



CITY OF SAINT PAUL  
Christopher B. Coleman, Mayor

375 Jackson Street, Suite 220  
St Paul, Minnesota 55101-1806

Telephone: 651-266-8989  
Facsimile: 651-266-9124  
Web: [www.stpaul.gov/dsi](http://www.stpaul.gov/dsi)

July 1, 2011

Council Research  
310 City Hall  
St Paul, MN 55102

Dear Mary Ericksson:

I would like to confirm that a public hearing before the City Council is scheduled for July 20, 2011 for the following zoning case:

Appellant: Payne Phalen District 5 Planning Council

Zoning File #: 11-146148

Purpose: An appeal of a decision of the Board of Zoning Appeals (BZA) approving a variance of the west side yard setback of 3 feet in order to allow the construction of a deck with a stairway to the second floor of the existing duplex.

Location: 674 Hawthorne Avenue E.

Staff: Recommended approval

District: Recommended denial

Board: Recommended approval

I have confirmed this date with the office of Council Member Dan Bostrom. My understanding is that this public hearing request will appear on the agenda of the City Council at your earliest Convenience and that you will publish notice of the hearing in the Saint Paul Legal Ledger. Thank you!

Sincerely,

Yaya Diatta  
Zoning Specialist

(K) 440.00

RECEIVED IN D.S.I.



APPLICATION FOR APPEAL

JUN 24 2011

Department of Safety and Inspections  
375 Jackson Street, Suite 220  
Saint Paul, MN 55101  
651-266-9008

Zoning office use only  
File no. 11-246148  
Fee 440.00  
Tentative hearing date: 07-20-2011

APPLICANT

Name Payne Phalen District Five Planning Council  
Address 506 KENNY ROAD Suite 130  
City St. Paul St. MN Zip 55130 Daytime phone 651 774-5234  
Name of owner (if different) d5-director@disi.com

PROPERTY LOCATION

Address 674 Hawthorne Avenue East  
Legal description: \_\_\_\_\_  
(attach additional sheet if necessary)

**TYPE OF APPEAL:** Application is hereby made for an appeal to the:  
 Board of Zoning Appeals     City Council  
under the provisions of Chapter 61, Section 702, Paragraph A of the Zoning Code, to appeal a decision made by the Board of Zoning Appeals on June 13th 2011, 200 11. File number: 11-146148  
(date of decision)

**GROUND FOR APPEAL:** Explain why you feel there has been an error in any requirement, permit, decision or refusal made by an administrative official, or an error in fact, procedure or finding made by the Board of Zoning Appeals or the Planning Commission.  
  
The Board of Zoning Appeals was in error in Findings of Fact 1, 3 and 4. The variance is not in harmony with the general purposes of the zoning code; the applicant has not established that there are practical difficulties in complying with the provisions/nor is the proposal a reasonable manner not permitted by the provisions; and the plight of the landowner is not due to circumstances unique to the property.  
  
(attach additional sheet if necessary)

Applicant's signature Joshe McMurray Date 6/24/2011 City agent \_\_\_\_\_  
J:\zone\Handouts\APPEAL.doc Executive Director  
on Behalf of Payne Phalen District Five



**BOARD OF ZONING APPEALS INFORMATION COVER SHEET**

**Type of Application:** Major Variance **File #**11-146148

**Hearing Date:** June 13, 2011

**Location:** 674 HAWTHORNE AVENUE EAST

**Purpose:** A variance of the side yard setback in order to construct a deck with a stairway to the second floor of this duplex on the west side of the property. A nine (9) foot setback is required, three (3) feet is proposed for a six (6) foot side yard setback variance.

**Applicant/Representative:** SEAN SELLERS  
HART SELL LLC  
1288 GALTIER STREET  
ST PAUL MN 55117

**Telephone:** (651) 343-3457

**Property Owner:** DAVID S. HARTMAN  
784 COTTAGE AVENUE  
ST PAUL MN 55106-1711

**Telephone:** (612) 210-7267

**Legal Description:** Stone Mortons Addition Lot 7 Blk 4

**Date Received:** May 25, 2011

**Notification Sent:** May 25, 2011

**Land Use Map:** 5

**Present Zoning:** RT1

**Planning District:** 5

**Staff Person Assigned:** YaYa Diatta

energy efficiency of their homes – had good results. They are committed to becoming part of the neighborhood and community.

They currently manage six properties in Saint Paul and have 20 years of experience. Ryan Kapaun moved to offer support to the application of BB Housing Associates LLC for the proposed rehab projects in Rail Road Island on the condition that RRITF meeting on February 17, 2011 supported the projects. Ed Davis seconded. Passed by vote.

5. Leslie spoke about meetings regarding the Neighborhood Stabilization Program – Phase 3 (NSP3) funds to acquire and rehabilitate and market vacant properties in District Five – specifically Orange to Wells and Payne to Arcade. CPED discussed their intent in asking for off duty officers to provide security at 390 Maryland and 1146 Payne SuperAmerica, with new owners Northern Tier LLC. Leslie will again repeat this intent to city staff. A new option exists for CPED to stay up to date and engage in land use issues. The office has purchased Basecamp Suite, collaborative software. Members will soon receive an invitation to join the website.

INFORMATIONAL ITEMS were discussed:

I-35E Cayuga Interchange – Scope of work and timelines. Role of community and public.

Letter regarding ESR and Duluth Case – reference Board action of 1-25-2011.

CPED REFERENCE SHEET – Commonly Used Acronyms

CPED REFERENCE SHEET – Near East Side Area Zoning Study Proposed\

CPED REFERENCE – Preliminary Plat for Beacon Business Center North (In District 5)

CPED REFERENCE – Zoning Committee response to Heffner re-establishment of Non-conforming use for duplex at 1133 Payne

CPED REFERENCE – D5 Staff have followed up on 627 Bush – Waller snow drop off site.

###

(11)

3

X

② Check 12817 + cc



APPLICATION FOR ZONING VARIANCE  
Department of Safety and Inspection **RECEIVED IN D.S.I.**  
375 Jackson Street  
Suite 220  
Saint Paul, MN 55101-1806  
General: 651-266-9008  
Fax: (651) 266-9099

MAY 23 2011

Zoning office use only  
File Number: 11-116148  
Fee: \$ ~~350~~ 1520  
Tentative Hearing Date: 6.13.11  
Section(s): \_\_\_\_\_  
City agent: \_\_\_\_\_

APPLICANT

Name Sean Sellers Company Hart Sell LLC  
Address 1288 Coalier St  
City St Paul St. MA Zip 55117 Daytime Phone 651-343-3457  
Property Interest of Applicant (owner, contract purchaser, etc) Contractor  
Name of Owner (if different) Dave Hartman Phone 651-774-2072

PROPERTY INFORMATION

Address / Location 674 Hawthorne Ave East  
Legal Description see attached  
(attach additional sheet if necessary)  
Lot Size 40'x125' Present Zoning RT1 Present Use Duplex  
Proposed Use Duplex

Variance[s] requested:

Supporting Information: Supply the necessary information that is applicable to your variance request, provide details regarding the project, and explain why a variance is needed. Duplex/triplex conversions may require a pro forma to be submitted. Attach additional sheets if necessary.

Owner would like to build stairs/deck on west side of building. Ground level to second floor apt. stairs/deck attached to building. width of deck/stairs 8' from building side yard set back is 11'-9"  
$$- \frac{8'-6''}{3'-9''} \text{ space to fence/property line}$$

Attachments as required:



Site Plan



Attachments



Pro Forma

Applicant's Signature

*[Handwritten Signature]*

Date May 23<sup>rd</sup> 2011

4

13

FILE  
11-146148



CITY OF SAINT PAUL  
Christopher B. Coleman, Mayor

375 Jackson Street, Suite 220  
Saint Paul, Minnesota 55101-1806

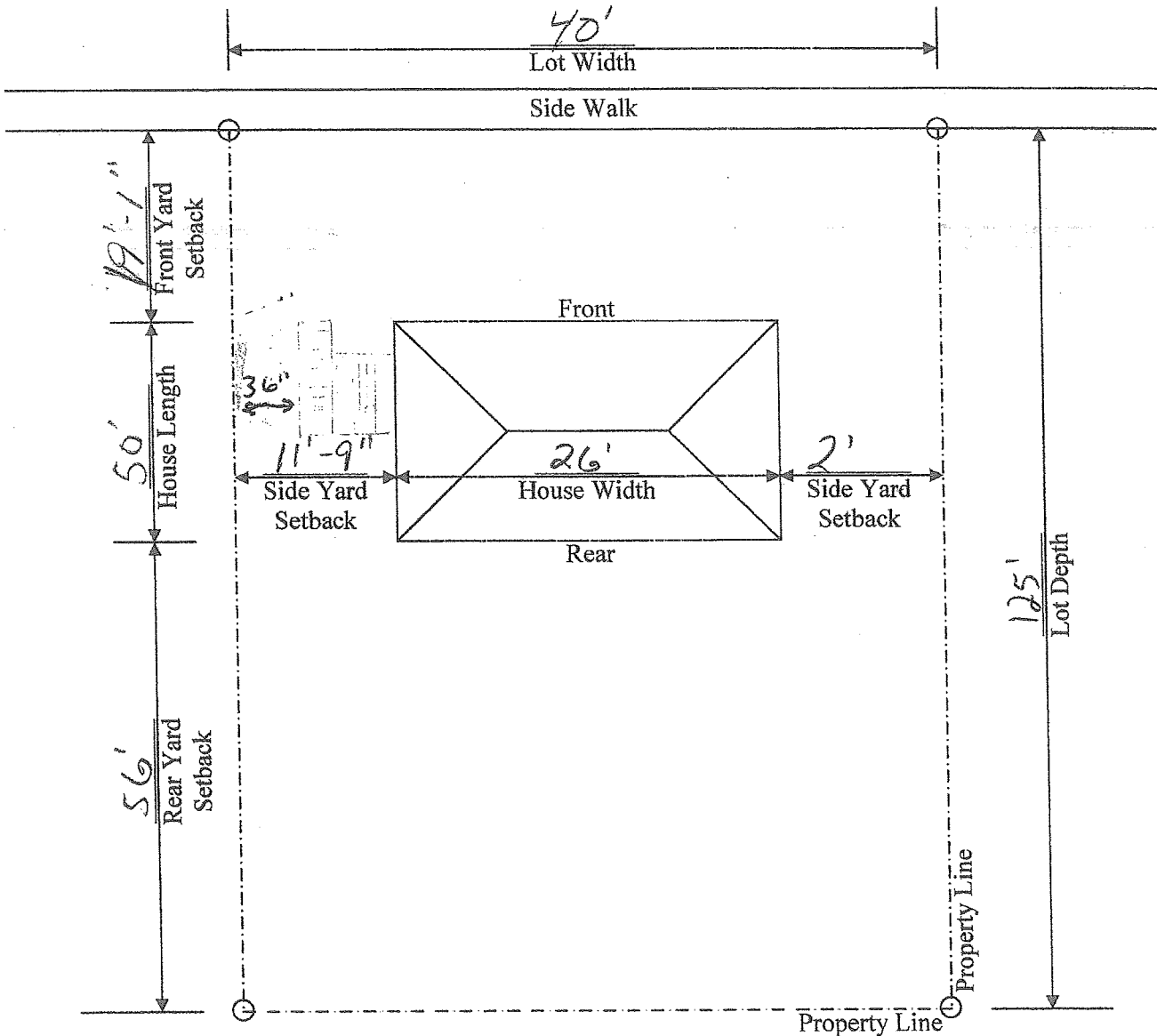
Telephone: 651-266-9007  
Facsimile: 651-266-9124  
Web: www.stpaul.gov/dsi

**BASIC SITE PLAN**

(Please redraw if site conditions are substantially different that shown below)

\*Owner must verify exact location of all Property Lines.

Street Address: 674 Hawthorne Ave E



5  
④



1/2" = 1'

Fence

STREET →

2x12 STRINGSERS

Post

Concrete  
Landings  
4" thick

Post

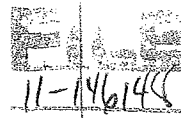
Stairs

Side walk

16" ok  
2x10

House 6'-9"

13'-3"



11-146448

4x4  
11/2"  
potted

Post

Post

3'-6"

6'-6"

10'

3'-6"

9'-6"

16



# Specifications

FILE  
11-146148

Hand Rails = 42" High with 2"x2" Spindles 3 1/2" apart

Posts = 4"x4" on 1" standoff brackets

Framing = 2"x10" Joists = 2"x10" 16" OC Treated

Decking = 1 1/4" x 5 1/2" treated

Stairs = Stringers 2"x12" treated

Ledger Board = 2"x10" fastened 16" OC with 5/8" x 5" lag Galv.

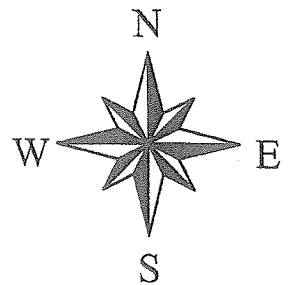
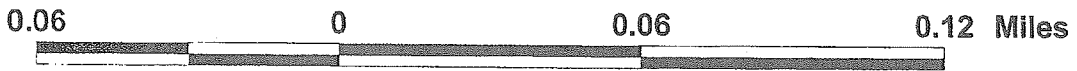
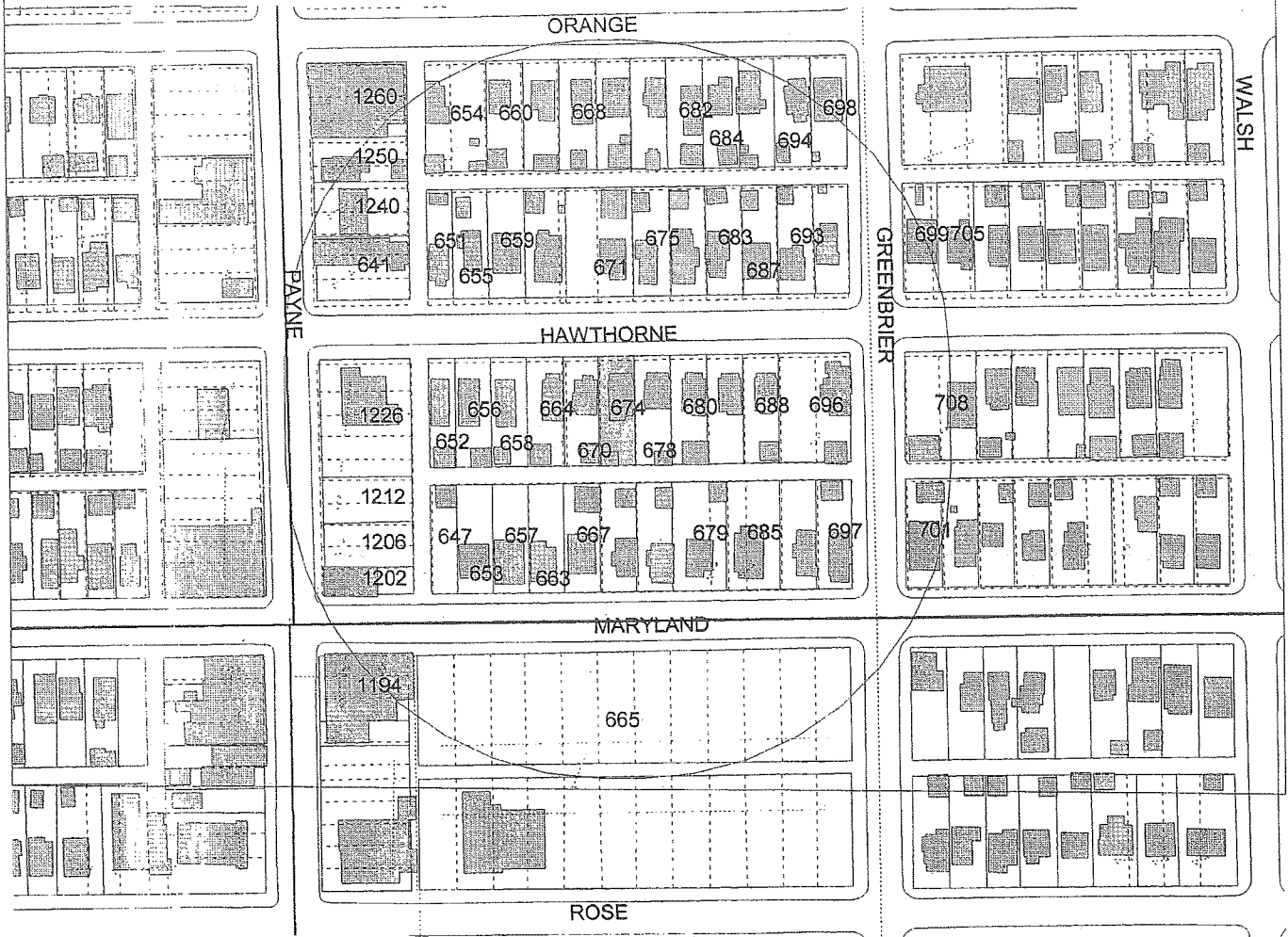
Joists = Galvanized Hangers fastened with approved nails

Fasteners = Premium Deck screws

8

FILE  
11-146198

PROPERTY WITHIN 350 FEET OF PARCEL: 674 HAWTHORNE AVENUE EAST



CREATED BY: DSI

St. Paul, Minnesota, Code of Ordinances >> PART II - LEGISLATIVE CODE >> TITLE VIII - ZONING CODE >> Chapter 61. - Zoning Code—Administration and Enforcement >> ARTICLE VII. - 61.700. APPEALS >>

## ARTICLE VII. - 61.700. APPEALS

Sec. 61.701. - Administrative appeals.

Sec. 61.702. - Appeals to city council.

Sec. 61.703. - Permits suspended upon appeal.

Sec. 61.704. - Orders.

### Sec. 61.701. - Administrative appeals.

- (a) The board of zoning appeals shall have the power to hear and decide appeals where it is alleged by the appellant that there is an error in any order, requirement, permit, decision or refusal made by the zoning administrator in carrying out or enforcing any provision of this code.
- (b) The grant or denial of approval by the planning or zoning administrator of site plans, permits, similar use determinations or other matters that the planning commission has, by rule, delegated to the planning or zoning administrator is subject to appeal to the planning commission.
- (c) An appeal may be taken by any person, firm or corporation, or by any office, department, board or bureau affected by a decision of the planning or zoning administrator within ten (10) days after the date of the decision. The appeal shall specify the grounds of the appeal. The planning or zoning administrator shall forthwith transmit to the board or commission all of the papers constituting the record upon which the action appealed from was taken. An administrative appeal shall stay all proceedings, including criminal proceedings, in furtherance of the action appealed from unless the zoning administrator certifies to the board or commission, after notice of appeal has been filed, that by reason of facts stated in the certificate a stay would cause imminent peril to life or property, in which case the proceedings shall not be stayed otherwise than by a restraining order granted by a court of competent jurisdiction.

(C.F. No. 04-537, § 1, 6-9-04; C.F. No. 10-349, § 2, 4-28-10)

### Sec. 61.702. - Appeals to city council.

- (a) The city council shall have the power to hear and decide appeals where it is alleged by the appellant that there is an error in any fact, procedure or finding made by the board of zoning appeals or the planning commission. An appeal may be taken to the city council by any person, firm or corporation or by any office, department, board or bureau affected by a decision of the board of zoning appeals or planning commission. Such appeal shall be taken within ten (10) days after the date of the decision appealed from and shall specify the grounds for the appeal. Appeals of decisions by the board of zoning appeals shall be filed with the zoning administrator; appeals of decisions by the planning commission shall be filed with the planning administrator, except that appeals of decisions by the planning commission on site plan review shall be filed with the zoning administrator.
- (b) The city council shall conduct a hearing on the appeal, shall give due notice of the hearing to all interested parties as required under section 61.303, and shall render a decision on the appeal without unreasonable delay. Any person may appear and testify at the hearing either in person or by duly authorized agent or attorney.

(C.F. No. 04-537, § 1, 6-9-04; C.F. No. 07-149, § 34, 3-28-07; C.F. No. 10-349, § 2, 4-28-10)

### Sec. 61.703. - Permits suspended upon appeal.

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 pending a final decision on the appeal.

### Sec. 61.704. - Orders.

In exercising the above powers, the city council, planning commission, or board of zoning appeals may reverse or affirm, wholly or partly, or may modify the orders, requirements, decision or determination appealed from and may make such order, requirement, decision or determination as ought to be made. To that end, the

10

board of zoning appeals shall have all the powers of the zoning administrator, and the city council shall have all the powers of either the board of zoning appeals or the planning commission. All final decisions, orders, requirements or determinations by the board of zoning appeals, planning commission, and/or city council shall be in the form of a written resolution. The city council shall serve a copy of the resolution upon the appellant and/or the owner of the affected property, zoning administrator, planning commission and board of zoning appeals by mail or personal service. The board of zoning appeals or planning commission shall serve a copy of the resolution upon the appellant and/or owner of the affected property, the zoning administrator and the planning administrator. Decisions of the city council on all matters within its jurisdiction shall be final subject only to judicial review by a court of competent jurisdiction.

*(C.F. No. 10-349, § 2, 4-28-10)*

11

# PAYNE PHALEN DISTRICT FIVE PLANNING COUNCIL

STRONG  SAFE  WELCOMING  CONNECTED  NEIGHBORHOODS

June 10, 2011

Chair and Members of the Board of Zoning Appeals  
Room 330, City Hall, 15 Kellogg Blvd., West  
City of Saint Paul, MN

**Re: Major Variance Application for 674 Hawthorne**

The Payne Phalen District Five Planning Council (District Five) Community Planning & Economic Development (CPED) Committee met on June 7, 2011 and discussed the Major Variance application for 674 Hawthorne. The applicant was represented by Mr. Sean Sellers.

The CPED Committee passed a motion to reject this Major Variance application on the basis that the proposed variance could alter the essential character of the surrounding area or unreasonably diminish established property values within the surrounding area. Other remedies exist to address the concerns of the property owner. Alternatives may include a re-design of the interior stairwell that exists or access to the second floor through a deck/stairway at the back of the structure.

Please contact our office if you have any questions on this matter at 651-774-5234.

On behalf of the CPED Committee of District Five,



Leslie McMurray  
Executive Director / Organizer

12

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

**TYPE OF APPLICATION:** Major Variance **FILE #**11-146148  
**APPLICANT:** Sean Sellers for owner Dave Hartman  
**HEARING DATE:** June 13, 2011  
**LOCATION:** 674 HAWTHORNE AVE E  
**LEGAL DESCRIPTION:** Stone Mortons Addition Lot 7 Blk 4  
**PLANNING DISTRICT:** 5  
**PRESENT ZONING:** RT1 **ZONING CODE REFERENCE:** 66.231  
**REPORT DATE:** June 5, 2011 **BY:** Yaya Diatta  
**DEADLINE FOR ACTION:** July 4, 2011 **DATE RECEIVED:** May 25, 2011

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- A. **PURPOSE:** A variance of the side yard setback in order to construct a deck with a stairway to the second floor of this duplex on the west side of the property. A nine (9) foot setback is required, three (3) feet is proposed for a six (6) foot side yard setback variance.
- B. **SITE AND AREA CONDITIONS:** This is a 40 by 125 foot lot with alley access and a one-car detached garage.
- Surrounding Land Use: A mix of duplexes and single family homes.
- C. **BACKGROUND:** The applicant is requesting a side yard setback variance in order to construct a deck with a stairway to the second floor of this duplex on the west side of the property.
- D. **CODE CITATION:**
- Sec.66.231. Residential District Dimensional Standards table requires a minimum side yard setback of 9 feet from the property line.
- E. **FINDINGS:**
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 a safety feature that would enhance the property and will not change or alter the essential character of the area.

- F. **DISTRICT COUNCIL RECOMMENDATION:** As of the date of this report, staff has not received any correspondence from District 5.
- G. **CORRESPONDENCE:** Other than the material submitted by the applicant, staff has not received additional correspondence.
- H. **STAFF RECOMMENDATION:** Based on findings 1 through 6, staff recommends approval of the variance.



Check 12817 + cc



APPLICATION FOR ZONING VARIANCE  
Department of Safety and Inspection  
375 Jackson Street  
Suite 220  
Saint Paul, MN 55101-1806  
General: 651-266-9008  
Fax: (651) 266-9099

RECEIVED IN D.S.I.

MAY 23 2011

Zoning office use only  
File Number: 11-46148  
Fee: \$ ~~350~~ \$520  
Tentative Hearing Date: 6.13.11  
Section(s) 66.231  
City agent 7 Maceta

APPLICANT

Name Sean Sellers Company Hart Sell LLC  
Address 1288 Galtier St  
City St Paul St. Mn Zip 55117 Daytime Phone 651-343-3457  
Property Interest of Applicant (owner, contract purchaser, etc) Contractor  
Name of Owner (if different) Dave Hartman Phone 651-774-2072

PROPERTY INFORMATION

Address / Location 674 Hawthorne Ave East  
Legal Description see attached  
(attach additional sheet if necessary)  
Lot Size 40' x 125' Present Zoning RT1 Present Use Duplex  
Proposed Use Duplex

Variance[s] requested:

Supporting Information: Supply the necessary information that is applicable to your variance request, provide details regarding the project, and explain why a variance is needed. Duplex/triplex conversions may require a pro forma to be submitted. Attach additional sheets if necessary.

Owner would like to build stairs/deck on west side of building. Ground level to second floor apt. Stairs/deck attached to building. width of deck/stairs 8' from building side yard setback is 11'-9"  
$$\begin{array}{r} 11'-9'' \\ - 8'-6'' \\ \hline 3'-3'' \end{array}$$
 3" space to fence/property line

Attachments as required:



Site Plan



Attachments



Pro Forma

Applicant's Signature

*[Handwritten Signature]*

Date

May 23<sup>rd</sup> 2011

16

Hartsell, LLC

May 31, 2011

To whom it may concern,

This property had a fire in March 2009. The owner, Dave Hartman contacted Hartsell, LLC about fire restoration. A permit was issued September 2009 for restoration of property. City of St. Paul issued a code compliance order. Upon restoration it was found that the 2<sup>nd</sup> floor stairway was not up to code. The existing stairs were there when property was obtained by Mr. Hartman. There is no room to expand the stairway. Therefore, deck/stairs have been designed to be placed on the west side of the house. Proposed deck/stairs would give legal entrance to 2<sup>nd</sup> floor unit. As the owner wishes to come to compliance with the City of St. Paul code compliance order, and upon viewing other such decks and stairs in the neighborhood; the deck/stairs. The proposed deck/stairs leaves a 3'-3" setback.

Any further questions can be directed to Sean Sellers at (651)343-3457

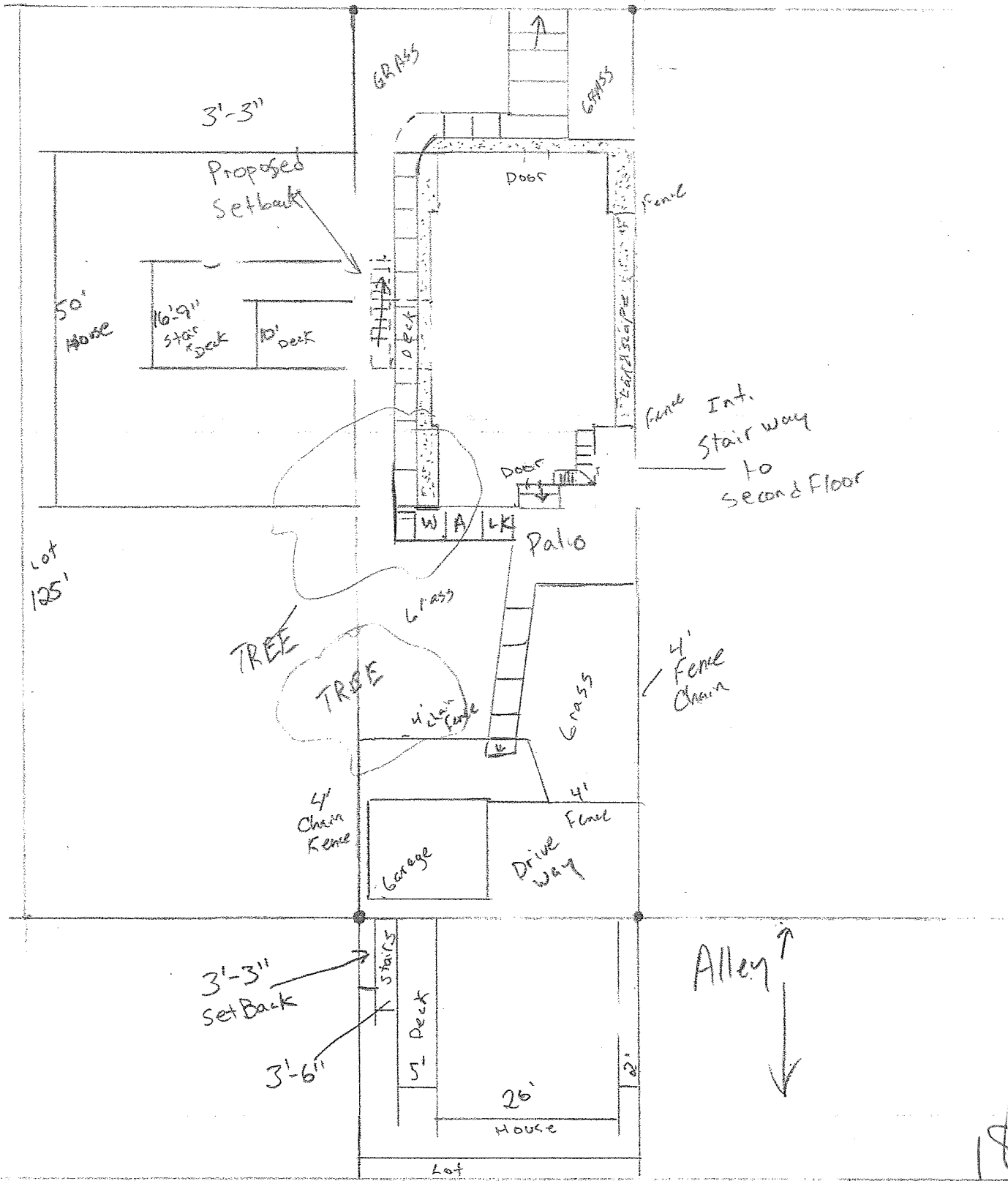
Sincerely,

Sean Sellers

674 Hawthorne Ave E.

T  
N

Site Plan



Sean Sellers 1288 Galtierst. 651-343-3457

1" = 20'

18



CITY OF SAINT PAUL  
Christopher B. Coleman, Mayor

375 Jackson Street, Suite 220  
Saint Paul, Minnesota 55101-1806

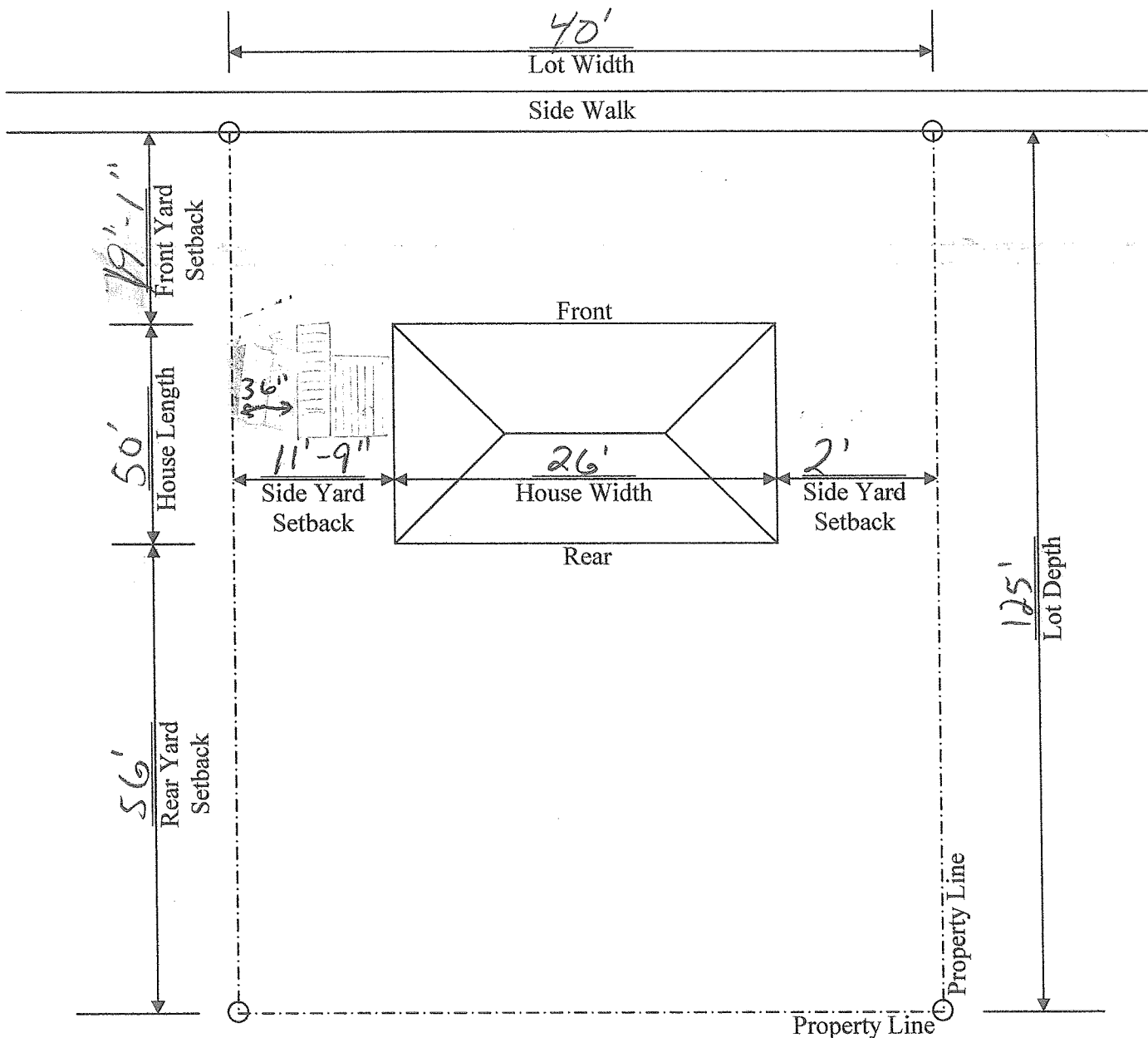
Telephone: 651-266-9007  
Facsimile: 651-266-9124  
Web: www.stpaul.gov/dsi

### BASIC SITE PLAN

(Please redraw if site conditions are substantially different that shown below)

\*Owner must verify exact location of all Property Lines.

Street Address: 674 Hawthorne Ave Ea.

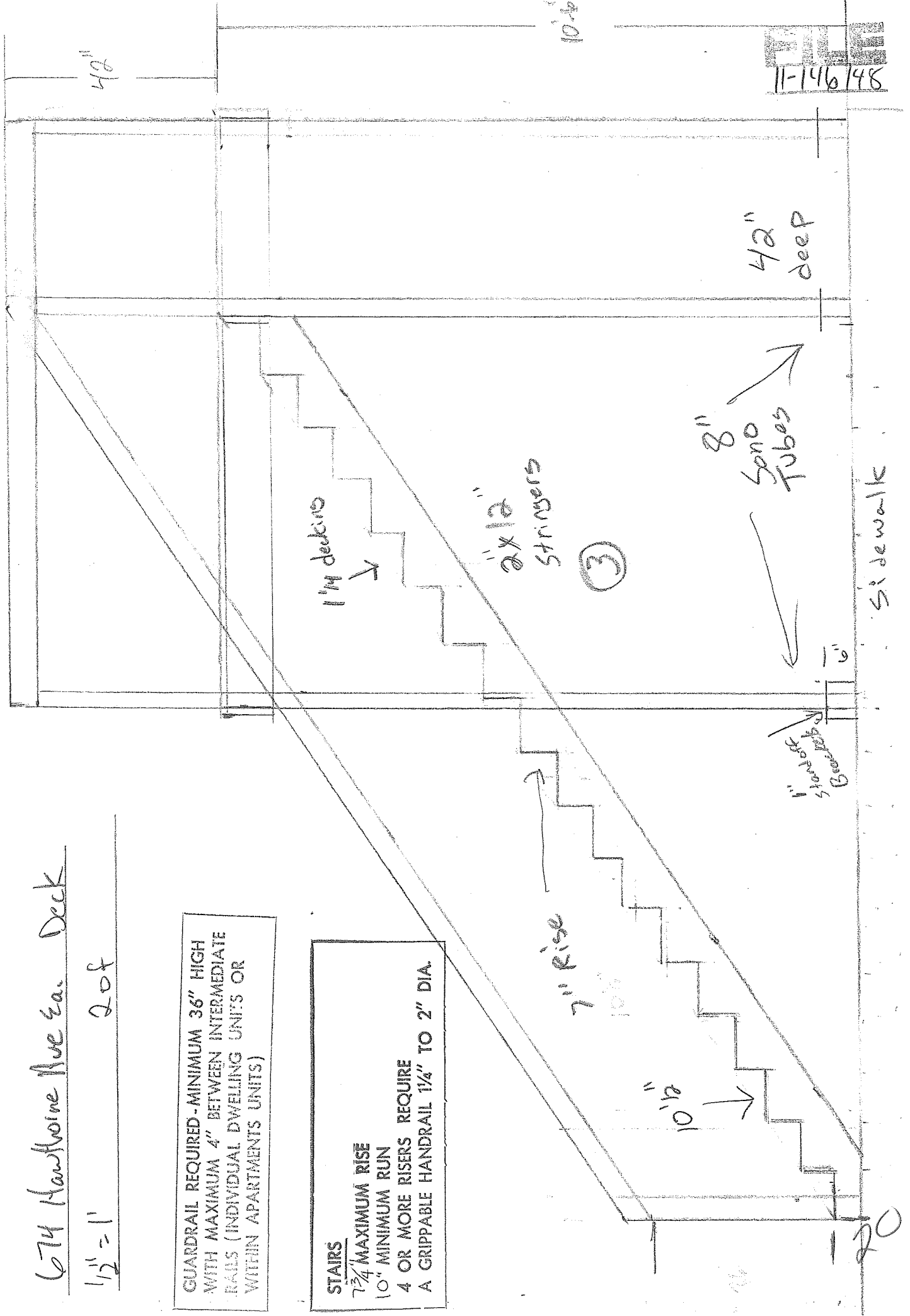


674 Hawthorne Ave ca. Deck

1 1/2" = 1' 2 of

GUARDRAIL REQUIRED - MINIMUM 36" HIGH WITH MAXIMUM 4" BETWEEN INTERMEDIATE RAILS (INDIVIDUAL DWELLING UNITS OR WITHIN APARTMENTS UNITS)

STAIRS  
7 3/4" MAXIMUM RISE  
10" MINIMUM RUN  
4 OR MORE RISERS REQUIRE A GRIPPABLE HANDRAIL 1 1/4" TO 2" DIA.



11-146/48

42" deep

8" Sono Tubes

Sidewalk

1" stand off  
stair nosing  
beveled

(3)

20

1/2" = 1'

Fence

STREET →

2x12 STRINGERS

Post

Post

Post

Concrete  
Landing  
4" thick

Side walk

Stairs

Post

16" ok  
2x10"

11-146148

House 6'-9"

13'-3"

3'-6"

10'

6'-6"

30'

9'-6"

21

# Specifications

FILE  
11-146148

Hand Rails = 42" High with 2"x2" Spindles 3 1/2" apart

Posts = 4"x4" on 1" standoff brackets

Framing = 2"x10" Joists = 2"x10" 16" OC Treated

Decking = 1 1/4" x 5 1/2" treated

Stairs = Stringers 2"x12" treated

Ledger Board = 2"x10" Fastened 16" OC with 5/8" x 5" lag Galv.

Joists = Galvanized Hangers Fastened with Approved Nails

Fasteners = Premium Deck screws



**CITY OF ST PAUL**  
 Department of Safety and Inspections  
 375 Jackson Street, Suite 220  
 St Paul, Minnesota 55101-1806

**GENERAL BUILDING PERMIT APPLICATION**

Visit our Web Site at [www.stpaul.gov/dsi](http://www.stpaul.gov/dsi)

PROJECT ADDRESS	Number	Street Name	St. Ave. Blvd. Etc.	N S E W	Suite/Apt	Building Name	Date
		674 Hawthorne Ave East					09-14-09
Contractor	(Include Contact Person)			(Permit will be mailed to the Contractor's Address)		Phone	
	Hartsell LLC			1288 Gal tier st,		651-343-3457	
State Building Contr. Lic. #	20635039			St Paul Mn 55117			
Property Owner	(Include Contact Person)			Address		Phone	
	Dave Hartman			784 Cottage Ave		651-774-2072	
Architect				Address		Phone	
				City,			
				State, Zip + 4			

Select the Type of Work ▶	<input type="checkbox"/> New Structure	<input type="checkbox"/> Addition	<input checked="" type="checkbox"/> Remodel/Alter	<input type="checkbox"/> Repair
Select Applicable Installation Below.	Select Type of Use ▶	# of Existing Dwelling Units ▶	2	
<input checked="" type="checkbox"/> Windows: # of windows ▶ 11	Mixed Commercial/ Residential buildings enter information for both the Residential and Commercial Use.	<input checked="" type="checkbox"/> Residential: Final # of Dwelling Units ▶	2	
<input checked="" type="checkbox"/> Roofing: # of squares ▶ 3		# of Dwelling Units Worked On ▶	2	
<input checked="" type="checkbox"/> Siding: # of squares ▶ 38		<input type="checkbox"/> Commercial: Value of Coml. Work ▶	\$	
▶ Note: 1 Square = 100 Square Feet		Est. Start Date ▶ 8/14/09	Est. Finish Date ▶ 1-10	Total Value ▶ \$ 235,000

Description of Project: Fire Restoration

Applicant certifies that all information is correct and that all pertinent state regulations and city ordinances will be complied with in performing the work for which this permit is issued.

[Signature]  
 Applicant's Signature

PLEASE COMPLETE THIS SECTION ONLY FOR NEW STRUCTURE OR ADDITION

Structure Dimensions (In Feet)						Is a Fire Suppression System Available? (i.e. - Sprinklers)
Width	Length	Height	Total Square Feet (include basement)	Basement	# of Stories	
				Yes <input checked="" type="checkbox"/> No <input type="checkbox"/>	2	Yes <input type="checkbox"/> No <input checked="" type="checkbox"/>

Lot Dimensions (In Feet)		Set Backs from Property Lines			
Lot Width	Lot Depth	Front	Back	Side 1	Side 2
40	125				

**For Office Use Only**

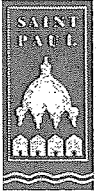
Change/Expansion of Use? Yes / No				<b>SUMMARY OF FEES</b>			
Existing Primary Use	Occupancy Group	Construction Type		Building Permit Fee	\$ 2,123.77		
DUPLEX	IRC-2	V.B		Plan Check Fee	\$ 1,380.45		
Proposed Primary Use	Plan Number	PLAN REVIEW REMARKS		State Surcharge	\$ 117.50		
DUPLEX	V.09.1876	OK TB 9/17/09 Des Review (1+3 window plan)		SAC	\$ —		
Zoning District				Park Dedication Fee	\$ —		
RTI				Total Permit Fee	\$ 3,621.72		
S.A.C. #:	Reviewed By:	Date:	Warning Folder #	Vacant Bldg. Folder #			
Charge	Credit	RR	9.18.09	09-043853			
State Valuation : \$ 235,000.00				PERMIT # ▶ 09-269655			

American Express    Discover    MasterCard    Visa

Expiration Month/Year ▶

Enter Account Number ▶▶





CITY OF SAINT PAUL  
Christopher B. Coleman, Mayor

375 Jackson Street, Suite 220  
Saint Paul, Minnesota 55101-1806

Telephone: 651-266-8989  
Facsimile: 651-266-9124  
Web: [www.stpaul.gov/dsi](http://www.stpaul.gov/dsi)

## Code Compliance Report

September 11, 2009

DAVID S HARTMAN  
784 COTTAGE AVE  
ST PAUL MN 55106-1711

Re: 674 Hawthorne Ave E  
File#: 09 043853 VB2

Dear Property Owner:

The following is the Code Compliance report you requested on August 25, 2009.

Please be advised that this report is accurate and correct as of the date September 11, 2009. All deficiencies identified by the City after this date must also be corrected and all codes and ordinances must be complied with. This report is valid for 365 days from September 11, 2009. This report may be used in lieu of a Truth in Housing Report required in St Paul Legislative Code 189. This building must be properly secured and the property maintained at all times.

In order to sell or reoccupy this property the following deficiencies must be corrected:

**BUILDING**                      **Inspector: Jim Seeger**                      **Phone: 651-266-9046**

- Tuck Point interior/exterior of foundation as necessary
- Dry out basement and eliminate source of moisture
- Remove mold, mildew and moldy or water damaged materials
- Install 20 minute fire rated doors, with self closing device, between common areas and individual units.
- Maintain one hour fire separation between dwelling units and between units and common areas
- Install handrails and guardrails at all stairways, including basement stairways, and return handrail ends to the wall or newel post per attachment.
- Install tempered or safety glass in window over stairway to code
- Repair or Replace any deteriorated window sash, broken glass, sash holders, re-putty, etc as necessary
- Provide complete storms and screens, in good repair for all door and window openings
- Provide operable hardware at all doors and windows
- Install tempered or safety glass at windows within 2 feet of doorway
- Provide thumb type deadbolts for all entry doors. Remove any surface bolts.

24

**BUILDING**                      **Inspector: Jim Seeger**                      **Phone: 651-266-9046**

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- Repair or replace damaged doors and frames as necessary, including storm doors
- Repair walls, ceiling and floors throughout, as necessary
- Prepare and paint interior and exterior as necessary. Observe necessary abatement procedure if lead base paint is present (See St Paul Legislative Code, Chap. 34 for additional information).
- Any framing members that do not meet code (where wall and ceiling covering is removed, members that are over-spanned, not being carried properly, door and window openings that are not adequately supported, etc.) are to be reconstructed in an approved manner
- Charred building components shall be scraped or sandblasted completely clean and water-damaged components replaced. A determination of necessary fire damage corrective measures shall be made by this department or by a registered structural engineer as to replacement, repairs, etc. All smoke damaged and charred members shall be cleaned, sealed and deodorized.
- Install attic insulation according to applicable code
- Habitable rooms with new usage and replaced windows shall have glass area equal to 8% of floor area, or a minimum of 8 sq. ft, one-half of which shall operate; and all bedroom windows shall meet emergency escape requirements (20 inch minimum opening width, 24 inch minimum opening height, and minimum net glazed area of 5.7 sq. ft.)
- Provide general clean-up of premise
- Repair siding, soffit, fascia, trim, etc. as necessary
- Maintain 6 inches minimum clearance between wood and soil, sloped to drain away from foundation of garage.
- Provide proper drainage around house to direct water away from foundation of house.
- Provide proper drainage around garage to direct water away from foundation of garage.
- Provide general rehabilitation of garage.
- Close in open stair risers to maintain an opening no greater than 4 inches
- A building permit is required to correct the above deficiencies
- First floor, remove all wall, ceiling and floor covering down to joist on ceiling, studs on walls.
- Replace framing on front porch where fire started to meet code.
- First floor to have framing and insulation inspected before covering.
- One hour fire rating required on garage wall closet to property line on west side.

**ELECTRICAL**                      **Inspector: Jamie McNamara**                      **Phone: 651-266-9037**

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- Ground the electrical service to the water service with a copper conductor within 5 feet of the entrance point of the water service
- Bond around water meter with a copper wire sized for the electrical service per Article 250 of the NEC
- Provide a complete circuit directory at service panel indicating location and use of all circuits

25

**ELECTRICAL**      **Inspector: Jamie McNamara**      **Phone: 651-266-9037**

- Verify/install a separate 20 ampere laundry circuit and a separate 20 ampere kitchen appliance circuit
- Ground bathroom light in second floor bathroom
- Install globe-type enclosed light fixture on all closet lights
- Remove all cord wiring
- Repair or Replace all broken, missing or loose light fixtures, switches and outlets, covers and plates
- Check all outlets for proper polarity and verify ground on 3-prong outlets
- Remove any 3-wire ungrounded outlets and replace with 2-wire or ground 3-wire to code
- Install hard-wired, battery backup smoke detector per bulletin 80-1 and other smoke detectors as required by the IRC. Also, Install carbon monoxide detector(s) within 10 feet of all bedrooms
- First floor rewire to new code due to fire. Install connector on romex at service. Second floor add second receptacle to small room. First floor service wire ground in romex to code.
- All added receptacles must be grounded, tamper-resistant and be on an Arc-Fault Circuit Interrupter-protected circuit.
- All electrical work must be done by a Minnesota-licensed electrical contractor under an electrical permit.
- Any open walls or walls that are opened as part of this project must be wired to the standards of the 2008 NEC.
- All buildings on the property must meet the St. Paul Property Maintenance Code (Bulletin 80-1).

**PLUMBING**      **Inspector: Steve Fernlund**      **Phone: 651-266-9052**

- Basement - Both Water Heaters - T and P relief discharge piping incorrect
- Basement - Both Water Heaters - Vent must be in chimney liner
- Basement - Both Water Heaters - Water piping incorrect
- Basement - Both Water Heaters - gas venting incorrect
- Basement - Both Water Heaters - not fired or in service
- Basement - Water Meter - corroded piping; incorrect piping
- Basement - Water Meter - support meter properly
- Basement - Water Piping - provide water piping to all fixtures and appliances
- Basement - Water Piping - repair or replace all corroded, broken or leaking piping
- Basement - Soil and Waste Piping - improper connections, transitions, fittings or pipe usage
- Basement - Soil and Waste Piping - improper pipe supports
- Basement - Soil and Waste Piping - no front sewer clean out; no soil stack base clean out
- Basement - Soil and Waste Piping - unplugged or open piping; back pitched piping
- Basement - Both Laundry Tubs - provide a vacuum breaker for the spout
- Basement - Both Laundry Tubs - unvented

26

Re: 674 Hawthorne Ave E

Page 4

**PLUMBING**

**Inspector: Steve Fernlund**

**Phone: 651-266-9052**

- First Floor - Gas Piping - range gas shut off; connector or piping incorrect
- First Floor - Lavatory - unvented
- First Floor - Lavatory - waste incorrect
- First Floor - Sink - incorrectly vented
- First Floor - Sink - waste incorrect
- First Floor - Toilet Facilities - unvented
- First Floor - Toilet Facilities - waste incorrect
- First Floor - Tub and Shower - unvented
- First Floor - Tub and Shower - waste incorrect
- Second Floor - Gas Piping - range gas shut off; connector or piping incorrect
- Second Floor - Lavatory - faucet is missing, broken, or parts missing
- Second Floor - Tub and Shower - provide stopper
- Exterior - Lawn Hydrants - Broken or parts missing
- Exterior - Lawn Hydrants - Requires backflow assembly or device

**HEATING**

**Inspector: Maureen Hanson**

**Phone: 651-266-9043**

- Install approved lever handle manual gas shutoff valve on second floor wall furnace in kitchen and remove unapproved valve in connecting closet/pantry; also, remove non-conforming gas flex connection thru wall.
- Clean and Orsat test furnace burner. Check all controls for proper operation. Check furnace heat exchanger for leaks; provide documentation from a licensed contractor that the heating unit is safe.
- Clean and Orsat test wall furnace burner. Check all controls for proper operation. Check furnace heat exchanger for leaks; provide documentation from a licensed contractor that the heating unit is safe.
- Replace wall furnace flue venting to code.
- Connect furnace and both water heaters venting into chimney liner.
- Provide adequate clearance from flue vent pipe on furnace and second floor wall furnace to combustible materials or provide approved shielding according to code
- Vent clothes dryer to code.
- Provide support for gas lines to code. Plug, cap and/or remove all disconnected gas lines.
- Provide appropriate size openable window in all bathrooms or prove approved bathroom exhaust fan is vented to the exterior Ventilation permit maybe required.
- Install furnace air filter access cover.
- Clean all supply and return ducts for warm air heating system.
- Repair and/or replace heating registers as necessary.
- Provide heat in every habitable room and bathrooms including
- A separate heating system is required for each dwelling unit if the furnace is replaced.
- Mechanical GAS permit is required for the above work.

27

Re: 674 Hawthorne Ave E

Page 5

## ZONING

1. This property is in a (n) RT1 zoning district.
2. This property was inspected as a Duplex.

### Notes:

- See attachment for permit requirements and appeals procedure.
- Provide plans and specifications for any portion of the building that is to be rebuilt.
- Most of the roof covering could not be inspected from grade. Recommend this be done before rehabilitation is attempted.
- There was considerable storage/clutter within property at the time of the inspection. Property is to meet appropriate Codes when complete.
- Interior of garage not available for inspection. Repair per applicable codes.
- The building is approved for 2 dwelling units but contains 2 dwelling units. Obtain approval for additional units or remove the excess dwelling units. If the additional units are approved, maintain the required fire-separation between dwelling units and between units and common area.

**This is a registered vacant building. In order to sell or reoccupy this building, all deficiencies listed on this code compliance report must be corrected within six (6) months of the date of this report. One (1) six-month time extension may be requested by the owner and will be considered if it can be shown that the code compliance work is proceeding and is more than fifty (50) percent complete in accordance with Legislative Code Section 33.03(f).**

You may file an appeal to this notice by contacting the City Clerk's Office at 651-266-8688. Any appeal must be made in writing within 10 days of this notice. (You must submit a copy of this notice when you appeal, and pay a filing fee.)

If you have any questions regarding this inspection report, please contact Jim Seeger between 7:30 - 9:00 AM at 651-266-8989 or leave a voice mail message.

Sincerely,

James L. Seeger  
Code Compliance Officer  
JLS:ml  
Attachments

28

ZONING WORKSHEET

L. ZANGS 11-10

ADDRESS: 674 E Hawthorne Av.  
 PIN: 20-29-22-43-0193 Dist 01

Sub Duplex

BUILDING CARD INFORMATION:

CONSTRUCTION DATE: 1903 PERMIT: \_\_\_\_\_ TYPE OF STRUCTURE: Duplex

PERMITS	COUNTY ASSESSOR'S RECORDS	LICENSE RECORDS	CITY DIRECTORY
✓	1913- Duplex		1954 - 2 names
	1922- u		
	1951- u		
	1964- u		
	1975- u		
	1989- "		

LEGAL DESCRIPTION: Stone & Maston's Addition  
Lot 7 Blk 4  
 LOT SIZE: 4840 sq ft  
 CROSS STREETS: Payne & Greenview

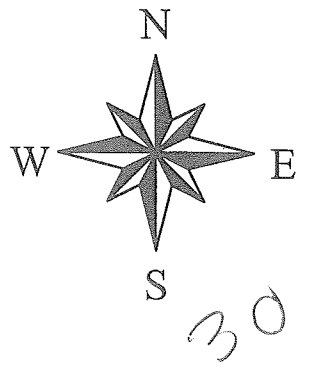
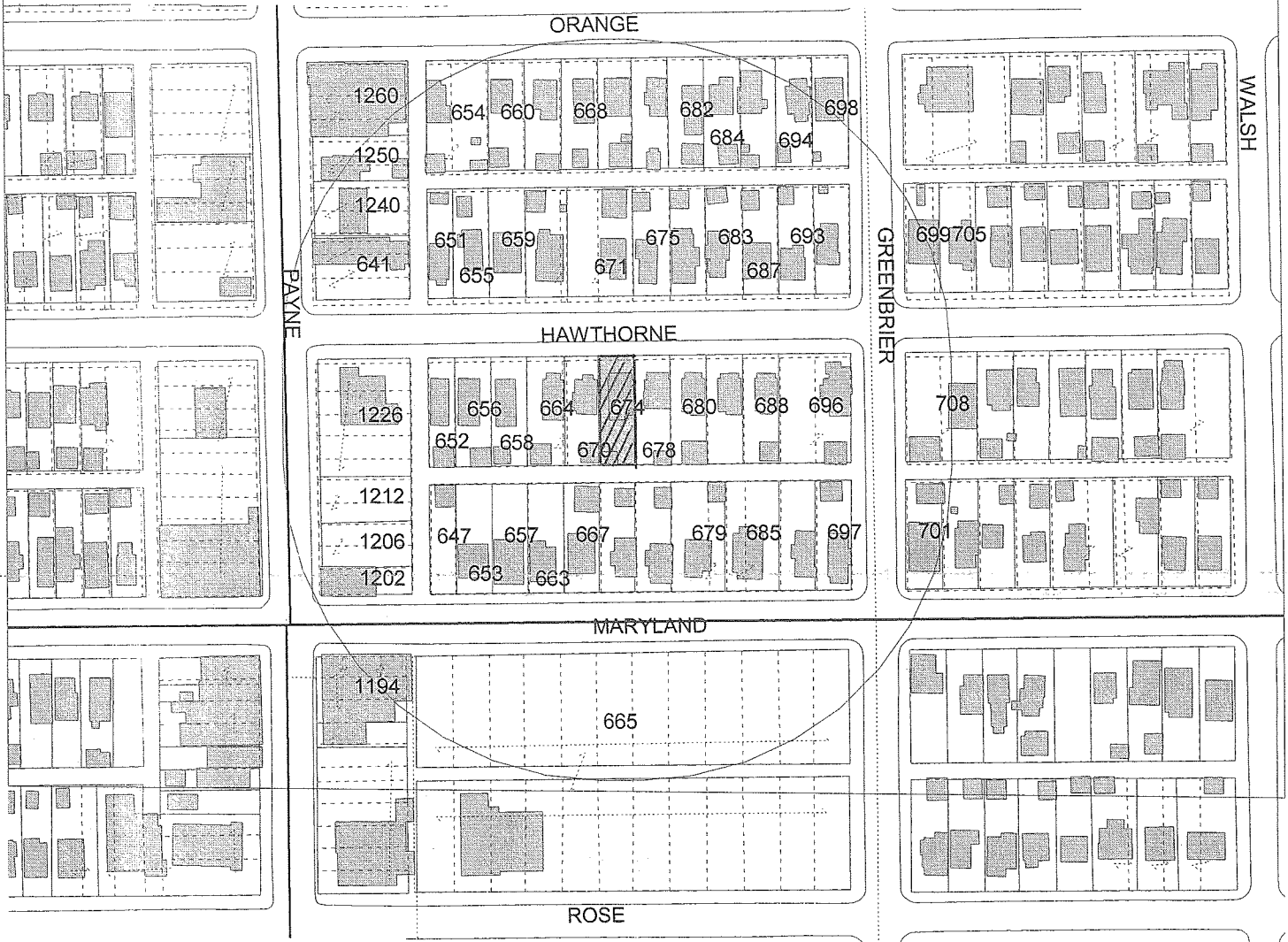
ZONE	USE (C/NC)	UNITS PERMITTED	REQUIRED LOT SIZE	LOT SIZE (C/NC)
X	C			C
1922				
1960	C		<del>2000</del> None	C
1964			2000 sq'	C
1975			6000 sq', 50' wide	NC
RT-1	<del>C</del> C	ROOMS: UNITS:	" "	NC

ZONING STATUS FOR \_\_\_\_\_ COMMERCIAL USE: \_\_\_\_\_ PLANNING: \_\_\_\_\_  
DUPLEX RESIDENTIAL USE: \_\_\_\_\_ ZONING FILE \_\_\_\_\_  
 LEGAL - CONFORMING \_\_\_\_\_ NO RECORD \_\_\_\_\_  
X LEGAL - CONFORMING USE WITH NON-CONFORMING LOT SIZE (for residential)  
 LEGAL - NON-CONFORMING USE \_\_\_\_\_  
 ILLEGAL \_\_\_\_\_

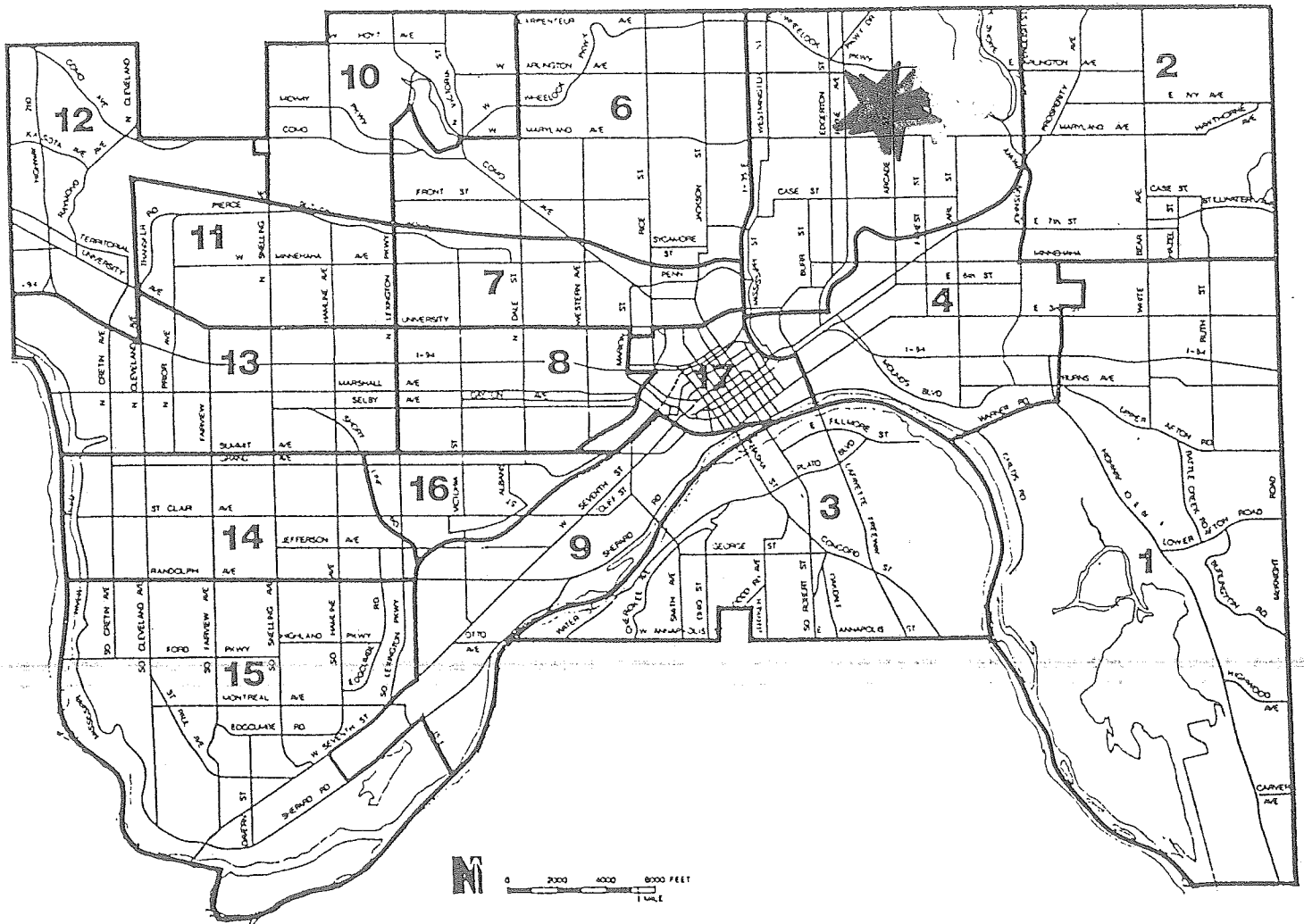
W. Lane  
 11/17/97  
 29

FILE  
11-146148

PROPERTY WITHIN 350 FEET OF PARCEL: 674 HAWTHORNE AVENUE EAST



CREATED BY: DSI



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

ZONING FILE 11-146148



# PAYNE PHALEN DISTRICT FIVE PLANNING COUNCIL

**CLE**  
11-146 148

STRONG  SAFE  WELCOMING  CONNECTED  NEIGHBORHOODS

June 10, 2011

Chair and Members of the Board of Zoning Appeals  
Room 330, City Hall, 15 Kellogg Blvd., West  
City of Saint Paul, MN

**Re: Major Variance Application for 674 Hawthorne**

The Payne Phalen District Five Planning Council (District Five) Community Planning & Economic Development (CPED) Committee met on June 7, 2011 and discussed the Major Variance application for 674 Hawthorne. The applicant was represented by Mr. Sean Sellers.

The CPED Committee passed a motion to reject this Major Variance application on the basis that the proposed variance could alter the essential character of the surrounding area or unreasonably diminish established property values within the surrounding area. Other remedies exist to address the concerns of the property owner. Alternatives may include a re-design of the interior stairwell that exists or access to the second floor through a deck/stairway at the back of the structure.

Please contact our office if you have any questions on this matter at 651-774-5234.

On behalf of the CPED Committee of District Five,



Leslie McMurray  
Executive Director / Organizer

32

FILE  
11-146148

**From:** Robert Revoir <bettebob6@yahoo.com>  
**To:** <yaya.diatta@ci.stpaul.mn.us>  
**Date:** 6/9/2011 8:35 PM  
**Subject:** 674 E. Hawthorne Avenue file #11-146148

I am writing regarding the property at 674 E. Hawthorne Ave. The biggest concern of the neighbors is that they rent to good tenants that will be an asset to our neighborhood. We have many problems here in this area and do not want any more problems, so please tell the owner to be careful who they rent this duplex to. So much work has gone into fixing it up and we hope it will be a place where good residents live.  
A concerned resident and speaking for others. Thank-you

33

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

**Deadline for Action: 07-04-11**

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.

34

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.

File #11-146148  
Resolution

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:**  
**SECONDED BY:**  
**IN FAVOR:**  
**AGAINST:**

**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.

36

File #11-146148  
Resolution

**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

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**Debbie M. Crippen**  
**Secretary to the Board**

MINUTES OF THE MEETING OF THE BOARD OF ZONING APPEALS  
CITY COUNCIL CHAMBERS, 330 CITY HALL  
ST PAUL, MINNESOTA, JUNE 13, 2011

PRESENT: Mmes. Maddox, Bogen, Linden and Morton; Messrs. Courtney, Ward, and Wilson of the Board of Zoning Appeals; Mr. Diatta, Ms. Lane and Ms. Crippen of the Department of Safety and Inspections.

ABSENT: Peter Warner

The meeting was chaired by Joyce Maddox, Chair.

Sean Sellers (#11-146148) 674 Hawthorne Avenue East: A variance of the side yard setback in order to construct a deck with a stairway to the second floor of this duplex on the west side of the property. A nine (9) foot setback is required, three (3) feet is proposed for a six (6) foot side yard setback variance.

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

One letter was received from a neighbor supporting the variance request as long as the property owner addresses safety concerns because the building had a history of problems with tenants.

One letter was received from District 5 supporting the variance request.

The applicant, SEAN SELLERS, HART SELL LLC - 1288 Galtier Street, was not present.

There was no opposition present at the hearing.

Ms. Bogen stated that she wanted to know what kind of a duplex it is and where the egress window is if it has an upper and a lower unit. The code is not asking for this door and stairway to be put in for compliance. She stated that if it is not required by the code there must be some other egress from the second floor if it is an upper and lower duplex. If it is not required by the code she does not see any reason to give a variance to allow it.

Mr. Diatta replied that the applicant found out during the code inspection that the stair was narrow. He wanted to widen the stairs during the re-construction to meet today's code, but it is not a requirement because the narrow stairs were an existing condition and are "grandfathered" in. Both the owner and the applicant were concerned and decided they wanted to address that by building another stairway to code on the west end of the building. Ms. Bogen asked, so they can use that stairway even though it is too narrow, because it has been there? That would be the egress and they want to put this big deck on the second floor with the stair case going down.

Mr. Wilson asked if the side stair case would be enclosed? Mr. Diatta replied no it would just be exterior steps. Mr. Wilson further questioned whether the applicant intends to remove the inside stairway? Mr. Diatta replied no he plans to keep it as it is.

Ms. Bogen stated she does not understand why this large deck does not need a variance to build. Mr. Diatta stated that the deck is encroaching within the required setback for a duplex so that is why it

requires a variance. Ms. Bogen replied so it is the deck that is encroaching? Mr. Diatta replied it is the whole deck and stairs that are encroaching into the required setback. Only 11 feet is available and the duplex needs nine feet of setback. Ms. Bogen stated it looks like on page 41 of the packet, if you didn't have a deck on there, and just wanted a stair case for safety purposes, it looks like the staircase could be attached to the house and maybe he would not need a variance to get the nine feet. Mr. Diatta replied you would be looking at a 2 foot wide staircase, the setback is 11 feet 9 inches. Ms. Bogen stated so if you didn't have the deck as well as the staircase it would be about a 3 inch variance.

Ms. Maddox asked Mr. Diatta if he had asked the applicant about having the stairs in the back of the house, that looks like what the District Council is proposing. Mr. Diatta replied yes he did ask the applicant why he could not put the stairs in the back, and he said that is not feasible because there is no room to widen them in the interior and there is no room in the back yard because there is a deck in the back.

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

Mr. Wilson moved to approve the variance and resolution based on findings 1 through 6, subject to the condition that the inside rear stairs are removed. The motion failed for lack of a second.

Mr. Ward asked staff being this is a fire restoration project where did most of the damage occur or was it all over? Mr. Diatta replied that he had included the inspectors' list of corrections from the Code Compliance Inspection. So whether that is the extent of the damage he does not know. Mr. Ward replied it does not really say where. Mr. Diatta stated he knows it is a fire restoration project but how much damage was done he does not know. But he thinks it started in the upper unit whether it got to the lower unit or not he does not know.

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

Ms. Morton seconded the motion, which passed on a roll call vote of 5-2(Bogen, Wilson).

Submitted by:

YaYa Diatta

Approved by:

Gloria Bogen, Secretary

39