

CITY OF SAINT PAUL

Deadline for Action: 05-09-13

BOARD OF ZONING APPEALS RESOLUTION

ZONING FILE NUMBER: 13-162377

DATE: April 1, 2013

WHEREAS, Stephen L. Prokop has applied for a variance from the strict application of the provisions of Section 63.501(b)(2) of the Saint Paul Legislative Code pertaining to the parking requirement in order to legalize one existing and two recently paved parking spaces in the front yard as part of the 2013 Madison/Benson Residential Street Vitality Project (RSVP) in the RM2 zoning district at 2275 Benson Avenue. PIN: 222823220025; and

WHEREAS, the Saint Paul Board of Zoning Appeals conducted a public hearing on April 1, 2013 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.

This finding could be met. This variance request is in keeping with the following Guidelines for Variance Requests to Allow Parking Within a Required Yard adopted on February 6, 2012 by the Board of Zoning Appeals in that:

1. If the parking space is already there, the parking space has been in existence and used continuously for the past ten (10) years.

The single-car parking space adjoining the driveway on the east side has been in existence and continuously used for over 10 years meeting this guideline. However, the two additional parking spaces were recently constructed. Provided that the original parking space only is allowed to remain, this guideline could be met.

2. The applicant can demonstrate hardship in that there is no feasible alternative location for the parking space. For the purpose of this condition hardship shall include: a disability by a resident of the property that qualifies for a State Handicap Parking Permit, topography that makes rear yard parking impossible, the lack of alley access to the property, or insufficient lot size to provide off-street parking in a non-required yard.

The lack of alley meets this requirement but additional circumstances such as the existing mature tree and the applicant's flower garden on the east side of the house make it difficult to construct parking elsewhere on the property.

3. The applicant submits a petition signed by 2/3 of the property owners within 100 feet of the property along either side of the subject property and from property across the street stating that they have no objection to the parking.

The applicant has submitted a petition signed by five out of the five property owners within 100 feet of his property along either side of his property and from one property owner across the street stating that they have no objections to the parking variance request.

4. The parking space is paved or the applicant agrees to pave the space within 120 days.

All three parking spaces are paved with concrete blocks.

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

This finding is met. According to the applicant, there is a dire need for additional off-street parking. The existing one-car garage and the original single stall parking space adjoining the driveway on the east side do not meet his family's parking need due to the number of drivers in the household. Consequently, he expanded the original parking stall eastward with decorative concrete blocks to create two additional parking spaces to accommodate parking for three vehicles. Providing off-street parking to reduce congestion in the public streets is consistent with 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.*

This finding could be met. The plight of applicant is due to a number of reasons: The existing retaining wall in front of the parking spaces would have to be excavated in order to construct a parking space in the side or rear yard. According to the applicant, the roots of the existing Siberian Elm and mature Maple trees on the east side of the house could be negatively impacted by the constant weight of vehicles compacting the topsoil. The vegetable and flower garden on the east side of the house would be negatively affected and there no room for a driveway to a parking space in the rear yard on the west side of the house.

However, the original single-stall parking and the availability of on-street parking could meet the parking need for this single family dwelling, therefore, there is no practical difficulty to justify the construction of two additional parking spaces in the front yard. Provided the single-stall parking adjacent to the driveway is allowed to remain, this finding could be 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 finding could be met. The applicant has difficulties to meet the parking code requirement, but there is an alternative to front yard parking due to the availability of on-street parking. Although one parking space has been in existence for a long period of time and was not created by the applicant, the two additional spaces to the east were constructed by the applicant, a circumstance created by the landowner.

Provided that the original single-stall parking only is allowed to remain, this finding could be met.

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

This condition is met. The proposed variance if granted would not change or alter the zoning classification of the property.

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

This finding is not met. Approving all three parking spaces would result in a 40 foot wide driveway at the curb; it could change the character of this block. This condition could be met by approving one parking space only.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Board of Zoning Appeals that the request to waive the provisions of Section 63.501(b)(2) to allow one existing and two recently paved parking spaces in the front yard on property located at 2275 Benson Avenue; and legally described as Palisade Addition Tosaint Pau Lots 26 And Lot 27 Blk 3; in accordance with the application for variance and the site plan on file with the Zoning Administrator.
IS HEREBY DENIED.

NOW, THEREFORE, BE IT FURTHER RESOLVED, by the Saint Paul Board of Zoning Appeals that the request to waive the provisions of Section 63.501(b)(2) to allow the original one-car parking space adjacent to the driveway to remain in the front yard on property located at 2275 Benson Avenue; and legally described as Palisade Addition Tosaint Pau Lots 26 And Lot 27 Blk 3; in accordance with the application for variance and the site plan on file with the Zoning Administrator.
IS HEREBY APPROVED.

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MOVED BY:
SECONDED BY:
IN FAVOR:
AGAINST:

MAILED: April 2, 2013

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 April 1, 2013 and on record in the Department of Safety and Inspections, 375 Jackson Street, Saint Paul, Minnesota.

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Debbie M. Crippen
Secretary to the Board

MINUTES OF THE MEETING OF THE BOARD OF ZONING APPEALS
CITY COUNCIL CHAMBERS, 330 CITY HALL
ST PAUL, MINNESOTA, APRIL 1, 2013

PRESENT: Mmes. Maddox, Bogen and Morton; Messrs. Ward, Saylor and Wilson of the Board of Zoning Appeals; Mr. Warner, City Attorney; Mr. Diatta, Ms. Lane and Ms. Crippen of the Department of Safety and Inspections.

ABSENT: Vincent Courtney*

*Excused

The meeting was chaired by Joyce Maddox, Chair.

Stephen L. Prokop (#13-162377) 2275 Benson Avenue: The applicant is requesting a variance of the parking requirement in order to legalize one existing and two recently paved parking spaces in the front yard as part of the 2013 Madison/Benson Residential Street Vitality Project (RSVP).

Mr. Diatta showed slides of the site and reviewed the staff report with a recommendation for denial .

Two letters were received one in support of the application and one opposing from the neighbor at 2395 Benson Avenue the variance request.

No correspondence was received from District 15 regarding the variance request.

The applicant **STEPHEN L. PROKOP**, 2275 Benson Avenue, was present. Mr. Prokop stated that he hopes that the parking space next to the driveway, which has been in existence since before he purchased the home 10 years ago, could remain if his variance request is denied. He stated that he has 100% approval from all neighbors that may be impacted by the off-street parking variance. He argued that providing off-street parking is important in the area as the People Helping People (PPL), just opened up a 44 unit apartment complex at the end of the block creating more traffic on Benson Avenue. Mr. Prokop contended that finding 3 supports his variance request as it states that it is impractical to place a driveway on the side of his property and a parking pad in the rear of the house. He thinks this will look good, he will need to remove the bricks and rearrange them to improve their use, he had spaced them too far apart when he initially installed them.

Ms. Maddox asked Mr. Prokop if there were any other neighbors on the block that have 3 parking spaces in the front yard. Mr. Prokop stated there are a few on the block that have double garages and double parking spaces, there is one house that has a double driveway because they have a double garage and a car port on the side.

There was no opposition present at the hearing.

Hearing no further testimony, Ms. Maddox closed the public portion of the meeting.

Mr. Ward stated that no one on the block has an alley, nobody is able to access their rear yard unless they have a driveway, Mr. Prokop does not have a driveway and in order for him to get a driveway or put one in he would have to rearrange a lot on his property. However, in response to Mr. Prokop's statement that his parking would not change the character of the neighborhood, Mr. Ward stated that having a 40 foot curb cut in front of the house will alter the character of the neighborhood. He stated that he is willing to deny the variance request and if the applicant wants to appeal it he can. Ms. Maddox asked Mr. Ward if he

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would be willing to allow the first parking space that has been there for 10 years to remain. Mr. Ward replied yes.

Ms. Bogen stated that what Mr. Prokop does not realize is how awful it looks to have vehicles parked along the road in the front yard covering up the lovely parking spaces.

Ms. Bogen moved to deny the variance and resolution based on findings 1, 3, 4 & 6, for the two new parking spaces.

Ms. Bogen asked Mr. Diatta if the parking space that has been there for more than 10 years is grandfathered in, or does the Board have to allow the variance for it. Mr. Diatta replied that because the parking space that is adjacent to the driveway, has been there for more than 10 years, it has a legal nonconforming status. Ms. Maddox stated so we can ignore that and it will be ok. Mr. Diatta replied yes.

Ms. Morton stated that she is going to vote against the denial, this neighborhood has put up with a lot, they had that huge low rent housing on Springside and 7th Street, which had to make an impact on Benson Avenue. She thinks what the applicant is doing is a very thoughtful bit of planning here and she thinks parking in the front yard here is ok. Ms. Bogen stated that Mr. Prokop did not give any reason for the need for the extra parking spaces and she thinks that his garage and driveway along with the one grandfathered space should be enough parking for a single family home.

Mr. Wilson stated that he can park in the garage, in the driveway and the space next to the driveway, that is 3 spaces.

Ms. Lane discussed finding one, three, four and six stating that if the Board wants to approve the single parking space, finding one mentions the one space but the Board will need to add language to findings three and four for approval. Ms. Bogen and Ms. Maddox discussed findings three and four, off-street parking is available, as well as the one space that is there can be used and would not be a problem, for both findings and language stating that the way that his yard is laid out makes it impractical to construct a driveway to the rear yard, next to the house. The parking space next to the driveway was in existence when he purchased the property 10 years ago so that is not a circumstance created by the applicant and would go under finding four.

Ms. Maddox asked Ms. Lane if it were necessary to add to the motion that the property owner will be allowed to keep the one parking space. Ms. Lane replied yes.

Ms. Bogen moved denial based on findings 1,3, 4 and 6, of the variance request to allow the two newly created off-street parking spaces to remain. The one original parking space next to the driveway was grandfathered and can remain Mr. Ward stated that is acceptable.

Mr. Ward seconded the motion, which passed on a roll call vote of 5-1(Morton).

Submitted by:

Approved by:

YaYa Diatta

Gladys Morton, Secretary