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APPLICATION FOR APPEAL

Office of License, Inspections and Environmental Protection
Commerce Building
8 Fourth St E, Suite 200
Saint Paul, MN 55101
651-266-9008

RECEIVED

JUL 23 2015

Zoning office use only

File no. 15-1AA105

Fee 440.00

Tentative hearing date:

08/19/15

By: City of St Paul DSI

APPLICANT

Name Daniel J. Thees
Address 1906 Fairmount Ave.
City St. Paul St. MN Zip 55105 Daytime phone 651-271-5750
Name of owner (if different) Inga S. Oelschlager

DANTHEES@GMAIL.COM

PROPERTY LOCATION

Address 1916 Fairmount Ave.
Legal description: Underwoods First Addition Lot 7 and Lot 8, Blk 3
(attach additional sheet if necessary)

TYPE OF APPEAL: Application is hereby made for an appeal to the:

- Board of Zoning Appeals City Council

under the provisions of Chapter 61, Section _____, Paragraph _____ of the Zoning Code, to appeal a decision made by the Board of Zoning Appeals

on 7/6/2015, 20015. File number: 15-126189
(date of decision)

GROUND FOR APPEAL: Explain why you feel there has been an error in any requirement, permit, decision or refusal made by an administrative official, or an error in fact, procedure or finding made by the Board of Zoning Appeals or the Planning Commission.

(see attachment #1)

(attach additional sheet if necessary)

Applicant's signature

Date 7/23/2015 City agent _____

Grounds for Appeal (attachment # 1)

1. Variance does not meet all criteria required for approval.
2. A Board member cited the cost of alternatives as a reason to grant the variance when such a reason is expressly forbidden in the criteria.
3. Macalester/Groveland Community Council recommendation was to deny the variance request. (see attached) Their findings are that numbers 3 and 6 of the criteria are not met.
4. All lot lines in St. Paul are straight lines as verified by Yaya Diatta at the Zoning board meeting on 7/6/2015. Joyce Maddox stated that granting this variance does not set precedence. We disagree. This variance can be cited for all future variance requests.
5. Granting this variance will create practical difficulties, and unintended consequences, for all future owners of the properties and the City of St. Paul.
6. After a tie vote at the first meeting, only one member of the Zoning board visited the site before the board determined at the second meeting, that the variance would not alter the character of the surrounding area (#6). This member voted against the variance.

**CITY OF SAINT PAUL
BOARD OF ZONING APPEALS RESOLUTION
ZONING FILE NUMBER: 15-126189
DATE: July 20, 2015**

WHEREAS, Inga S. Oelschlager has applied for a variance from the strict application of the provisions of Section 66.231 of the Saint Paul Legislative Code pertaining to minimum lot width requirement in order to divide the parcel at 1916 Fairmount Avenue and create a buildable lot east of the existing house. The proposed new dividing lot line would have an approximate 9' x 36' jog around the sunroom of the existing house. Consequently, the newly created vacant parcel would result in a reduced lot width of 40.98'. The minimum required lot width is 50', for a lot width variance of 9.02' in the R3 zoning district at 1916 Fairmount Avenue. PIN: 042823340052; and

WHEREAS, the Saint Paul Board of Zoning Appeals conducted a public hearing on July 20, 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.*

This site currently consists of two lots running north – south. The applicant is proposing to subdivide the property and create a new parcel on the east side of the existing house, suitable for a single-family home. For the purpose of this variance, staff has labeled the site as Parcel “A” and “B”. Parcel “A” is 50 by 124-feet and would be the location of the existing house. Parcel “B” is 40.98 by 124-feet and would eventually be the site of a future single family dwelling for the owner and his elderly mother. Elevation plans were provided for the future single family dwelling as part of the variance application. His intent is to sell the existing dwelling once he moves into the new one.

The subdivision would result in a conforming Parcel “A” and a nonconforming Parcel “B” that is 40.9 feet wide (50 feet required) in the mid-section. The applicant is requesting a variance of the lot width for parcel “B”.

The R3 one-family residential district is intended to “provide for an environment of predominantly low-density, one-family dwellings.” This request would allow the creation of an infill lot that would be developed for a single family dwelling. This request is consistent with a purpose and intent of the Zoning Code Sec.60.103 to provide housing choice. This finding is met.

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



This proposed north-south lot split would be consistent with the pattern of this block. Creating new housing units on infill lots is consistent with goals of the Housing Chapter of the Comprehensive Plan which in 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. 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 existing house on Parcel "A" encroaches over Parcel "B" by 3 feet. Although the lot can be split evenly north – south without a variance, it would require the removal of the one-story sunroom located on the east side; an enormous expense and unreasonable action that would unnecessarily alter the character of the house. The proposed jog is a creative way to retain the sunroom and the integrity of the house. These are practical difficulties in complying with the code. This finding is met.

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

Had the existing house been constructed within the confines of the Parcel "A", the lot could have been subdivided without the requested variance. This is a circumstance unique to the property not created by the applicant. 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 single family dwelling is a use permitted in this zoning district. The requested variance if granted would not change the zoning classification of the property. This finding is met.

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

The new proposed lot meets the required lot width in the front and the rear of the building except in the middle; this request will not visually alter the character of the area. This finding is met.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Board of Zoning Appeals that the request to waive the provisions of Section 66.231 to allow the creation of a new 40.98 foot wide vacant lot on property located at 1916 Fairmount Avenue and legally described as Underwoods First Addition to Lots 7 And Lot 8 Blk 3; in accordance with the application for variance and the site plan on file with the Zoning Administrator.

IS HEREBY APPROVED subject to the condition that the house is constructed as shown on the site plan on page 27 of the BZA packet (attached).



MOVED BY: Saylor
SECONDED BY: Ward
IN FAVOR: 6
AGAINST: 0

MAILED: July 21, 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 July 20, 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