

**CITY OF SAINT PAUL
BOARD OF ZONING APPEALS RESOLUTION
ZONING FILE NUMBER: 16-056641
DATE: August 15, 2016**

WHEREAS, Amy Her has applied for a variance from the strict application of the provisions of Section 63.501(b)(2) of the Saint Paul Legislative Code pertaining to front yard parking requirement. A variance in conjunction with the Wheelock Ground Round Project in order to allow the curb cut to remain for access to the existing front yard parking in the R3 zoning district at 360 Wheelock Parkway East. PIN: 202922220084; and

WHEREAS, the Saint Paul Board of Zoning Appeals conducted a public hearing on August 15, 2016 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.

This variance request is in keeping with the Guidelines for Variance Requests to Allow Parking within a required yard adopted on February 6, 2012, by the Board of Zoning Appeals as follows:

- a) *If the parking space is already there, the parking space has been in existence and used continuously for the past ten (10) years.*

The driveway at one time led to an attached garage located in the front yard of the property. When the garage was converted into additional living space, the driveway remained and has been in use since 1985 according to aerial photographs. The existing surface of the driveway is concrete. This finding is met.

- b) *The applicant can demonstrate hardship in that there is no feasible alternative location for the parking space. For the purpose of this condition hardship shall include: a disability by a resident of the property that qualifies for a State Handicap Parking Permit, topography that makes rear yard parking impossible, the lack of alley access to the property, or insufficient lot size to provide off-street parking in a non-required yard.*

The applicant states that the garage was already converted into additional living space prior to her purchasing the home in 2007. She also states in order to convert the garage back into living space, it would require significant reconstruction of her home. There is also no alley access to the property, however, there is an existing gravel parking pad located in the rear of the property that is accessed from Edgemont Street.

The driveway has the capacity to store four (4) vehicles in a stacked position. This would be a reasonable alternative to the parking in the front yard. This finding is not met.

- c) *The applicant submits a petition signed by 2/3 of property owners within 100 feet of the property along either side of the subject property and from property across the street stating that they have no objection to the parking.*

The applicant was required to obtain three (3) signatures and they received 11. The applicant has submitted a sufficient number of signatures. This finding is met.

- d) *The parking space is paved or the applicant agrees to pave the space within 120 days.*

It was observed from a site visit that the parking space is paved. This finding is met.

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

The applicant's request would allow the homeowner and other residents to park on the property, limiting the need to park on the street. This is consistent with a goal of the Comprehensive Plan to provide off-street parking in order to lessen congestion on public streets. 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.*

This building is a legal non-conforming duplex. It requires three off-street parking spaces and the parking in front allows for at least three off-street parking spaces. However, the parking located in the rear of the property that is accessed from Edgemont Street can provide parking for four (4) vehicles in a stacked position. There is enough room to enlarge the existing parking to accommodate a third space that would not require the vehicles to be stacked, and meet the parking requirement for a duplex. 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 garage was converted into additional living space prior to the current owner purchasing the house in 2007. This circumstance was not created by the current landowner. 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.*

The proposed variance would not permit any use that is not allowed in the zoning code. This

finding is met.

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

There are five (5) other properties within the surrounding area that also have existing parking in the front yard. However, these properties have driveways leading to garages in the front. Parking in a driveway that leads to a legal parking is allowed under the zoning code. The applicant's property would be the only one located on a corner lot that has front yard parking. This finding is not met.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Board of Zoning Appeals that the request to waive the provisions of Section 63.501(b)(2) to allow the curb cut to remain for access to the existing front yard parking on property located at 360 Wheelock Parkway East; and legally described as Dawsons Fifth Addition Subj To Pkwy & Vac Idaho Ave Accruing Ex Wly 49 7/10 Ft Lots 4 Thru Lot 7 Blk 2; in accordance with the application for variance and the site plan on file with the Zoning Administrator.
IS HEREBY DENIED.

MOVED BY: Saylor
SECONDED BY: Albert
IN FAVOR: 4
AGAINST: 1

MAILED: August 16, 2016

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 August 15, 2016 and on record in the Department of Safety and Inspections, 375 Jackson Street, Saint Paul, Minnesota.

SAINT PAUL BOARD OF ZONING APPEALS

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