

CITY OF SAINT PAUL

Deadline for Action: October 14, 2019

BOARD OF ZONING APPEALS RESOLUTION

ZONING FILE NUMBER: 19-075934

DATE: September 9, 2019

WHEREAS, Dorian P Nelson has applied for a variance from the strict application of the provisions of Section 66.234 and Section 66.231 of the Saint Paul Legislative Code pertaining to the construction of a 2-story addition to an existing single-family dwelling and a detached, two-car garage in the rear yard of the property in the R4 zoning district at 1946 Wellesley Ave PIN: 092823220087; and

WHEREAS, the Saint Paul Board of Zoning Appeals conducted a public hearing on September 9, 2019 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.

The applicant is proposing to construct a two-story addition to the rear of an existing single-family dwelling. The proposed project consists of expanding the family and dining rooms along a kitchen on the first floor, and creating a master suite, additional bathroom and bedrooms on the second floor. This proposal also includes the construction of a detached, three-car garage; however, no variances are required for the accessory structure.

For properties zoned R1-R4 in Planning District 15, in which this property is located, sidewalls that are greater than 35' in length must have an articulation in the form of a structural projection of at least one (1) foot in depth and six (6) feet in length, and must extend from grade to the eave.

The existing house is 26' in length and with the addition, the total length of the house would be 50'-10". The west sidewall would be articulated, however, there is no sidewall present on the east side, resulting in the requested variance.

The zoning code states that the minimum required side yard setback is 4'; the house has a nonconforming side yard setback of 3.1' on the west side and the addition would continue along the existing setback, resulting in the requested variance.

The maximum building height allowed for properties zoned R4 in Planning District 14 is 22'. The applicant is proposing a building height of 23'-10" resulting in the requested variance.

This project would be an improvement to the existing house and help meet the needs of a growing family. This is consistent with Sec. 60.103 of the Zoning Code to conserve and improve property values. This finding is met.

2. The variance is consistent with the comprehensive plan.

The proposed addition is an improvement to the property that would support the rehabilitation of Saint Paul's existing housing stock. The requested variance is consistent with the Comprehensive Plan by allowing the existing property owner in an "established neighborhood" to reinvest in his property and maintain its vitality and preserve and promote the neighborhood (Strategy 2.1 of the Housing Plan). 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.*

As stated above, the existing dwelling has a nonconforming west side setback of 3.1'. The addition would need to be set back .9' from the west property line and articulated because the new sidewall would be greater than 35' in length. It would be unreasonable to require a small additional setback and a sidewall articulation on the new addition. Requiring both provisions could compromise the interior layout of the addition and create an undesirable aesthetic on the west exterior wall. This finding is met for the side yard setback.

The intent of the sidewall articulation ordinance is to prevent long, monotonous sidewalls. The west sidewall would be doubling in length without a break, and with the nonconforming setback at 3.1', creates a structure that is out of scale with the adjacent properties. The applicant could propose a design that is more to scale with the surrounding properties and build along the nonconforming setback.

The additional building height would have a negative impact on the west given that the structure is already has a nonconforming setback of 3.1'. Generally, the maximum height allowed is 22' at a 4' side yard setback. The proposed addition is too massive when considering its proximity to the adjacent property line.

While the applicant has stated the desire for building a taller addition along a nonconforming side setback without an articulation, there is so practical difficulty that demonstrates the need for a larger addition without any architectural breaks, or a height that meets the requirement. This finding is not met.

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

The placement of the house 3.1' from the east side property line is a circumstance unique to the property not created by the landowner. This finding is met.

However, there is no circumstance unique to the property that would warrant a taller building height and a waiver of the articulation requirement. This finding is not met for the building height and waiver of the articulation requirement.

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

Single family dwellings are an allowed use in the R4, single family dwelling zoning district. This finding is met.

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

There are several different architectural styles of dwellings in this neighborhood. The construction of this addition would be out of scale with the adjacent homes in terms of height and overall building mass, however, it would not alter the character of the neighborhood. This finding is met.

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 .9 feet, for a variance of 3.1' on property located at 1946 Wellesley Ave; and legally described as Academy Heights Lot 2 Blk 6; in accordance with the application for variance and the site plan on file with the Zoning Administrator.

IS HEREBY APPROVED

MOVED BY: Bogen
SECONDED BY: Clarksen
IN FAVOR: 6
AGAINST: 0

NOW, THEREFORE, BE IT FURTHER RESOLVED, by the Saint Paul Board of Zoning Appeals that the request to waive provisions of Section 66.234 to allow a Sidewall Articulation of 50 feet and a building height of 23 feet, 10 inches in the R4 zoning district, in which the property is located, on property located at 1946 Wellesley Ave; and legally described as Academy Heights Lot 2 Blk 6; in accordance with the application for variance and the site plan on file with the Zoning Administrator.

IS HEREBY DENIED.

MOVED BY: Clarksen
SECONDED BY: Bogen
IN FAVOR: 6
AGAINST: 0

MAILED: September 10, 2019

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.

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 September 9, 2019 and on record in the Department of Safety and Inspections, 375 Jackson Street, Saint Paul, Minnesota.

SAINT PAUL BOARD OF ZONING APPEALS

**Maxine Linston
Secretary to the Board**



CITY OF SAINT PAUL

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Board of Zoning Appeals

Staff Report

TYPE OF APPLICATION: Minor Variance **FILE #: 19 075934**

APPLICANT: Dorian Nelson

HEARING DATE: September 9, 2019

LOCATION: 1946 Wellesley Avenue

LEGAL DESCRIPTION: Academy Heights Lot 2 Blk 6

PLANNING DISTRICT: 14

PRESENT ZONING: R4

ZONING CODE REFERENCE: 66.234

REPORT DATE: September 4, 2019 **BY:** Jerome Benner II

DEADLINE FOR ACTION: October 14, 2019 **DATE RECEIVED:** August 16, 2019

A. **PURPOSE:** The applicant is proposing to construct a 2-story addition to an existing single family dwelling and a detached, two-car garage in the rear yard of the property. The following variances are being requested: 1) In Planning District 14, the maximum building height in the R4 zoning district is 22'; the applicant is proposing a building height of 23'-10", for a variance request of 1'-10". 2) The minimum side yard setback for a single family dwelling in the R4 is 4'; the existing setback is nonconforming at 3.1' and the addition would continue along the existing sidewall for a variance request of .9'. 3) In this district, a sidewall articulation is required on sidewalls that are greater than 35' in length. The existing sidewall is 27' in length and with the addition, the total length would be 50'; the applicant is requesting a variance of this condition.

B. **SITE AND AREA CONDITIONS:** This is a 40' x 125' lot with alley access to an existing detached, two-car garage to the rear of the property.

Surrounding Land Use: This area consists of predominately single family dwellings.

C. **ZONING CODE CITATIONS:**

Sec. 66.234 Sidewall Articulation: For R1—R4 residential districts in Planning District 14, excluding property with local heritage preservation site or district designation, sidewall articulation is required for building faces that exceed thirty-five (35) feet in length. Articulation shall be in the form of a structural projection of at least one (1) foot in depth and six (6) feet in length, and must extend from grade to the eave.

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D. FINDINGS:

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

The applicant is proposing to construct a two-story addition to the rear of an existing single family dwelling. The proposed project consists of expanding the family and dining rooms along a kitchen on the first floor, and creating a master suite, additional bathroom and bedrooms on the second floor. This proposal also includes the construction of a detached, three-car garage, however, no variances are required for the accessory structure.

For properties zoned R1-R4 in Planning District 15, in which this property is located, sidewalls that are greater than 35' in length must have an articulation in the form of a structural projection of at least one (1) foot in depth and six (6) feet in length, and must extend from grade to the eave.

The existing house is 26' in length and with the addition, the total length of the house would be 50'-10". The west sidewall would be articulated, however, there is no sidewall present on the east side, resulting in the requested variance.

The zoning code states that the minimum required side yard setback is 4'; the house has a nonconforming side yard setback of 3.1' on the west side and the addition would continue along the existing setback, resulting in the requested variance.

The maximum building height allowed for properties zoned R4 in Planning District 14 is 22'. The applicant is proposing a building height of 23'-10" resulting in the requested variance.

This project would be an improvement to the existing house and help meet the needs of a growing family. This is consistent with Sec. 60.103 of the Zoning Code to conserve and improve property values. This finding is met.

2. *The variance is consistent with the comprehensive plan.*

The proposed addition is an improvement to the property that would support the rehabilitation of Saint Paul's existing housing stock. The requested variance is consistent with the Comprehensive Plan by allowing the existing property owner in an "established neighborhood" to reinvest in his property and maintain its vitality and preserve and promote the neighborhood (Strategy 2.1 of the Housing Plan). 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.*

As stated above, the existing dwelling has a nonconforming west side setback of 3.1'. Currently, the east sidewall is 26' in length and with the addition, it nearly doubles the length of the house along a setback that does not comply to today's standards. The applicant could jog the house inward slightly by 1' in order to meet the new setback and articulation requirement, which would eliminate the need for two variance requests.

The intent of the sidewall articulation ordinance is to prevent long, monotonous sidewalls. The west sidewall would be doubling in length without a break, and with the nonconforming setback at 3.1', creates a structure that is out of scale with the adjacent properties. The applicant could propose a design that is more to scale with the surrounding properties and build along the nonconforming setback.

The additional building height would have a negative impact on the west given that the structure is already has a nonconforming setback of 3.1'. Generally, the maximum height allowed is 22' at a 4' side yard setback. The proposed addition is too massive when considering its proximity to the adjacent property line.

While the applicant has stated the desire for building a taller addition along a nonconforming side setback without an articulation, there is so practical difficulty that demonstrates the need for a larger addition without any architectural breaks, or a height that meets the requirement. This finding is not met.

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

The placement of the house 3.1' from the east side property line is a circumstance unique to the property not created by the landowner, however, there is no circumstance unique to the property that would warrant a taller building height and a waiver of the articulation requirement. This finding is not met for the building height and waiver of the articulation requirement.

This finding is met for the side setback request.

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

Single family dwellings are an allowed use in the R4, single family dwelling zoning district. This finding is met.

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

There are several different architectural styles of dwellings in this neighborhood. The construction of this addition would be out of scale with the adjacent homes in terms of height and overall building mass, however, it would not alter the character of the neighborhood. This finding is met.

- E. **DISTRICT COUNCIL RECOMMENDATION:** As of the date of this report, District 14 – MacGroveland Community Council has not provided a recommendation.
- F. **CORRESPONDENCE:** Staff received an email from the property owners at 1968 Wellesley Avenue in favor of the requests.
- G. **STAFF RECOMMENDATION:** Based on findings 3 and 4, staff recommends denial of the variance requests.



