

MINUTES OF THE MEETING OF THE BOARD OF ZONING APPEALS
CITY COUNCIL CHAMBERS, 330 CITY HALL
ST PAUL, MINNESOTA, JANUARY 30, 2017

PRESENT: Mmes. Bogen and Trout-Oertel; Messrs. Saylor and Ward of the Board of Zoning Appeals; Mr. Warner, City Attorney; Mr. Westenhofer, Ms. Lane and Ms. Crippen of the Department of Safety and Inspections.

ABSENT: Joyce Maddox*, Katrice Albert*, Luis Rangel Morales*

*Excused

The meeting was chaired by Gloria Bogen, Co-Chair.

Wayne Fischer (#16-109677) 1560 Lincoln Avenue: The applicant is requesting a variance of the accessory building requirement in order to remove the existing two-car detached garage and construct a new, three-car detached garage in the rear yard. Accessory buildings cannot exceed 1,000 square feet in size; the applicant is proposing to construct a 1,251 square foot garage, requiring a variance of 251 square feet.

Mr. Westenhofer showed slides of the site and reviewed the staff report with a recommendation for denial based on findings 3 and 4.

One e-mail was received in support from the neighbor at 1561 Lincoln Avenue, and one e-mail was received from the neighbor at 1562 Goodrich Avenue opposing the variance request.

One letter was received from District 14 opposing the variance request, they did not get a chance to hear this but included their comment from the previous case heard in December of 2016, however, this is a different case so they have not weighed in on this project.

The applicant **WAYNE FISCHER**, 1560 Lincoln Avenue, was present. Mr. Fischer stated that he would like to address the findings. He stated he wanted to point out that the existing two car garage is too small to fit their vehicles into only his sons Honda will fit in the existing garage. His other two cars are parked in the rear yard. There is no street parking on Snelling Avenue and only two hour parking is allowed on Lincoln Avenue and the rain garden in the front of the house are difficulties that he has no control over. The house is directly across from Macalester College one block from the retail shops on Grand Avenue and Snelling Avenue which creates parking pressure which is beyond his control. This is a legal duplex and requires parking for three cars. He contended that for his neighbor's comments about the extra 251 square feet of garage over the maximum allowed is more than compensated by the rain garden in the front of his house. The proposed garage will extend an additional 7 feet into his rear yard. The additional space will allow him to work on bicycles, he stated that he really needs the 7 feet. Mr. Fischer questioned why his previous variance request for a 1540 square feet was considered a Minor variance and this smaller garage at 1251 square feet is considered a Major variance. He stated that as long as the previous garage has been mentioned he had a letter of support from his neighbor at 1561 Lincoln Avenue and he noticed it is not included in the paperwork for this case. Mr. Fischer stated he is working very hard to make this fit into the neighborhood and it will cost him an extra \$50,000 to use brick on the exterior to match it to the home and the other buildings in the area.

Mr. Ward asked Mr. Fischer if the power pole in the rear yard has been removed yet. Mr. Fischer replied no it has not been removed yet, it is costing him \$19,000 to remove the pole, but it is being done, whether he gets the garage or not, he cannot get into the rear yard without pulling into his rear yard and backing up to the power pole. He stated that he was never going to put in a cement slab next to the garage, there is

almost 12 feet between the new garage and the neighbor's property. He stated that his main issue here is that he needs the extra 7 feet of garage. He took a parking slot off the side of the garage to get space in front, so that he can park cars in the garage and still have room to work on projects.

There was no opposition present at the hearing.

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

Mr. Saylor asked staff about the two hour parking that is allowed on Lincoln Avenue and if there is permit parking for the residents along Lincoln Avenue. Mr. Fischer commented from the audience that there is no permit parking on Lincoln it is just 2 hour parking.

Ms. Trout-Oertel moved to approve the variance. Stating that she thinks that there are some good reasons why there is some hardship here with the limited parking allowed on Lincoln and the bump out rain garden in the front of the house. There are three parking spaces on the lot, however, two are compromised being too small for current vehicles and in this case the three new parking spaces will be more aesthetically pleasing in the neighborhood because of the way this garage is designed. The cars themselves will be hidden in the garage. Where this garage is located there is a large parking lot and large brick buildings and this garage is now going to be slightly larger than the average garage. Any negative impact it might have is negligible due to its location.

Ms. Bogen stated that the problem she has is with the square footage of the garage, the depth of the garage is not needed. She can understand having a three car garage but it can be done without that much depth and get the cars in. That is why she is voting against this, it could be made closer to or meet the square footage allowed of 1,000 square feet.

Mr. Ward seconded the motion, which failed on a roll call vote of 3-1(Bogen).

Ms. Bogen and Mr. Westenhofer discussed the time line on this case, the next hearing on the 13th of February may only have 4 Boardmembers available so we will reschedule this case when we will have more than 4 Boardmembers in attendance.

Ms. Trout-Oertel moved to continue the case until 2-13-17.

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

Submitted by:

Approved by:

Sean Westenhofer

Thomas Saylor, Secretary

MINUTES OF THE MEETING OF THE BOARD OF ZONING APPEALS
CITY COUNCIL CHAMBERS, 330 CITY HALL
ST PAUL, MINNESOTA, FEBRUARY 27, 2017

Continued from January 30, 2017

PRESENT: Mmes. Albert, Bogen and Younkin Viswanathan; Messrs. Rangel Morales, Miller and Saylor of the Board of Zoning Appeals; Mr. Warner, City Attorney; Mr. Benner II, Mr. Westenhofer, Ms. Lane and Ms. Crippen of the Department of Safety and Inspections.

ABSENT: Diane Trout-Ortel*

*Excused

The meeting was chaired by Gloria Bogen, Acting Chair.

Wayne Fischer (#16-109677) 1560 Lincoln Avenue: The applicant is requesting a variance of the accessory building requirement in order to remove the existing two-car detached garage and construct a new, three-car detached garage in the rear yard. Accessory buildings cannot exceed 1,000 square feet in size; the applicant is proposing to construct a 1,251 square foot garage, requiring a variance of 251 square feet.

Mr. Westenhofer reviewed the case history from the previous hearing with a recommendation for denial based on findings 3 & 4.

Ms. Bogen reopened the public portion of the hearing to ask Mr. Fischer a couple of questions.

The applicant **WAYNE FISCHER**, 1560 Lincoln Avenue, was present.

Ms. Bogen: Mr. Fischer did you contact the district council since the previous hearing.

Mr. Fischer: No he has not contacted the district council.

Mr. Rangel Morales and Mr. Fischer discussed that this is the second variance request he applied for, the first one was denied. The previous variance was for a 4 car garage, this second variance application is for a 3 car garage.

Ms. Bogen: This was an issue of not being able to get 4 votes either for or against the variance request and it was laid over until there were more Boardmembers present. Unfortunately the minutes from the previous hearing are not here.

Mr. Rangel Morales: If this was hearing on January 30, 2017, he was not present for that hearing. He remembers reviewing the previous variance application for the 4 car garage back in December.

Mr. Saylor: Why was this laid over at the January 30, 2017 hearing?

Mr. Westenhofer: Commissioner Saylor, Boardmembers it was laid over because the vote was 3-1, there was not a 4th vote to either deny or approve the request. He is not sure why it was laid over from the February 13, 2017 hearing.

Mr. Saylor: We do not have the minutes in front of us, so correct me if I'm wrong, we did discuss meeting with the district council to get their input on this.

Mr. Fischer: Basically the district council sent a letter saying that the first garage was too big. That was their response to the second application. He is asking for seven feet, there are parking problems on the block. Everyone on the block park in their yard, he is trying not to do that. He is willing to make the garage match the house the church, and Macalester College. Claiming he has spent \$50,000 to \$60,000 to make the garage look good.

Hearing no further testimony, Ms. Bogen re-closed the public portion of the meeting.

Mr. Westenhofer: On pages 219 and 220 are the letters from the district council. The first letter dated December 1, 2016 was about the previous case on December 5, 2016 recommending denial. The letter from January 17, 2017 is referring to the letter that they send on December 1st, saying either way they would deny this request as well, they just referred to the old letter rather than sending a new letter that applies to this variance request.

Mr. Saylor: According to the letter from the Macalester-Groveland community council, some of the comments discussion for this earlier application may be relevant in review of this application. This does not really tell the Board anything.

Ms. Bogen: She agrees with Mr. Saylor, she does not think that the Macalester-Groveland council is coming out either in favor or against this request. They are probably meaning to be against this but it is not clear enough.

Mr. Saylor: Thinks that some input from the district council here might be beneficial to Mr. Fischer's position here. The findings we have from DSI recommends denial, but to get as much information as possible here. The district council might be your friend here.

Ms. Bogen: Thinks that this is before the Board again because there were not 4 votes to move this along. The reason that it is back is for another motion to see if we have 4 votes on this either for or against. She understands that some people might not have been here but she does not recall that there was anybody else to speak on this. The minutes would have been in the last packet, so everybody should have read them. If there is a motion here we could take a look at the motion, there is a deadline of March 31, 2017, if we cannot get 4 votes one way or another today staff can give us the minutes in our next packet, but she thinks that it is here to see if we can get 4 votes one way or another. There are different people here than were in attendance for the previous hearing. If anyone wants to make a motion at least for discussion and for taking a vote.

Mr. Saylor: I would like to make a motion to approve the variance given the testimony we heard at the previous meeting. We can talk about findings 3 & 4 but he would like to move for approval.

Ms. Bogen: We determined at the previous hearing that Boardmembers do need to have the reasons that they are voting, to approve something staff has recommended denial of, so the findings need to be reworked before we vote on them.

Mr. Saylor: He would then withdraw his motion to approve.

Mr. Rangel Morales: He does not feel that he is in a position to make a motion to either approve or deny, so he would like to review the minutes from the last hearing on this case. He also thinks that it would be to Mr. Fischer's benefit to bring this up again to see if he could get a different recommendation from the district council about what they feel about this new, he would say, improved garage proposal, so he would

make the motion to continue the case for 2 weeks to the next hearing, as we do have until March 31 to make a decision.

Ms. Bogen: Requested that staff provide the minutes from the previous hearing on this case in our next packet.

Ms. Albert seconded the motion, which passed on a voice vote of 5-0.

Ms. Bogen: Instructed Mr. Fischer to contact the district council if he wants to.

Mr. Fischer: If the district council says no, than this is done?

Ms. Bogen: No.

Mr. Fischer: They are going to say no, he is sure of this.

Ms. Bogen: Maybe you do not want to talk to the district council than.

Mr. Fischer: He does not want to talk to them, they are just going to say no. They have made that very clear.

Submitted by:

Approved by:

Sean Westenhofer

Thomas Saylor, Secretary

MINUTES OF THE MEETING OF THE BOARD OF ZONING APPEALS
CITY COUNCIL CHAMBERS, 330 CITY HALL
ST PAUL, MINNESOTA, MARCH 13, 2017

Continued from January 30, 2017 & February 27, 2017

PRESENT: Mmes. Albert, Maddox, Trout-Oertel and Younkin Viswanathan; Messrs. Rangel Morales and Miller of the Board of Zoning Appeals; Mr. Warner, City Attorney; Mr. Westenhofer, Ms. Lane and Ms. Crippen of the Department of Safety and Inspections.

ABSENT: Gloria Bogen *, Thomas Saylor*
*Excused

The meeting was chaired by Katrice Albert, Acting Chair.

Wayne Fischer (#16-109677) 1560 Lincoln Avenue: The applicant is requesting a variance of the accessory building requirement in order to remove the existing two-car detached garage and construct a new, three-car detached garage in the rear yard. Accessory buildings cannot exceed 1,000 square feet in size; the applicant is proposing to construct a 1,251 square foot garage, requiring a variance of 251 square feet.

Mr. Westenhofer stated that he had been in contact with the district council for this case and one of the things that came out in the previous hearing was that the applicant speak with the district council. The district council at this point cannot hear the matter and would not be able to get a chance to hear it until March 22, 2017. The other issue that we are having here is that he is running up on his 120 days, the deadline for action on this case. It would be up to Mr. Fischer if he wants to extend that, staff has already extended it as far as we can in order to go to the district council hearing. Although the district council has said that based on page 95 & 96 of the packet they are not changing their stance.

The public portion of the hearing had been closed at the previous hearing.

The applicant **WAYNE FISCHER**, 1560 Lincoln Avenue, was present.

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

Ms. Maddox moved to deny the variance and resolution based on findings 3 and 4.

Mr. Miller seconded the motion, which passed on a roll call vote of 5-1(Trout-Oertel).

Submitted by:

Approved by:

Jerome Benner II

Thomas Saylor, Secretary