

MINUTES  
BOARD OF ZONING APPEALS  
15 W KELLOGG BLVD, ROOM 330  
ST PAUL, MINNESOTA, MAY 21, 2018

*Continued from March 26, 2018 & April 23, 2018 & May 7, 2018*

PRESENT: Mmes. Bogen, Maddox, Porter and Trout-Oertel; Messrs. Rangel Morales, Miller and Saylor of the Board of Zoning Appeals; Mr. Warner, City Attorney; Mr. Benner II, Mr. Diatta and Ms. Crippen of the Department of Safety and Inspections.

ABSENT: None

The meeting was chaired by Gloria Bogen, Chair.

**HUPP HOLDINGS III LLC (#18-035099) 617 Laurel Avenue:** The applicant is proposing to construct a 6-unit row house development on a vacant lot in the RM2, multi-family residential zoning district and is requesting four variances: 1) This zoning district requires 1,500 square feet of lot area per unit. Based on the number of proposed units, a minimum lot area of 9,000 square feet is required; a lot area of 7,180 square feet is available, resulting in a variance request of 1,820 square feet. 2) The zoning code states that no multi-family dwellings can be built to create three or more dwelling units on a lot that is less than 9,000 square feet in area; the applicant is requesting a variance from this requirement. 3) A side yard setback of 9' is required; a setback of 3' is proposed for a variance request of 6'. 4) A setback of 9' is required for the off-street parking area; the applicant is proposing a setback of 1' on both the east and west sides of the parking lot for a variance request of 8'.

The public portion of the hearing was closed at the previous meeting.

Mr. Benner reviewed the case history from the previous hearings, noting that the Board had been locked in a 3-2 vote, without a full Board in attendance it was not possible to conclude the vote for this case at the previous hearings.

The Boardmembers discussed the changed site plan from the plan that was approved in the previous year, noting that the unit number had doubled but the number of bedrooms had remained the same and the size of the building remained the same. They now meet the parking requirement but they now need setback variances for the parking. They also discussed that the streets are staggered and there are a lot of accidents along Dale Street there.

Ms. Maddox stated that she visited the site on Saturday Morning and the traffic was crazy, it was about 9:30 a.m., maybe it is not as bad during the week, but it was crazy on Saturday. Down the alley in question there is another open double property facing Selby Avenue, if that is developed, and it will be, it will create a lot more traffic there. She is not in favor of this, they could have built the 3-unit building just fine, she just thinks that 6-units is just too much density for the area.

Mr. Miller stated that the last time they voted to deny and it sounded like Ms. Maddox was saying that there is no practical difficulty than the practical difficulty that they already established was there. Ms. Bogen stated that there is no practical difficulty. Mr. Rangel Morales stated Mr. Miller is talking about the motion. Ms. Bogen read that there is nothing unique about

the property that would prohibit it from being used in a reasonable manner. A reasonable manner could be three three-bedroom units. There is nothing unique that says that they have to put six-units on this property. Mr. Miller stated that there was a practical difficulty that was established for three units. Ms. Bogen stated in January of 2016 it was approved, there was no practical difficulty for having three units. Mr. Rangel Morales stated that when the case came before the Board it was recommended by staff to approve, there was no practical difficulty. This time it is six units instead of three units, there is no practical difficulty but a motion was made to deny and in that motion Boardmembers need to articulate why they disagree when moving against the staff recommendation. Whoever made the motion argued that there was a practical difficulty. Ms. Bogen stated that there is a practical difficulty. Mr. Benner stated that he recommended approval in 2016 and he made the argument that this property has been vacant since 1968 and the only thing that could be construction on the lot without a variance was a single-family home or possibly a duplex. He thinks it is important to keep in mind that whether it is 3 units or 6 units, the RM2 zoning district says that a minimum lot size of 9,000 square feet is required. The zoning code says that three or more units cannot be created or built on lots that are less than 9,000 square feet. Whether he has three units or six units in the RM2 zoning district requires 1,500 square feet per unit, 1,500 times the number of units, in this case 6, requires 9,000 square feet. From staff's perspective the applicant was still within the parameters that the zoning code will allow. That was the practical difficulty. This is a substandard lot zoned for multi-family but the only thing that could be constructed without a variance is a single-family dwelling, which he feels would not be in character with the neighborhood. He thinks that would have happened by now if it was going to, this has been vacant since 1968. Mr. Benner stated that his recommendation was for approval of the three units and his recommendation for the six units is still approval.

Ms. Bogen stated that there is nothing unique about the property just because the owner wants to increase the number of units from 3 to 6. A year ago, they only needed 3 parking spaces and they received a variance of 1 parking space, they had a garage, there are obviously less cars when there are less units. With three-bedroom units you might have a mom and 2-3 kids or a couple and kids. Now there is the possibility of a car for each unit and that will increase the cars although they added parking for 6 cars there is only one foot on each side of the parking for a setback. She thinks that was Ms. Trout-Oertel's issue. Ms. Trout-Oertel stated that it was just another variance, there are a lot of variances for this little piece of land, this proposal puts a lot of stuff on the parcel.

Mr. Rangel Morales stated that previously they had a three-unit apartment with the same number of rooms. While it could have been rented out to a family, it could also have been rented out to individuals from the nearby colleges. Ms. Bogen stated that she agrees with that. Mr. Rangel Morales stated that would have meant that every person living on the property could potentially have a car. Ms. Bogen stated that she agrees that they could have 4 people living in each unit. Mr. Rangel Morales stated that they have redeveloped the plan, it maintains the same size as the three-unit complex that was approved, on page 34 of the packet, they have added the parking. Ms. Bogen stated that now they have this parking lot that is one foot away from the property lines where there was green space before, it just seems like it is too much for the parcel. Mr. Rangel Morales stated that a lot of that was because the applicant was going to try and do a

parking agreement with neighboring businesses, however, the Board expressed concern about whether that would be binding to the building, whether it would be ongoing, whether the Board could impose such a restriction and how that would be regulated. When the applicant returned he addressed the concerns with putting in a parking lot on the property. He understands that it is really tight, but he is trying to accommodate the parking concerns. He thinks that having the apartments helps the neighborhood because there is a shortage of rental units and having individual units helps the community out.

Ms. Bogen asked for a motion.

Mr. Warner reminded the Boardmembers that this is a recommendation to approve and if the Board makes a motion to deny each Boardmember needs to articulate the reason they are voting to deny, whether that is that they agree with the maker of the motion or for other reasons, it must be stated with the applicable finding.

Ms. Trout-Oertel moved to deny the variance and resolution based on findings 3 and 4, revising finding 3 that the fact that there are no practical difficulties in using this property in a reasonable manner, and finding 4, there is nothing unique about this property preventing it from being used in a reasonable manner, being that the Board approved it for three units.

Ms. Maddox seconded the motion based on findings 3 and 4 she agrees with the maker of the motion. She feels that this will increase the density and the traffic, which failed on a roll call vote of 3-4(Saylor, Porter, Rangel Morales, Miller).

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

Mr. Saylor seconded the motion, which passed on a roll call vote of 4-3(Maddox, Trout-Oertel, Bogen).

Submitted by:



Jerome Benner II

Approved by:



Diane Trout-Oertel, Secretary