

BOARD OF ZONING APPEALS STAFF REPORT
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TYPE OF APPLICATION: Major Variance **FILE #**15-163947
APPLICANT: RYAN BURKE
HEARING DATE: October 12, 2015
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; Sign-Grand Special Sign District
ZONING CODE REFERENCE: 66.231 & 66.232
REPORT DATE: October 2, 2015 **BY:** Yaya Diatta
DEADLINE FOR ACTION: November 19, 2015
DATE RECEIVED: September 21, 2015

- A. **PURPOSE:** This property was recently rezoned from a BC community business district to a RM2 multiple family zoning district. The applicant is requesting variances of the setback and lot coverage requirements in order to remove the existing duplex and 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 19 feet is proposed for a variance of 6 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 51.4% or 4,905 square feet of the lot for a variance of 16.4% or 1,566 square feet.
- B. **SITE AND AREA CONDITIONS:** This is a 60 by 150-foot lot with alley access to three-car detached garage in the rear yard. The lot is at a higher elevation than the street. This property is located in the Hill State Historic District and in 2015, it was evaluated and determined to be a non-contributing property.

Surrounding Land Use: Various commercial and residential uses.

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C. BACKGROUND:

On July 24, 2015, the applicant sought and was granted approval by the City Council to rezone this property from a BC community business converted district to a RM2 multiple family district (File # 15-134693). This property currently has a duplex and a three-car detached garage, which the applicant intends to remove and construct an 8-unit building (the first and second floors have 2 two-bedroom units and a one-bedroom unit each and the third floor has 2 two-three bedroom units). Underground parking for 8 spaces would be provided and 3 off-street surface parking spaces.

The applicant requested variances of the front yard setback (23.4 feet required, 20 feet proposed), the rear yard setback (25 feet required, 19 feet proposed), the side yard setback (9 feet required, 7.5 feet proposed from the east and west property lines) and the lot coverage (35% maximum allowed, 52.4% proposed) requirements from the Planning Commission early this summer but the variances were denied.

The applicant has since revised his plans and is proposing a front yard setback of 22 feet, a rear yard setback of 19 feet, a side yard setback of 7.5 feet and a building footprint of 51.4%. Although the new proposal results in a greater front yard setback and a slightly smaller building footprint than what was proposed initially, the same variances are still required. Since this is a new application, the applicant is requesting variances from the Board of Zoning Appeals.

D. ZONING CODE CITATIONS:

Sec.66.231. Residential District Dimensional Standards table requires a minimum front yard setback of 24 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.

E. FINDINGS:

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

The buildings currently on this site consist of a duplex constructed in 1886 and a three-car detached garage in the rear yard with surface parking accessed from the alley. This property is located in the Hill State Historic District and in 2015, it was evaluated and determined to be a non-contributing property. The applicant is proposing to remove the building and the garage and 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 two-three bedroom units) with underground parking for eight vehicles and three surface parking spaces.

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, 19 feet from the rear property line, 7.5 feet from the side property lines and would occupy 51.4 % 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 property, meeting a purpose of 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 and the increase in density and parking is being addressed on site. 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.*

The size of the parcel makes it challenging to construct a multiple-family building comparable in scale, spacing and bulk to the existing adjacent apartment buildings to the east and to west of the site that are also zoned RM2. The requested variances are needed to permit a reasonable use of this property to allow a development consistent with existing spacing between buildings, the pattern of the block and the form of existing buildings in the immediate area. It also allows underground parking, which the existing buildings do not provide. 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.*

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; 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:** Staff received a petition signed by a number of residents on Lincoln Avenue in opposition to the variances. Staff also received a letter from a property owner at 2555 Oak Court in White Bear Lake in opposition of the variances.
- G. **STAFF RECOMMENDATION:** Based on findings 1 through 6, staff recommends approval of the requested variances.

MINUTES OF THE MEETING OF THE BOARD OF ZONING APPEALS
CITY COUNCIL CHAMBERS, 330 CITY HALL
ST PAUL, MINNESOTA, OCTOBER 12, 2015

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

ABSENT: Gloria Bogen*

*Excused

RECUSED: Vincent Courtney

The meeting was chaired by Joyce Maddox, Chair.

Ryan Burke (#15-163947) 1174 Grand Avenue: This property was recently rezoned from a BC community business district to a RM2 multiple family zoning district. The applicant is requesting variances of the setback and lot coverage requirements in order to remove the existing duplex and 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 19 feet is proposed for a variance of 6 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 51.4% or 4,905 square feet of the lot for a variance of 16.4% or 1,566 square feet.

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

One petition was submitted opposing the requested variance. One letter in opposition was received from a property owner at 2555 Oak Court, White Bear Lake, and there is another letter in the packet from a resident at 710 Summit Avenue in opposition also.

One letter was received from District 16 opposing the variance request.

The applicant **RYAN BURKE**, 1387 Elenaor Avenue, was present with Kyle Rubin, 22 Geneva Boulevard, Suite 500. Mr. Burke discussed the challenges of building on this site with all the zoning and building requirements.

Ms. Maddox asked if they attended the District Council meeting. Mr. Burke replied that they had, they have scaled the building back and made additional adjustments to the project trying address neighbors' concerns about the privacy and traffic issues raised during the process.

Mr. Ward stated that he does not see the massing issue that the neighbors are referring to, this building has 8 units only and there will be underground parking. He stated that there has to be some compromises in order to build on this property.

There was opposition present at the hearing.

Andrew Rorvig, 1174 Lincoln Avenue, stated there have been five votes all in denial of this request from the District Council. He contended that the applicants did not attend the last district council vote and that nothing has changed except that the height of the building has gotten taller. He argued that the building is taller than the 37 feet claimed by the applicant. The neighbors want a 2-3 unit building not an 8 unit building, which they contest as being too large.

Mr. Ward and Mr. Rorvig discussed the different votes made at the District Council denying the variance request. Mr. Rorvig argued that the applicants need a height variance because of the structures on the roof.

Mr. Diatta explained the lot coverage of the adjacent buildings to the east and to the west and the units in those buildings are nearly the same as what is being proposed.

Mark Genereux, 1165 Lincoln Avenue, stated he has lived in the neighborhood since 1986. He attended the meeting at the District Council where there was no vote taken, the applicants showed the neighbors what they were proposing. He argued that the applicants are allowed eight units, he contended that they could make fewer units in the building but want more units for monetary reasons. He stated that the neighbors think that the mass is too large and the building should be rethought.

May Moy, 1185 Lincoln Avenue, stated that the building has the feeling of a McMansion. The safety and privacy are also issues with this building. She stated that the alley is sinking because of the traffic impact it has. The neighbors want to maintain the feel of the neighborhood and she thinks this will change the neighborhood.

Nelima Sitati, Summit Hill Association, 860 St. Clair Avenue, she stated that the District Council Members denied the variance requests because they believe that the proposed building would not fit into the character of the block. She stated that the lot was rezoned by the property owner the District Council believes that the plight of the property owner is self-created.

Mr. Burke stated that they have been in front of the district council board many times but did not make it to the last meeting. He stated that some of the things sticking up on the roof are the stair tower and the elevator shaft, and the HVAC which is not drawn on the plan, those things are not conducive to the height requirement they are mechanical. He stated that the variances haven't changed, what they are trying to do is address the privacy issues. Two-thirds of the building in the rear meet the 25 foot setback. The rest is the stair tower and trash enclosure which is setback 19 feet. He stated that they are trying to follow the Comprehensive Plan, they are not constructing this building this on Lincoln Avenue where most of the residences in opposition live.

Mr. Ward and Mr. Diatta discussed the use of the alley to meet the lot size requirement.

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

Mr. Saylor moved to approve the variance and resolution based on findings 1 through 6.

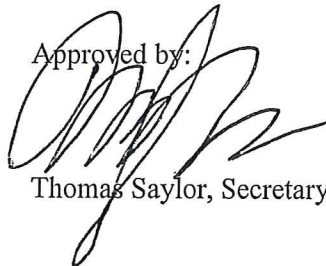
Mr. Ward seconded the motion, which passed on a roll call vote of 4-0.

Submitted by:



YaYa Diatta

Approved by:



Thomas Saylor, Secretary

CITY OF SAINT PAUL
BOARD OF ZONING APPEALS RESOLUTION
ZONING FILE NUMBER: 15-163947
DATE: October 12, 2015

Deadline for Action: 11-19-15

WHEREAS, Ryan Burke has applied for variances from the strict application of the provisions of Sections 66.231 & 66.232 of the Saint Paul Legislative Code pertaining to the setbacks and lot coverage requirements. This property was recently rezoned from a BC community business district to a RM2 multiple family zoning district. The applicant is requesting variances of the setback and lot coverage requirements in order to remove the existing duplex and 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 19 feet is proposed for a variance of 6 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 51.4% or 4,905 square feet of the lot for a variance of 16.4% or 1,566 square feet in the BC zoning district at 1174 Grand Avenue. PIN: 032823410039; and

WHEREAS, the Saint Paul Board of Zoning Appeals conducted a public hearing on October 12, 2015 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 buildings currently on this site consist of a duplex constructed in 1886 and a three-car detached garage in the rear yard with surface parking accessed from the alley. This property is located in the Hill State Historic District and in 2015, it was evaluated and determined to be a non-contributing property. The applicant is proposing to remove the building and the garage and 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 two-three bedroom units) with underground parking for eight vehicles and three surface parking spaces.

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, 19 feet from the rear property line, 7.5 feet from the side property lines and would occupy 51.4 % 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 property, meeting a purpose of 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.*

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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.*

The size of the parcel makes it challenging to construct a multiple-family building comparable in scale, spacing and bulk to the existing adjacent apartment buildings to the east and to west of the site that are also zoned RM2. The requested variances are needed to permit a reasonable use of this property to allow a development consistent with existing spacing between buildings, the pattern of the block and the form of existing buildings in the immediate area. It also allows underground parking, which the existing buildings do not provide. 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.*

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; 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 front yard setback of 22 feet, a rear yard setback of 19 feet, a side yard setback of 7.5 feet from both the east and west property lines and a building footprint occupying a maximum of 51.4% or 4,905 square feet of the lot 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: October 13, 2015

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 October 12, 2015 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