

**BOARD OF ZONING APPEALS STAFF REPORT**  
=====

**TYPE OF APPLICATION:** Major Variance **FILE #15-126189**  
**APPLICANT:** Inga S. Oelschlager  
**HEARING DATE:** July 6, 2015  
**LOCATION:** 1916 FAIRMOUNT AVENUE  
**LEGAL DESCRIPTION:** Underwoods First Addition to Lots 7 And Lot 8 Blk 3  
**PLANNING DISTRICT:** 14  
**PRESENT ZONING:** R3  
**ZONING CODE REFERENCE:** 66.231  
Macalester-Groveland Special Sign District  
**REPORT DATE:** June 9, 2015 **BY: Yaya Diatta**  
**DEADLINE FOR ACTION:** July 30, 2015  
**DATE RECEIVED:** June 1, 2015

---

A. **PURPOSE:** The applicant is requesting a lot width variance 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'.

B. **SITE AND AREA CONDITIONS:** The existing parcel is a 99 by 124-foot lot with alley access to a two-car detached garage in the rear yard. A fenced in-ground swimming pool and a shed are located in the rear yard.

Surrounding Land Use: Mostly single family dwellings.

C. **ZONING CODE CITATION:**

**Sec.66.231:** Residential District Dimensional Standards table requires a minimum lot width of 50 feet in the R3 zoning district.

**MN Stat. 462.357, Subd. 6** was amended to establish new grounds for variance

6

approvals effective May 6, 2011. Required findings for the requested variance, consistent with the amended law, are as follows:

**D. FINDINGS:**

*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. The lot can be split evenly north – south without a variance, but it would require the removal of the one-story sunroom located on the east side of the existing house. According to the applicant, the proposed lot split with a dividing line jogged around the sunroom is



needed in order to preserve the sunroom and protect the original character of the house. However, the proposed lot split is a choice, not a difficulty. This finding is not 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.*

All houses on this block are located on 50 foot lots except the house on the 4<sup>th</sup> lot to the west, on the southeast corner of Prior and Fairmount. The proposed 40 foot lot will result in a sub-standard lot width; it could change the character of this block. This finding is not met.

- E. **DISTRICT COUNCIL RECOMMENDATION:** Staff has not received a recommendation from District 14.
- F. **CORRESPONDENCE:** Staff has received a letter from a property owner at 1917 Fairmount (directly across the street from the applicant's property) in support of the variance and letters from the property owners at 1911 Fairmount (also directly across the street from the applicant's property) and 1904 Goodrich in opposition of the variance.
- G. **STAFF RECOMMENDATION:** Based on findings 3 and 6, staff recommends denial of the requested variance.



MINUTES OF THE MEETING OF THE BOARD OF ZONING APPEALS  
CITY COUNCIL CHAMBERS, 330 CITY HALL  
ST PAUL, MINNESOTA, JUNE 22, 2015

PRESENT: Mmes. Maddox and Bogen; Messrs. Courtney, Ward, Saylor and Wilson of the Board of Zoning Appeals; Mr. Warner, City Attorney; Mr. Diatta and Ms. Crippen of the Department of Safety and Inspections.

ABSENT: None

The meeting was chaired by Joyce Maddox, Chair.

Inga S Oelschlager (#15-126189) 1916 Fairmount Avenue: The applicant is requesting a lot width variance 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'.

Mr. Diatta showed slides of the site and reviewed the staff report with a recommendation for denial.

Two letters were received supporting the variance request and four letters were received in opposing the variance request.

One e-mail correspondence was received from District 14 who voted to deny the variance request.

Mr. Courtney asked if the lot is split evenly will the sunroom be on the neighboring lot. Mr. Diatta replied the sunroom would be on both properties. Mr. Courtney further questioned the rest of the lot would be able to be split evenly except for the sunroom. Mr. Diatta replied correct.

The applicant **INGA S. OELSCHLAGER**, 1916 Fairmount Avenue, was present. Ms. Oelschlager stated that she has lived in the MacGroveland area for 35 years and has been in her home for 22 years. She currently lives with her new husband and her 90 year old mother. She stated that her mother can currently still climb the stairs, however, the time is coming when her mother will not be able to and she would like to provide a first floor bedroom suite for her which cannot be accomplished in her current home. Ms. Oelschlager stated that she has looked at other properties but has not found any housing that would work for her. She stated that they love the block and the neighborhood and decided to look into subdividing the large lot to create a suitable single family home on the split off lot and selling the existing house to another family. Ms. Oelschlager went into the history of the house and the two lots that were purchased with the intent of the original owners to build two homes for his two daughters when they married. She explained that the house was built in 1925 by George Bluiet(SP) and is a Georgian Revival house with a unique character on the block. Only one daughter married so only one house was built, later a swimming pool was installed on the second lot. The builder she hired spoke with Mr. Diatta about ways to split the lot without destroying the existing home on the lot. She stated she was very excited about the option of splitting the lot around the sunroom in order to preserve the existing building and still comply with the square footage requirements. Ms. Oelschlager stated that it sounded like a win-win situation to allow her to build a home to fit her needs and still preserve the existing home. She understands that some of the neighbors are concerned about having another house on the block where there has only been green space. She stated that she has done some studies on how the proposed house would fit into the block, she submitted the handout to the Board. Ms. Oelschlager explained the plans, and that she intends to use a traditional palate and materials, subdued massing, with a one and a half story front to the structure with the rest of the structure setback to simulate the front porch idea. The house would fit in with the character of the street.



Tom Melcher, 1916 Fairmount Avenue, stated he is Inga's husband. He stated that they recognize that there is some controversy about adding another house on the block. They have read some of the letters, but haven't seen all the letters. (Staff passed them the letters from the handouts that were not in the packet.) To his knowledge all of those opposed to the variance request oppose to the idea of another house on the block not the type of lot split they are proposing. They believe that the proposed house would fit into the neighborhood character. Ms. Oelschlanger stated that there is a lot of controversy about tear downs in the neighborhood with signs all around to prevent unnecessary tear downs. She stated that she is trying to avoid the tear down of part of a historic building.

Ms. Maddox questioned that her mother would be moving in to this proposed house. Ms. Oelschlanger replied yes, her mother will be moving with them into the proposed house. Her design accommodates a bedroom and bathroom suite on the main level that would be for her mother, and three bedrooms on the second floor. The house will be a 4 bedroom house of about 2400 square feet.

Mr. Ward questioned that the letters stated that there were three options. One option was to split the lot evenly without the jog. Another would be to sell to developers and third to get a variance. Ms. Oelschlanger stated that a developer had approached her who was interested in the double lot and she already turned them down. Her desire is to build a house of her design that she thinks will fit in the neighborhood. She continued that the remaining options are to tear down the sunroom and split the lot legally or try to get the variance. Mr. Ward questioned the reason she did not want to remove the sunroom, does she think it would detract from the historical significance of the home. Ms. Oelschlanger replied that it would detract from the character of the house.

Mr. Saylor asked Ms. Oelschlanger to comment on the difficulty of removing the sunroom as an architect. Ms. Oelschlanger replied it could be done, it would not be easy. The porch has brick pillars on the side, the house is all brick, it is not a wood structure house it is a clay tile. The house is solid masonry throughout so it is structurally feasible but not easily done.

Ms. Bogen stated that building a two story house that wraps around a sunroom will practically eliminate the sun coming into the sunroom. She questioned Ms. Oelschlanger why the house is wrapping around as well as the property line. Ms. Oelschlanger replied that one of the things she is trying to do is mitigate the effect to the neighbors to the east leaving more of a green buffer zone between their property and the proposed house. Between the new house and the sunroom there would be a minimum of 12 feet of open space. She does not think that it will eliminate the sun light into the sunroom, it would impact the light but not eliminate the light.

Mr. Ward asked what would happen to the existing structure. Ms. Oelschlanger replied that they would sell it.

There was no opposition present at the hearing.

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

Mr. Saylor stated that he does not think that this new house would change the character of the block and looking at the map showing the lots and their sizes on the block, the lots would be about 50 feet in the front and be within the character of the block. For finding three while it is not technically impossible to remove the sunroom it would be a structural difficulty, outside of the cost.

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



Mr. Ward asked Mr. Saylor why finding three is met. Mr. Saylor stated that when he questioned the applicant about removing the sunroom, the applicant stated that there was some level of structural integrity involved with the removal of the sunroom. Therefore, it is not just the cost of removing the sunroom there is a level of difficulty involved in detaching the sunroom that was part of the house as it was constructed. Mr. Ward stated that according to the applicant the light coming into the sunroom would be somewhat impacted by the new house, he asked how they would address the light to the potential new owner of the existing home. Mr. Saylor stated that the new owner will not know the old situation and will not know anything is lost. Mr. Ward stated that it is the Board's job to see that everything stays fair and the same for all residence. Mr. Saylor stated that looking at the lot sizes the majority of the lots are all single lots about 50 feet in size, this would not be out of character to have a 50 or 49 foot lot width. He stated that the letters are more about aesthetics than specifics and it is subjective. Ms. Maddox stated it is subjective and it may change the character with the jog. Mr. Saylor questioned whether that 1 inch difference could be recognized just looking at the block from the street.

Mr. Courtney asked staff if all the other lots were 50 feet. Mr. Diatta replied yes, all but the house on the 4<sup>th</sup> lot to the west. Mr. Diatta and Mr. Saylor discussed that the lot is slightly wider on the alley side of the property. Mr. Courtney stated that if the Board wants to approve the variance he would think that they would want the applicants to commit to whatever reasonable proposal they are making for the house. Mr. Ward stated that he agreed with that. Mr. Saylor stated a condition that the house is built according to the plans submitted with the application. Mr. Courtney further questioned whether the Board wants to put any other condition that the applicants not be allowed to add onto the proposed structure. Mr. Saylor asked for Mr. Warner's opinion. Mr. Warner stated that is perfectly reasonable if the Board feels that the design that was submitted reflects the aesthetics of the building material of the neighborhood, it is a reasonable thing to do under the zoning code. Mr. Ward stated that because the applicant admits that the light will be somewhat affected by the new house he feels it would be inappropriate to add a condition as suggested by Mr. Courtney, that additions to the proposed story and a half structure not be allowed so that the sun is not further blocked from the existing sunroom.

Mr. Courtney asked if the applicants have submitted plans for the proposed house. Ms. Maddox stated on page 109. Mr. Diatta stated that if the Board conditions that the new house plan stays as submitted. He stated that he is not sure that the applicants have looked at the plans closely. The site plan has not been reviewed for design review, there are certain design review requirements that they have to meet. Such as 15% window glazing for the front of the house and if they do not meet that then the plans will have to change. Ms. Bogen suggested conditioning it on the footprint of the proposed building. She pointed out page 114 of the packet showing a rendition of how the proposed house would fit into the block and the closeness to the existing houses.

Mr. Courtney suggested that the variance be conditioned on the plans that the applicants have submitted and the footprint is not enlarged without a variance. Ms. Maddox stated the footprint of the house stays as submitted. Mr. Warner stated that is a little vague and as he understands, it is that the aesthetic of the building match. The depiction shows a building with siding and shingles and what the Board wants is a good looking building with quality materials on the exterior all the way around the building. Mr. Warner stated using the words in sync or in compliance with the building code as submitted, that is not enough detail, it does not give the plan review staff enough to go on. It is certainly so vague that if something is not liked, if the variance is granted the property owners have already acquired a property interest in that variance and it can lead to "major league squabbling." He stated that the Board wants to avoid that by being precise with the language that is used. Ms. Maddox stated that they are staying away from that completely. Ms. Bogen stated that the variance could be conditioned on the floor plan and allowing site plan review to handle the exterior. Mr. Warner stated that would work but keep in mind that in



Minnesota the Board can regulate to some degree the aesthetics of the building. The Board can say they want the exterior to be stone, or metal, it can be very precise because part of the zoning code is to protect the adjacent properties. Reading the letters from the neighbors they are not so concerned about the size of the lot, but the impact that this new building will have on the neighborhood visually. If the Board insists that they build a high quality structure and use words to that affect then the Board is meeting the goals of the zoning code and protecting the adjoining properties.

Mr. Ward stated that he agrees with Mr. Saylor that this meets all the requirements. The argument is not with the aesthetics, the architect who designed the plan for the new house is also the home owner and she has agreed to build a home that matches the neighborhood. She has worked very hard to make sure that it fits. He thinks that the only issue here is the impact of the light into the sunroom, everything else here is very subjective. The width of the back of the lot meets the requirements; the front of the lot is shy by a few inches. Splitting the lot does not seem to be a problem, the only thing that is a problem is the location of the sunroom on the lot that it extends into the neighboring lot and prevents it from being able to split off the lot in a straight line. The surveyor tried to jog around the sunroom in trying to not alter the structure and trying to keep it so it does not impact the neighbor to the opposite side of the property. Mr. Ward continued the placement of the building keeps it from impacting the other neighbor, there could have been two variances here instead of one. This is only one variance and we are discussing the conditions, and the condition is the impact of light into the sunroom. He does not think that the issue is the exterior or the materials are as important as light to the sunroom. Ms. Maddox asked that the maker of the motion and the second restate if they want to include the conditions. Mr. Saylor stated that his concern is not the amount of sunlight to the sunroom, sometimes sunrooms are on sides of the house that do not get much sun. He thinks that the amount of sunlight is difficult to ascertain whether it is enough meet a requirement or not. Mr. Courtney stated that he agrees with Mr. Saylor.

Mr. Saylor restated the motion, approval of the variance request with high quality materials that meet the aesthetics of the neighborhood.

Mr. Courtney seconded the motion, which failed in a tied roll call vote of 3-3(Bogen, Wilson, Maddox).

Ms. Bogen moved to deny the variance and resolution based on findings 3 and 6.

Mr. Wilson seconded the motion, which failed in a tied roll call vote of 3-3(Courtney, Ward, Saylor).

Mr. Ward moved to continue the matter for two weeks until the Board can get a 7<sup>th</sup> Boardmember to attend to break the tie.

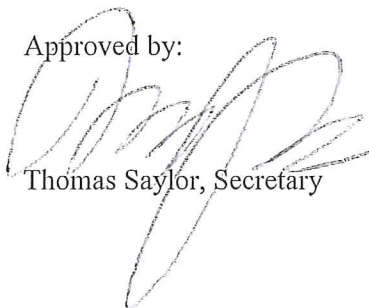
Mr. Saylor seconded the motion, which passed on a roll call vote 6-0.

Submitted by:



YaYa Diatta

Approved by:



Thomas Saylor, Secretary

MINUTES OF THE MEETING OF THE BOARD OF ZONING APPEALS  
CITY COUNCIL CHAMBERS, 330 CITY HALL  
ST PAUL, MINNESOTA, JULY 6, 2015

Continued from June 22, 2015

PRESENT: Mmes. Maddox, Porter and Bogen; Messrs. Courtney, Ward, Saylor and Wilson of the Board of Zoning Appeals; Mr. Warner, City Attorney; Mr. Diatta and Ms. Crippen of the Department of Safety and Inspections.

ABSENT: None

The meeting was chaired by Joyce Maddox, Chair.

**Inga S. Oelschlager (#15-126189) 1916 Fairmount Avenue:** The applicant is requesting a lot width variance 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'.

Mr. Diatta showed slides of the site and reviewed the case history from the previous meeting

Three additional letters were received supporting the variance request.

No further correspondence was received from District 14 regarding the variance request they are not supporting the variance request.

The applicant **INGA S. OELSCHLAGER**, 1916 Fairmount Avenue, was present. Ms. Oelschlager stated that the lots are very close to 50 feet each, they are only short by less than 3/4<sup>th</sup> of an inch. She submitted a plat map of the block that she received from the City when she started this building project that shows the lot widths for the block. She stated that because she wants to preserve the existing historic home, it also limits what she can build on the lot she splits off. On a 50 foot lot she could build a 38 foot wide home but with the jog around the sunroom it limits her to a 29 foot wide home. Ms. Oelschlager stated that it is not her intent to build a larger home she would actually like to build smaller. She knows that there are some neighbors that are opposed to her building on the lot, she believes that they are opposed to any construction on the empty lot and not opposed to her plan or the jog in the lot line necessarily.

Mr. Courtney asked if the site plan shows the home she intends to build. Ms. Oelschlager replied yes that is the outline of the house the way she intends to build it. She stated that it may need to be slightly tweaked to meet the requirements for a building permit, because she has not done enough detail on the documents to submit for the building permit yet. Mr. Courtney and Ms. Oelschlager discussed that the proposed house she plans to build is 29 feet wide.

Mr. Saylor asked Ms. Oelschlager to discuss how the sunroom will function. Ms. Oelschlager stated that the new home will be one story high next to the sunroom and to the south there will be no obstruction allowing sunlight into the room.

Ms. Bogen questioned Ms. Oelschlager's statement that the house will be 29 feet wide, she stated that will only be the front of the building, but the total width needed is 37 feet-4 inches in order to jog that bedroom out more toward the existing house. Ms. Oelschlager replied that is correct, she is hoping the three dimensional drawing show how little that portion of the house is actually visible from the street. Ms. Bogen stated that if Ms. Oelschlager were building a 29 foot wide home she would not need to do the



jog, she could make an application for a 40 foot buildable lot. Ms. Oelschlager replied correct, but it was her understanding that a 40 foot wide lot would still need a variance because it would not comply with the required square footage for a lot in the R3 zoning district.

Ms. Bogen further questioned Ms. Oelschlager about what was happening to the large oak tree on the lot. Ms. Oelschlager replied that tree has to be removed, she stated that she had tried to preserve the oak but that tree will have to be removed in order to have any kind of reasonable back yard. Ms. Bogen questioned that there is a locust tree. Ms. Oelschlager replied that she is trying to preserve the locust tree but does not think it will be possible because it is close to the construction line.

Mr. Ward asked Mr. Diatta what the required lot size is for the R3 zoning district. Mr. Diatta replied that the required front yard width is 50 feet and the required lot area is 6,000 square feet for a single family home.

Mr. Courtney asked Ms. Oelschlager if she is committing to building a 29 foot wide home on the lot. Ms. Oelschlager replied yes, otherwise she would need more variances for the setbacks, she intends to comply with the required setbacks.

There was opposition present at the hearing.

Kathy Thees, 1906 Fairmount Avenue, stated that she is the homeowner to the east of this property. She stated that she has lived in her home for 34 years. In her opinion three of the findings for granting the variance have not been met. She does not think the lot is big enough for another house. She stated that the lots are all 50 foot wide parcels, there is a lot of open space on the block and if this variance is granted it will look like the original house is on a 60 foot wide lot and the neighboring new house will look like it is on a 40 foot wide lot and that does not match the character of the neighborhood. The original home was built very close to the neighboring house it will look a lot more tight. Ms. Thees stated that Inga would like to keep the original character of the home, but the original home owner built the sunroom across the lot line then went on to have this beautifully landscaped yard. All the previous owners have continued that in her opinion to preserve the original character of the house it is necessary to have that open space next to it. Ms. Thees stated that the Board needs to think about the next person moving into the 1916 house, to have this big house and an irregular lot line around it and a sunroom that will look into the neighboring home. She thinks that it is more of an economic issue for the applicant to remove the sunroom it is cheaper to jog around the sunroom than take it off. For finding three that the plight of the land owner was not created by the land owner, it is true that when Inga moved into the house, it was already existing. But it is a situation that can be changed. Ms. Thees stated that Ms. Oelschlager invited the neighbors into her home before she applied for the variance to let them know what her plans were. They were told that the Oelschlager's had three options, one to get a variance and build, two they would remove the sunroom and build, or third they would sell to a developer. Ms. Thees stated that she thinks the right thing to do is remove the sunroom and build so that there is equal spacing between houses and a better look on the block. She thinks that Inga could take off the sunroom and make it look appropriate. The irregular lot line would impact all future home owners at 1916 and the proposed new house.

Mr. Ward questioned Mr. Diatta if the side yard setback is 6 feet in this R3 district. Mr. Diatta replied correct. Mr. Ward stated that the plan shows that her home is 15.8 feet from the property line. Ms. Thees stated that she has the smallest house on the block and she is next to the vacant lot. Mr. Ward stated that her home is 15.8 feet from the property line and the new home will be setback 6 feet from the property line so her home will be more than double the required distance. Ms. Thees stated that she is looking at the whole block not just her property. Mr. Ward stated that looking at the block as a whole there are

14

some homes on the block that are even closer than what her home will be to the proposed new house. He commented that some of the setbacks are less than the required six feet. He stated that he would understand if all the houses were within the six feet from the property lines, but some are less and some are more, than the average should be maintained.

Ms. Oelschlager stated that what Ms. Thees stated is correct she did speak with her neighbors about her plans it is still her belief that she will not alter the character of the block.

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

Ms. Bogen moved to deny the variance and resolution based on findings 1 through 6.

Mr. Ward stated that this is only inches this meets the requirement except for inches. He stated that lots come in many different shapes, irregular lots, crazy geometrical shapes, whether the line is crazy or not if it meets the requirements, meets the zoning in his mind meets what it needs to. He stated that he is voting against this denial.

Ms. Bogen stated that she is sorry to see the large tree have to go. The house jogs around 37 feet wide in one spot and 29 feet wide in another built around this sunroom it looks like putting a jigsaw puzzle together. If houses are built so they are 12 feet away from the property line or twenty feet away depending on what zoning district they are located in. If the Board allows applicants to go around little turrets and jut outs on other houses it is going to start looking really weird and looks just like a jigsaw puzzle put together and she does not think that it fits in the neighborhood, that is why she is moving to deny the variance.

Ms. Maddox asked Mr. Diatta how many cases the Board has seen requesting to jog the lot line. Mr. Diatta replied this is the first.

Mr. Saylor stated that one of the hallmarks of this committee is to listen to the neighbors; there are five letters in the packet supporting this variance request. He thinks that there are some very good arguments being made, this is not a tear down project, which the Board has struggled with in the past, this is a preservation project. This is a fit for the block, these are 50 foot lot frontage and it remains a 50 foot front and it is a creative solution to urban housing in St. Paul.

Ms. Bogen stated that the Board has also received letters in opposition, one from the neighbor directly next to the property, it seemed that the people closer to the property were more against the project than those further from the property. She thinks that it looks like a jigsaw puzzle and she thinks it will change the character of the neighborhood. The applicant could take off the sunroom then there would not be a problem with splitting the lot. She does not see that the removal of the sunroom would be that much of a difficulty.

Ms. Porter stated that she would have more of a problem with the new house if it were being built closer to the neighbor that testified against this. She does feel that the Board will be setting precedence if they approve this and she is very much against that as well, the Board has to look at the big picture moving forward. Ms. Maddox stated that this Board does not set precedence, none of our cases are all the same, each is individual and all have a difference to them. It is not verbatim word for word the Board does not set precedence.

Mr. Ward stated that addressing the tree comment, the land belongs to the applicant and she can remove



all the trees on her property if she wants to. Ms. Bogen stated that sometimes the Board asks the applicant to move their garage/building to preserve the greenery.

Mr. Courtney stated that he agrees with Mr. Ward, it is her tree and she can take it down if she wants to. His recollection of the last hearing is that most of the people just did not want something built. There is a thoughtful letter from the neighbor at 1938 Fairmount Avenue, Sarah Currier, which actually expresses an elaborate position, that what the neighborhood need is better houses and this isn't a teardown where something real big will be built, but the neighbors are concerned and they should be concerned. It is in the applicant's best interest if she gets the variance to build houses that fit together, because she is going to own them both. If they do not fit in she will be the one to be punished by it. Ms. Bogen stated that she is not owning them both. Mr. Ward stated that she owns them now. Mr. Courtney stated she owns them. Ms. Bogen commented that she is selling. Mr. Courtney stated that if the applicant does not build the home right it will punish her, she is an architect and she presumably knows what she is doing. To a certain extent he is going to rely on the applicant, that she knows what she is doing to build this so that both houses fit in the neighborhood and that they are something to be sold. He stated that is a reliance that the Board has to make so he is voting against the denial.

Mr. Wilson seconded the motion, which failed on a roll call vote of 3-4(Porter, Saylor, Courtney, Ward).

Mr. Ward moved to approve the variance and resolution based on findings 1 through 6. This house fits the neighborhood and fits the period it needs the jog for the lot to be split. For finding three removing the sunroom would be an enormous expense, impractical and not necessary. The jog is a creative way to retain the sunroom on the existing home. Removing the sunroom is a difficulty. For finding six the staff report states that all the lots on the block except for the fourth lot to the west, 1938 Fairmount Avenue on the southeast corner of Fairmount Avenue and Prior Avenue. Mr. Ward continued the Board does not have surveys of every lot the Board is looking at 49.94 feet we are talking about inches. He stated that if the Board could go down the street and survey every lot on the block he would bet that there would be another lot that is less than the 50 foot minimum. Mr. Ward continued that he has been in construction for 30 years, he has done surveying and people make mistakes what gets recorded is considered the rule. There is a mistake somewhere he stated that he has never built a house where all the pins line up exactly never. In his opinion this meets the requirements, it is not out of character and it will fit in the neighborhood and the variance should be granted to allow the owner to build.

Mr. Courtney asked Mr. Warner, Mr. Ward and Mr. Saylor if the Board could ask the applicant to commit generally to the site plan on page 27 of the Board of Zoning Appeals packet as proposed. He stated that the applicant is pretty sophisticated and he wants her to build what she is saying she wants to build and not sell that property to someone else. Mr. Ward and Mr. Saylor agreed to the condition. Mr. Courtney asked Mr. Warner can the Board do that. Mr. Warner replied yes.

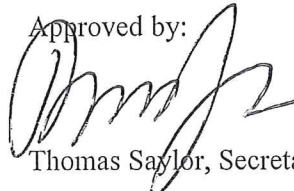
Mr. Saylor seconded the motion, which passed on a roll call vote of 4-3(Bogen, Wilson, Maddox).

Submitted by:



YaYa Diatta

Approved by:



Thomas Saylor, Secretary

16