

**CITY OF SAINT PAUL
BOARD OF ZONING APPEALS RESOLUTION
ZONING FILE NUMBER: 11-146148
DATE: June 13, 2011**

WHEREAS, Sean Sellers for owner Dave Hartman has applied for a variance from the strict application of the provisions of Section 66.231 of the Saint Paul Legislative Code pertaining to a variance of the west side yard setback, a nine foot setback is required, 3 feet is proposed in order to construct a deck with a stairway to the second floor of the existing duplex in the RT1 zoning district at 674 Hawthorne Avenue East. PIN: 202922430193; and

WHEREAS, the Saint Paul Board of Zoning Appeals conducted a public hearing on June 13, 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 variance is in harmony with the general purposes and intent of the zoning code.

Finding 1, which states that the variance is in harmony with the general purposes and intent of the zoning code is met. This is a legal duplex built in 1903 on a substandard sized lot. The building had a fire in 2009 and sustained considerable damage which resulted in the structure becoming a vacant building. The applicant obtained the permits necessary to renovate the building as part of the required code compliance inspection for vacant buildings. While remodeling the building, the applicant noticed that the interior back stairway leading to the second floor does not meet current building code standards because it is too narrow. The applicant decided that he might as well correct the stairway deficiency as long as he is remodeling the building. There is no room to widen the interior back stairway and the applicant decided to provide a new stairway that meets current building code standards on the west side of the property. The proposed stairway is not a requirement from the code compliance inspection; it would be provided to address a safety concern from the property owner. The proposed stairway would extend from the side of the building over the sidewalk and into the side yard 8.9 feet. That would leave only 3 feet of side yard setback and 9 feet is required for a duplex. The height of the stairway from grade to the surface of the deck is 10.5 feet. The applicant stated that the existing interior stairway will remain. Constructing the exterior stairway as an alternate access will provide safety and a sense of security for the occupants. The requested variance is in harmony with the general purposes and intent of the code.

2. The variance is consistent with the comprehensive plan.

Finding 2, which states that the variance is consistent with the comprehensive plan is met.

The proposed stairway will significantly improve this property. Maintaining existing housing stock is a goal of 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.*

Finding 3, which states that the applicant has established that there are practical difficulties, other than only economic considerations, in complying with the provision and that the property owner proposes to use the property in a reasonable manner not permitted by the provision is met. This house was built in 1903 prior to the zoning code. There is a porch leading to the existing interior stairway in the rear and it is not feasible to provide an exterior stairway on that side. There is no room to provide a stairway on the east side of the property. The lack of an alternative to building the stairway in the required side yard is a practical difficulty and the proposed variance is a reasonable request that cannot be established under the strict application of the code.

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

Finding 4, which states that the plight of the landowner is due to circumstances unique to the property not created by the landowner is met. Current standards require a lot width of 50 feet and a side yard setback of 9 feet for a duplex. This house was built on a substandard sized lot that is only 40 feet wide and this lot is a lot of record in existence prior to the zoning code. This is not a circumstance created by the current land owner.

- 5. The variance will not permit any use that is not allowed in the zoning district where the affected land is located.*

Finding 5, which states that the variance will not permit any use that is not allowed in the zoning district where the affected land is located is met. This is a duplex located in a RT1 zoning district where both duplexes as well as single family dwellings are allowed.

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

Finding 6, which states that the variance will not alter the essential character of the surrounding area is met. The new stairway is safety a feature that would enhance the property and will not change or alter the essential character of the area.

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NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Board of Zoning Appeals that the provisions of Section 66.231 are hereby waived to allow a west side yard setback of 3 feet, in order to construct a deck with a stairway to the second floor of the existing duplex on property located at 674 Hawthorne Avenue East; and legally described as Stone Mortons Addition Lot 7 Blk 4; in accordance with the application for variance and the site plan on file with the Zoning Administrator.

MOVED BY: Courtney
SECONDED BY: Morton
IN FAVOR: 5
AGAINST: 2

MAILED: June 14, 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.

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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 June 13, 2011 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