

BOARD OF ZONING APPEALS STAFF REPORT
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TYPE OF APPLICATION: Minor Variance **FILE #13-162377**
APPLICANT: Stephen L. Prokop
HEARING DATE: April 1, 2013
LOCATION: 2275 BENSON AVENUE
LEGAL DESCRIPTION: Palisade Addition Tosaint Pau Lots 26 And Lot 27 Blk 3
PLANNING DISTRICT: 15
PRESENT ZONING: RM2 SHEP/DAV RES
Shepard-Davern Special Sign District

ZONING CODE REFERENCE: 63.501(b)(2)

REPORT DATE: March 19, 2013 **BY:** Yaya Diatta
DEADLINE FOR ACTION: May 9, 2013 **DATE RECEIVED:** March 11, 2013

- A. **PURPOSE:** 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).
- B. **SITE AND AREA CONDITIONS:** This is an 80 by 150 foot lot with a one-car attached garage and three off-street parking spaces in the front yard. A small retaining wall is located immediately to the north of the parking spaces.

Surrounding Land Use: A mix of single family and multiple-family dwellings.
- C. **BACKGROUND:** In conjunction with the Residential Street Vitality Project (RSVP) scheduled this summer, an inspector from the Department of Safety and Inspections (DSI) found this property to have illegal parking in the front yard. A letter was subsequently sent to the property owner giving him options to resolve the parking issue. The applicant provides conseling for couples in his home as a permissible home occupation and wants to keep the parking spaces for use by both his family and his customers. Because the parking spaces are located in the front yard, a parking variance is required in order to allow them to remain.
- D. **CODE CITATIONS:**

Sec. 63.501. - Accessory buildings and uses.

(b) Accessory buildings, structures or uses shall not be erected in or established in a required yard except a rear yard. The following additional standards shall apply to residential parking:

(2) Off-street parking spaces shall not be located within the front yard.

E. FINDINGS:

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

This finding is 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 is not 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.

Although these are practical difficulties making access to the rear yard to accommodate additional off-street parking problematic, on-street parking is available.

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

This finding is not met. Although the applicant has difficulties to meet the parking code requirement, there is an option for on-street parking.

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.

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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.

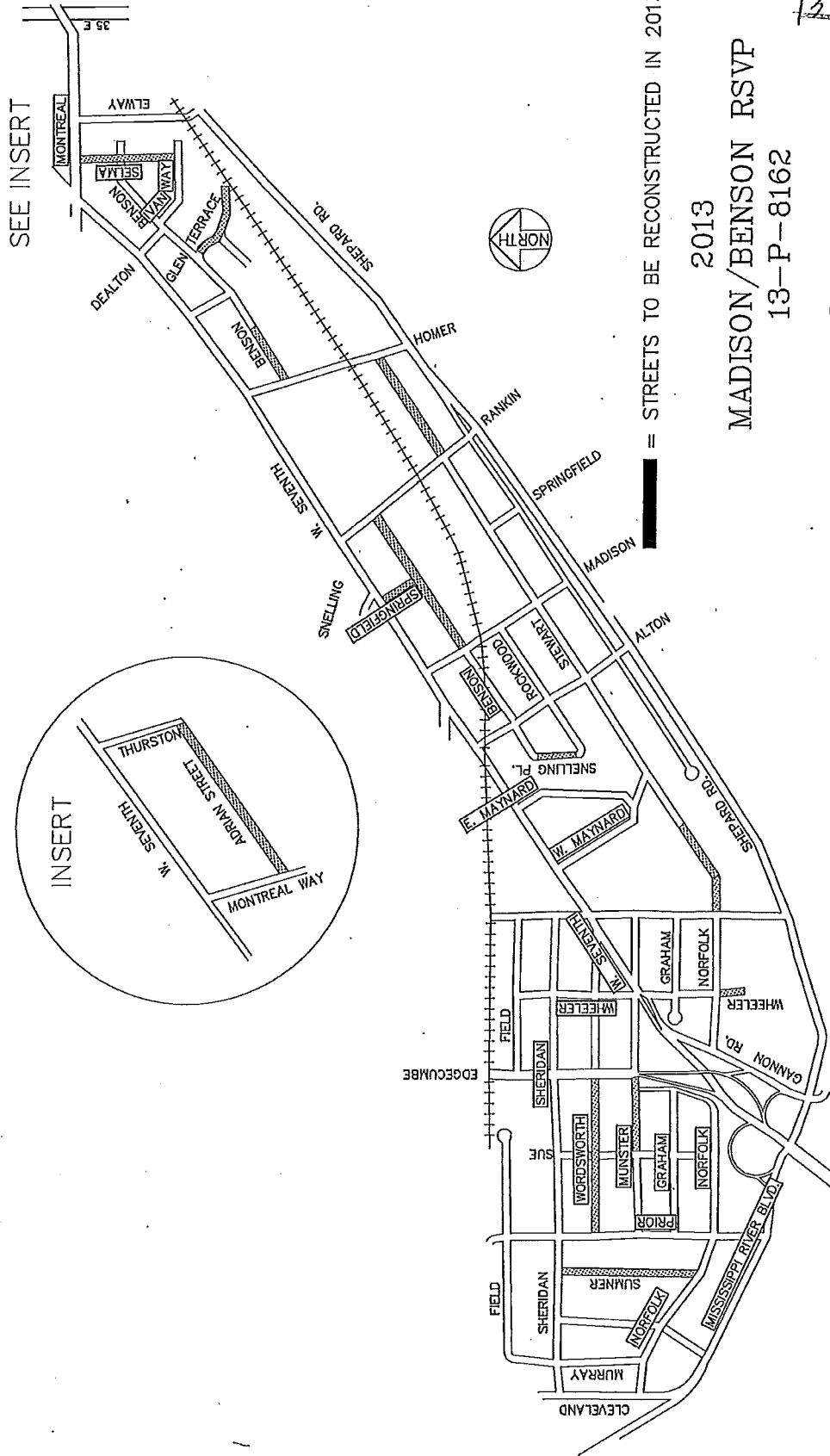
F. **DISTRICT COUNCIL RECOMMENDATION:** As of the date of this report, staff has not received a recommendation from District 15.

G. **CORRESPONDENCE:** Staff received two letters; one from a property owner at 2395. Benson in support and another from Ms. Reinsch, a neighborhood resident in opposition of the variance.

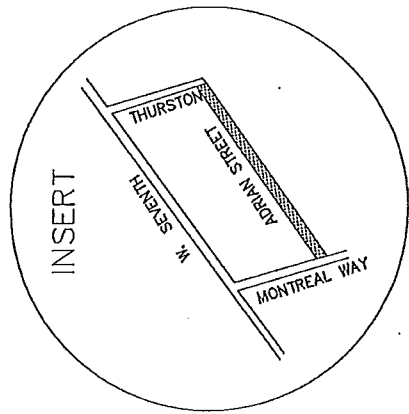
H. **STAFF RECOMMENDATION:** Based on findings 1, 3, 4 and 6, staff recommends denial of the variance request to allow three off-street parking spaces in the front yard to remain.



City of Saint Paul
 Department of Public Works
 Street Engineering and Construction Division



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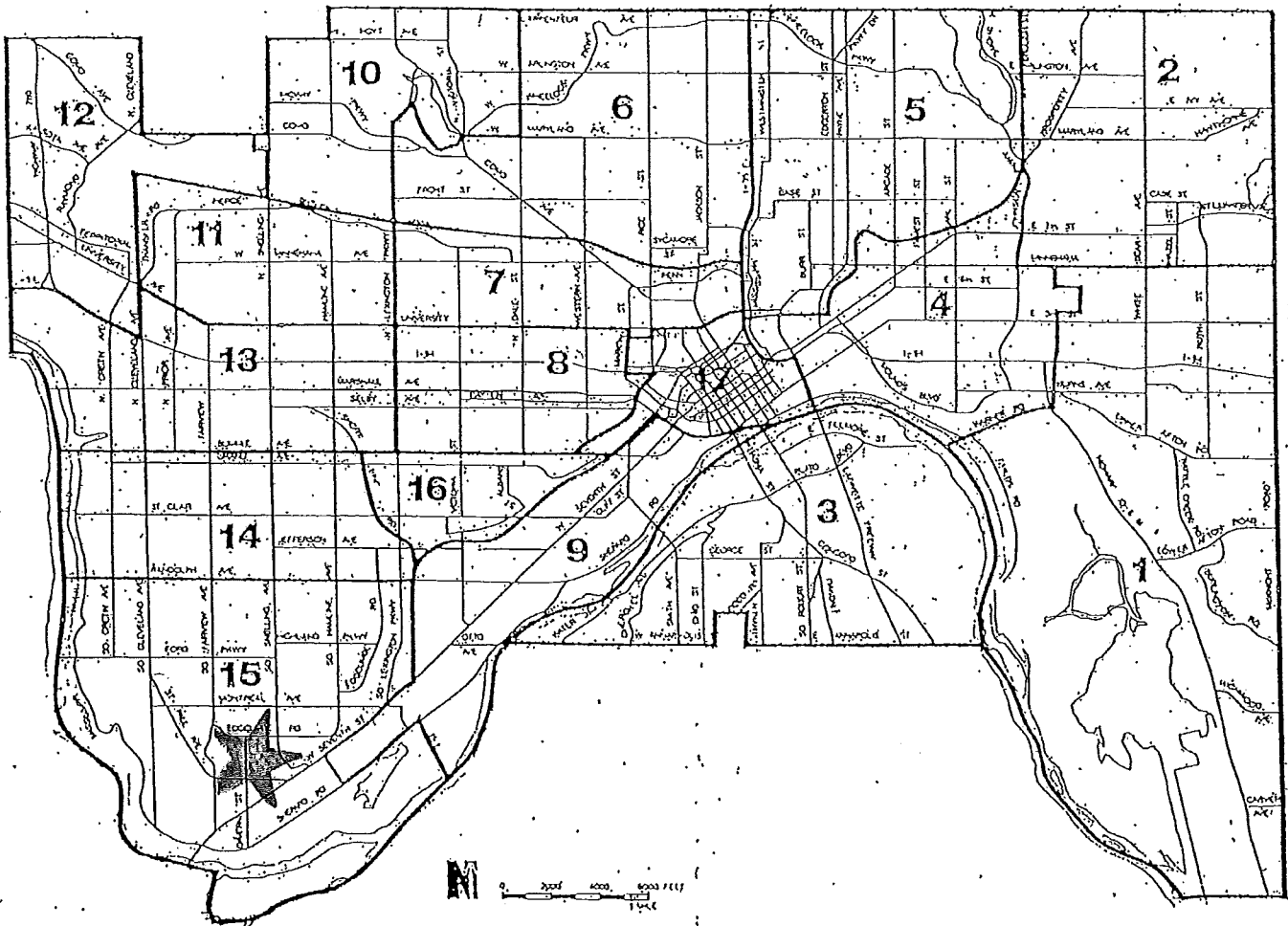


== STREETS TO BE RECONSTRUCTED IN 2013

2013
 MADISON/BENSON RSVP
 13-P-8162

Project Area 86
 07/26/12

FILE
 13-162377



CITIZEN PARTICIPATION PLANNING DISTRICTS

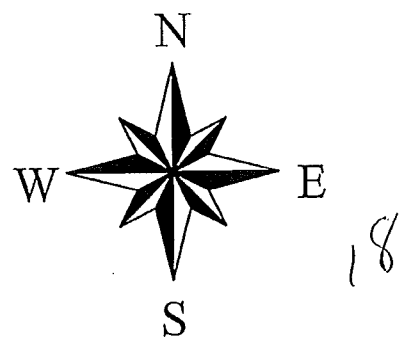
1. SUNRAY-BATTLECREEK-HIGHWOOD
2. HAZEL PARK HADEN-PROSPERITY HILLCREST
3. WEST SIDE
4. DAYTON'S BLUFF
5. PAYNE-PHALEN
6. NORTH END
7. THOMAS-DALE
8. SUMMIT-UNIVERSITY
9. WEST SEVENTH
10. COMO
11. HAMLINE-MIDWAY
12. ST. ANTHONY PARK
13. MERRIAM PARK-LEXINGTON HAMLINE-SNELLING-HAMLINE
14. MACALESTER GROVELAND
15. HIGHLAND
16. SUMMIT HILL
17. DOWNTOWN.

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ZONING FILE 13-162377

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PROPERTY WITHIN 100 FEET OF PARCEL: 2275 BENSON AVENUE



CREATED BY: DSI