

**CITY OF SAINT PAUL**  
**BOARD OF ZONING APPEALS RESOLUTION**  
**ZONING FILE NUMBER: 11-007586**  
**DATE: March 7, 2011**

WHEREAS, Tuan J. Pham has applied for a variance from the strict application of the provisions of Section 68.402(b)(4) of the Saint Paul Legislative Code pertaining to a variance of the River Corridor setback standards in order to allow an existing statue structure in the rear yard on the bluff side of the property to remain. A setback of 40 feet from the bluff line is required, 10 feet is proposed in the RT1 zoning district at 231 Isabel Street West. PIN: 072822120088; and

WHEREAS, the Saint Paul Board of Zoning Appeals conducted a public hearing on March 7, 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 property in question cannot be put to a reasonable use under the strict provisions of the code.*

This condition is not met. The primary use of this property is a single family dwelling. Because a reasonable use of this property has been established consistent with the code, there is no undue hardship here to support a request for a variance.

2. *The plight of the land owner is due to circumstances unique to this property, and these circumstances were not created by the land owner.*

This condition is not met. The property owner should have contacted the city prior to constructing the structure within the bluff line setback area. The landowner has not demonstrated that the location of the structure is compelled by circumstances unique to this property. In this case, the circumstances were created by the current land owner.

3. *The proposed variance is in keeping with the spirit and intent of the code, and is consistent with the health, safety, comfort, morals and welfare of the inhabitants of the City of St. Paul.*

This condition is not met. Leg.Code Sec.68.601(a) requires the applicant for River Corridor variances to demonstrate conclusively that the variance will not result in a hazard to life or property and will not adversely affect the safety, use, or stability of a public way, slope or drainage channel or the natural environment. The applicant has not produced any evidence conclusively demonstrating that the structure in question will not violate these conditions.

The property owner has also stated that this is a work in progress and when the project is completed, he would like to allow access to the public free of charge for visitation, prayer or special events. This could create traffic concerns in the neighborhood and would not be consistent with the goals of the Comprehensive Plan. The requested variance is not in keeping with the spirit and intent of the code and could affect the safety or welfare of the area inhabitants.

4. *The proposed variance will not impair an adequate supply of light and air to adjacent property, nor will it alter the essential character of the surrounding area or unreasonably diminish established property values within the surrounding area.*

This condition is met. The structure is in the applicant's back yard far away from any adjacent residences. The structure will not affect the supply of light or air to the adjacent properties. The structure does not significantly change the character of the neighborhood.

5. *The variance, if granted, would not permit any use that is not permitted under the provisions of the code for the property in the district where the affected land is located, nor would it alter or change the zoning district classification of the property.*

This condition is met. The requested variance would not change the zoning classification of the property.

6. *The request for variance is not based primarily on a desire to increase the value or income potential of the parcel of land.*

This condition is met. The requested variance is not based primarily on a desire to increase the value or income potential of the parcel of land.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Board of Zoning Appeals that the request to waive the provisions of Section 68.402(b)(4) in order to allow an existing statue structure in the rear yard to remain within 10 feet from the bluff line, on property located at 231 Isabel Street West; and legally described as Irvines Addition To W St Paul Subj To St Lots 7 Thru Lot 10 Blk 198; in accordance with the application for variance and the site plan on file with the Zoning Administrator.

***IS HEREBY DENIED.***

**MOVED BY: Bogen**

**SECONDED BY:** Morton  
**IN FAVOR:** 7  
**AGAINST:** 0

**MAILED:** March 8, 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 March 7, 2011 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**