of the immediate buildings to the east and to the west and allows underground parking to be provided. This finding is met.

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

The proposed site development would provide housing opportunities. It is consistent with Policy 1.2 of the Housing Chapter of the Comprehensive Plan, which states: "Encourage the development of attached single-family and neighborhood-sensitive multi-family infill housing at appropriate locations as identified in the Land Use Plan and small area plans to increase housing choice." Strategy 3.4 states: [Infill housing should meet] "...design standards so that infill housing fits within the context of existing neighborhoods and is compatible with the prevailing pattern of development". The infill house proposed would fit into the neighborhood character. Although this project is seeking variances from the RM2 requirements, the density conforms to the zoning standards. 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.*

This parcel is similar in size to the adjacent lots immediately to the east and to the west that also have apartment buildings similar in bulk and spacing to the proposed building. Constructing a building that meets current zoning code requirements would require a building footprint of 3,339 square feet, which would be significantly less than the average size of the adjacent apartment buildings (4,515 square feet), thereby affecting the pattern of the block. The requested variances for the proposed 4,528 square foot building footprint are reasonable to allow a development consistent with existing spacing between buildings, the pattern of the block and the form of existing buildings on Grand Avenue. It would provide underground parking, which none of the adjacent apartment buildings have, and would have a greater rear yard setback than most of those buildings. This finding is met.

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

Due to the size of this parcel, developing any type of multifamily housing comparable in scale, spacing and bulk to the existing multiple-family buildings in the immediate area while meeting the current parking requirements would be rendered impractical by the strict application of the provisions of the zoning code. This finding is met.

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

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A multiple-family dwelling is a use allowed in the RM2 multiple-family zoning district and with the proposed eight units, this building meets the lot area requirement per unit. This finding is met.

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

The proposed building would be similar in scale and massing to buildings immediately to the east and to the west and would have a greater rear yard setback than the immediate apartment buildings to the east and to the west; it will not change the character of the area. This finding is met.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Board of Zoning Appeals that the provisions of Sections 66.231 & 66.232 are hereby waived to allow a setback of 22 feet from the front and from the rear property lines, a side yard setback of 7.5 feet from both the east and west property lines and a building footprint occupying 47.5 % or 4,528 square feet on property located at 1174 Grand Avenue and legally described as Manson And Simontons addition W 1/2 Of Lot 3 And All Of Lot 4 Blk 3; in accordance with the application for variance and the site plan on file with the Zoning Administrator.

**MOVED BY:**  
**SECONDED BY:**  
**IN FAVOR:**  
**AGAINST:**

**MAILED:** March 15, 2016

**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.

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**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 March 14, 2016 and on record in the Department of Safety and Inspections, 375 Jackson Street, Saint Paul, Minnesota.

**SAINT PAUL BOARD OF ZONING APPEALS**

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**Debbie M. Crippen**  
Secretary to the Board

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