

GENERAL MINUTES
CITY HALL – ROOM 330
THE BOARD OF ZONING APPEALS
SAINT PAUL, MINNESOTA
MARCH 21, 2022

BOARD MEMBERS PRESENT

Thomas Saylor
Daniel Miller
Luis Rangel Morales
Danielle Swift
Diane Trout-Oertel
Marilyn Porter-remote

STAFF PRESENT

David Eide DSI
Yaya Diatta DSI
Tia Anderson DSI
Maxine Linston DSI
Katherine Erickson DSI
Therese Skarda City Attorney

ABSENT BOARD MEMBERS

Robert Clarksen

ABSENT

Peter Warner

APPROVAL OF MINUTES for February 22, 2022

Moved By: Saylor / Second By: Trout-Oertel

APPROVAL OF RESOLUTIONS - None

Old Business: None

New Business

FILE #	NAME	MOVED	SECONDED	VOTE	ACTION
22-032023	1155 Raymond Avenue – Irene Opsahl & Thom Lister	Trout-Oertel	Saylor	4-0	Approved
22-034676	664 Blair Avenue – Muna Ali	Saylor	Trout-Oertel	4-1	Denied
22-031718	623 Sims Avenue – Daisy Properties LLC	Rangel Morales	Trout-Oertel	5-0	Approved
22-031720	410 Griggs Street North – City of St Paul	Rangel Morales	Swift	4-0	Laid over 2 weeks

Submitted by: Maxine Linston *Maxine Linston*
Maxine Linston (Apr 6, 2022 08:50 CDT)

David Eide *David Eide*

Approved by:

Diane Trout-Oertel, Secretary

Diane Trout-Oertel
Diane Trout-Oertel (Apr 5, 2022 20:47 CDT)

BOARD OF ZONING APPEALS HEARING MINUTES

ROOM 330 – CITY HALL
THE BOARD OF ZONING APPEALS
SAINT PAUL, MINNESOTA
MARCH 21, 2022

PRESENT: Members of Board of Zoning Appeals: Mr. Miller, Mr. Rangel Morales, Mr. Saylor, Ms. Swift, Ms. Trout-Oertel, Ms. Porter

Department of Safety and Inspections: Mr. Eide, Mr. Diatta, Ms. Anderson, Ms. Linston, Ms. Erickson,

Legal: City Attorney Theresa Skarda

ABSENT: Robert Clarksen & Peter Warner

The meeting was chaired by Daniel Miller

Chair Miller- Alright, we're going to start. Good afternoon and welcome to the Board of Zoning Appeals. Our purpose is to review and decide request for zoning code variances, administrative reviews and requests to modify the home occupation requirements for handicapped individuals. If you intend to testify today, we ask you start to remarks by giving your name and address. Staff will first show slides of the site, a presentation of findings and discussion will follow. I will then call on the applicant. Then in favor and then those opposed. At that point the board may call back the applicant in case we have additional questions. I will then close the public portion of the hearing and the board will vote to approve or deny the request. The board's vote is final unless appealed to the city council within 10 days. We will take the cases in the order they appear in the agenda, unless there is opposition. For cases with opposition, the board reserves the right to move those cases to the end of the agenda.

A few words on speaker time, the board limits this to a total of 30 minutes for those speaking in favor and equal 30 minutes for those speaking in opposition. Individual speakers are limited to three minutes each. Please be mindful of this. If you have submitted a letter or email, remember, there's no need to read those documents as they are already part of the record. Please provide your key points without repeating ideas presented by previous speakers. A few words on a virtual environment. Please keep yourself muted if you are not speaking so it is easier for everyone to hear. And please keep your video off to conserve bandwidth.

Present today from the Department of Safety and Inspections are David Eide, Katherine Erickson and our secretary is Maxine Linston. Our legal counsel is Theresa Skarda. My name is Daniel Miller. I'm the chair of the Board of Zoning Appeals. Before moving on to our first order of business, I will ask the secretary to call role of those board members in attendance for today's hearing.

Ms. Maxine: Attendance Roll Call- Clarkson. Rangel Morales. Trout-Oertel-Present. Swift-Here. Saylor-Present. Porter-Remote. and Miller-Present.

Approval of Minutes for February 22, 2022

Mr. Miller- Next order of business approval of minutes for February 22, 2022.

Mr. Saylor – I move to approve

Ms. Trout-Oertel – I second.

Mr. Miller- Moved by Saylor and second by Trout-Oertel.

Roll call vote: Swift-Yes. Trout-Oertel-Yes. Saylor-Yes. Miller-Yes.

Moved By: Saylor/Second By: Trout-Oertel / Approved 4-0

Old Business: None

New Business:

1155 Raymond Avenue: Chair Miller- The applicant is proposing to demolish a rear portion of a single-family dwelling and construct a two-story addition in the same area. This existing rear setback is non-conforming at 12.7 feet. The applicant is proposing the new addition to be set back 7.5 feet from the rear property line for variance of 5.2 ft.

Mr. Eide- So, this is David Eide with the city of St. Paul Department of Safety and Inspections, Zoning Division, and our first case is for 1155 Raymond Avenue. I guess I'll repeat the purpose statement because it's been a while. The applicants are proposing to demolish the rear portion of the single-family dwelling that they have and construct a two-story addition in the same area. The existing rear setback is non-conforming at 12.7 feet. The applicants are proposing the new addition to be set back 7.5 feet from the rear property line for variance of 5.2 ft. This is a forty-three-point two foot by 78.7 foot irregularly shaped lot with an available alley. The west side a lot is 10 feet longer than the east side, it's surrounded by primarily single-family dwellings. The section of code that the applicant is varying, is sixty-six point two, three one, which is the table that describes what the required setbacks are. And this is an R4 Zoning District. So I have in green circled the rear yard setback.

So now I'll go through the finding 1 that the variance is in harmony with the general purpose is intent of the zoning code. The applicants are proposing is to demolish the rear portion of their single-family dwelling and construct a new two-story rear addition that would allow for a bathroom, entryway, mudroom and a great room that will serve as a bedroom once the homeowners reach an age where mobility becomes a challenge. This building was constructed in 1900 on an irregularly shaped lot and the rear lot line is at an angle. The rear addition was constructed on a slab. It was not part of the original construction. Over time, the homeowners have noticed structural issues with addition and would like to remove it and construct a new addition that is more energy efficient. Typically, a single-family dwelling lot in St. Paul is about 120 feet in depth. This lot is 88 feet in depth on the longest side. The zoning code requires the minimum rear yard setback of 25 feet for residentially zoned properties. The existing rear setback is non-conforming at twelve point seven feet and the addition would be set at 7.5 ft resulting in their requested variance. The proposed variance will allow the applicant to construct an addition that meets accessibility needs of the family and would be an improvement to the property in keeping with Section 60.103 of the zoning code to promote and protect the public health and safety, the aesthetics and economic viability of the community and to conserve and improve property values. That finding is met. Finding 2) regarding the comprehensive plan. This aligns with goals one of the housing chapter of the 2040 comprehensive plan that encourages decent safe and healthy housing for all St. Paul residents. The addition will allow the applicants to age in place, which aligns with policy H-15, which encourages accommodating a wide variety of culturally appropriate housing types throughout the city, to support residents at all stages and of life and levels of ability. This finding is met. Finding 3) regarding the practical difficulties. This lot is of substandard size and the home on the lot has a preexisting non-conforming yard setback. As such, as it is difficult to construct any rear addition without requesting a variance. The applicants could construct an addition on the existing footprint without a variance. However, it would need to remain the same size and height which would not allow a more useful size and additional bedroom upstairs. The addition will not impact the neighboring properties and will be built at the same side yard setback as existing home. This finding is met. Finding 4) regarding the circumstances being unique to the property not created by the landowner. The substandard lot depth and irregular shape are circumstances unique to the property that were not created by the landowner. This finding is met. Regarding not creating putting any uses in the zoning district that are not allowed. The variance is an addition that is permitted onto a single-family dwelling and the use will stay the same. This finding is met. The variance will not alter the essential character of the surrounding area. There are irregularly shaped lots with non-conforming rear setbacks in the immediate area. This proposal will not alter the essential character of the neighborhood. This finding is met. And then, I would like to point out that this applicant was in front of the board, like,

two or three years ago, but they did extend it once then it expired. So, that's why they're back here. And last time it was approved.

Correspondence- We did receive a letter from District 12 St. Anthony Park Community Council's Land Use Committee recommending approval of the requested variance. We did not receive any correspondence for this variance request. And based upon findings 1 through 6. Staff recommends approval of the requested variance

Mr. Miller- Thank you. Mr. Eide. Board members do have any questions for staff? Sorry, the phone, I don't understand why, but it seems like the phone time itself out or mute itself. But at least we get an announcement. So we know when it does it, so we didn't continue the meeting any further we stopped at that point. So I just asked staff if they had any questions. I'd ask the board if they had any questions for staff and there are no questions for staff. So at this point we'd like to bring forward the applicant. If the applicant or representative is here, go ahead and announce yourself with your name and your address.

Applicant – Okay, so, my name is Irene Opsahl I'm co-owner of the home at 1155 Raymond Avenue in St. Paul.

Mr. Miller- Do you have anything to add to the staff reports?

Ms. Irene Opsahl - No, I think that they covered it pretty fully.

Mr. Miller- Okay, sounds good. Board members do we have any questions for the applicant? We don't seem to have any questions. It seems like the staff report was very thorough, so you can go ahead and mute yourself, again, but stay on the line, we may call you back if there are further questions. At this point I'll ask if there are any members from the public here to speak in favor of the variance request? Anyone here to speak in favor? Are there any members of the public here to speak in opposition to the variance request? Any members here to speak in opposition? Okay, seeing none, I will close the public portion of the hearing and ask the board if there is a discussion or motion.

Oh, and just to quickly recap; staff has recommended approval on findings one through six and I believe District Council is in favor.

Trout-Oertel- Mr. Chair. I'll move approval of the application based on staff finding 1 through 6.

Mr. Miller- Alright. Moved by Trout-Oertel. Do we have a second?

Mr. Saylor- This is commissioner Saylor; I'll second that motion.

Mr. Miller- Okay, moved and seconded. Maxine, can we get a roll call?

Ms. Maxine- roll call vote: Swift-Yes. Rangel Morales- I'm going to abstain. Saylor-Yes. Trout-Oertel-Yes. Miller-Yes.

Mr. Miller- your variance request has been approved unless appealed to the city council within 10 days.

Ms. Porter- Excuse me. This is Marilyn Porter. I had my hand up. I think I was forgotten.

Mr. Miller- Marilyn, I believe the city attorney has said that all voting members of the board need to be present so you could continue listening, but I don't believe you're able to vote remotely anymore. Sorry it was kind of confusing over the last week. I'm trying to figure out exactly what's what.

Ms. Porter- no problem. Thank you.

Moved by: Trout-Oertel / Second by: Saylor

Approved 4-0

664 Blair Avenue: Chair Miller- The applicant is proposing an enclosed front entry addition and to modify the front porch stairs to project into the required front setback. Two variances are requested: 1) attached vestibules and enclosed entrances and greenhouses may project up to twenty (20) square feet into the required front or rear yard, a 68 square foot enclosed entrance is proposed for a variance of 48 square feet. 2) An open, covered porch may project up to six (6)

feet into a required front yard the proposed porch stairs project an additional 8.3 feet into the front setback for a variance of 8.3 feet. Mr. Eide go ahead.

Mr. Eide- Thank you, chair Miller and board members. Again. This is David Eide with the City of St. Paul, 664 Blair Avenue. I'll share the staff report. So those attending remote can see it. Now, this is a .11-acre parcel on the south side of Blair Avenue between St. Albans and Dale Street North the alley abuts the property on the south side and an addition was recently constructed on to the front of the home. I can pull up the map here and I have photos of it because I've stopped by there and it changed significantly compared to what the street view looks like. My mouse is over the property. The surrounding land use is primarily single-family dwellings. The sections of code that the applicant wants to vary are 63.105 which states an open covered porch can project up to six feet into the required front yard setback. And the next section is 63.106, which allows for a up to a 20 square foot attached vestibule or enclosed entrance. You can have that projecting into the required front yard up to 20 square feet. So Finding 1) regarding the variance being in harmony with the general purposes and intent of the zoning code. Like I said, the applicant is proposing to add an enclosed entry addition onto the front of the home. Attached vestibules and close entrances and greenhouses may project up to 20 square feet into the required front yard, a 68 square foot and enclosed entrance is proposed for variance to 48 square feet. The applicant is proposing to also add front-facing stairs onto the existing six-foot-deep open covered porch. An open covered porch may project six feet into the front required front yard, and the proposed stair projects an additional 8.3 feet beyond that into the required front yard setback for variance of 8.3 feet from that requirement. The proposed entryway is intended to function as a mudroom to support the home day care services provided at this residence. According to applicant it will provide a location to place outdoor toys, coats, boots, and strollers. Given the location is proposed as an enclosed entry, they needed to reroute the stairs. So I can show you the plans. So on the left side is what currently basically exists except they have not built those stairs there and what they want is on the right here with the closed entry over the door on the left if you were facing the house. And then stairs coming straight out on the right side from the deck. Provided that the proposed entry complements the existing house, this request is consistent with the purpose and intent of section 60.103 of the zoning code to promote and protect the public health and safety, aesthetics, and economic viability of the community and will conserve and improve property values. This finding is met for both of the requested variances. Finding 2) regarding the comprehensive plan. The proposed addition will be designed to complement the existing house and will match the addition that was just constructed. It would be an improvement to the property which is consistent with policy H-2 of the 2040 Comprehensive Plan to address housing deficiencies and encourage reinvestment in residential properties. This finding is met for both requested variances. Finding 3) regarding practical difficulties. The required front yard setback is 15 feet, which is what the existing home front yard setback is at, leaving no room for any additions of the house on the front without a variance. This is a reasonable request, given the lack of available front yard space to construct a usable enclosed front entry. With the front entry occupying the space where the stairs were formally planned, it is reasonable to also grant the variance for the stairway. This finding is met for both the requested variances. And now regarding Finding 4) the plight of the landowner being due to circumstances unique to the property and not created by the landowner. The homeowner constructed the new addition directly up to the 15-foot required front yard setback. They did so without accounting for the enclosed entry. It is unclear why the applicant did not plan for the circumstance when originally designing this addition. This variance is self-created as the landowner had plenty of space prior to the construction of this addition to add a front enclosed entry that meets the code. This finding is not met for both requested variances. Finding 5) the variance will not permit any use of not allowed in the zoning district. A family day care with no more than 10 children and a group family day care with no more than 14 children are permitted in R4 zoning district. So that would be like a daycare center would not be permitted. But what I said before, those are permitted. An enclosed entry and the revised location of the steps would not permit a use that's not allowed in the zoning district. This finding is met for both requested variances. Regarding the essential character of the surrounding area. There are properties on the block with both enclosed entries and porches and stairs leading directly towards the sidewalk. This request would not alter the character of the neighborhood. This finding is met.

Correspondence- We did not receive any recommendation either way from District 7 Frogtown Neighborhood, Association. Staff did not receive any correspondence regarding this project or this request, and based upon finding four

staff recommends denial of the variance request. And then if the board members have any questions, I'm happy to answer.

Mr. Miller- Okay. Board members. Do we have any questions for staff?

Mr. Saylor- - Yeah, David, did, I see somewhere in the packet today. Either on my computer or the packet in my hands that there was some planning for this or permits applied for some time ago?

Mr. Eide- Yeah, board member Saylor. I think months ago. They did get a building permit and construction is underway under that original building permit. And what they submitted on the building permit plans was this proposed on the left which meets the code.

Mr. Saylor- Yeah, so in a nutshell because I thought I looked at those parts for me that's why they are here today? If they already had a permit approved? I didn't understand all of it completely.

Mr. Eide- Yes, the applicant may be able to describe better, but I did correspond with them because I was curious about this. I asked them and basically to get the permit, they applied for what would be approved by right and then what they told me is that they'd come back to get a variance later.

Mr. Saylor- So, but they've already started construction on something that they didn't get the variance for.

Mr. Eide- So, I took photos here, what they have currently built out is acceptable and meets the code. It's just that they're requesting that left or an entryway on the left side of the house and the stairs out front so they haven't proceeded more than what they're permitted for.

Mr. Saylor- So we don't have any wasted construction here.

Mr. Miller- Board member Trout-Oertel.

Ms. Trout-Oertel- I am curious Mr. Eide, about the houses at the other end of the block. I mean, it just looks like there's a whole lot of them that are closer to the sidewalk. And if this construction were allowed, how would that relate to those houses that are ready close to the sidewalk at the other end of the block?

Mr. Eide- Okay, board members Trout-Oertel, the new front yard setback requirements we look at the homes directly next to it; to figure out what the required front yard setback is. So, when they originally applied for a building permit. The block average was found, and it was found to be 15 feet and now the home on the right is at 15 feet. So we would take the one that is closest to what's required now instead of how we used to do it. So, I guess I haven't done a full analysis of the block to see like what each home set back is at, I guess if that's what you're asking.

Ms. Trout-Oertel- Yeah, so regulations have changed regarding, and I was not aware of that. Thank you for explaining that.

Mr. Saylor- Just a follow up with Mr. Eide, if we were to follow staff recommendation to deny the variance request the construction, we see existing in the photograph you presented to us would be fine and the applicant could work with that it. It would be precluded from the other piece that's on the left side of the photograph.

Mr. Eide- Commissioner Saylor, correct. The stairs would go down the left side of the porch, and then they wouldn't be able to build. They could actually by right they could build a 20 square foot enclosed entryway, but then the stairs would still need a variance. So, but what they've constructed now if they put the stairs down to the left, they would meet the code and they wouldn't need a variance.

Mr. Saylor- Thank you.

Mr. Rangel Morales- I'm looking at the elevations after the application. The pages are not numbered. The top is what they could build, and the bottom is what they want to build?

Mr. Eide- So for those attending remote, the line on up top is what the applicant was approved for and on the bottom is what they wish to build with this variance request.

Mr. Saylor- So just for understanding original, meaning not existing before the construction started. But original meaning before this proposed addition, new addition, newest addition.

Mr. Eide- Board member Saylor, I can show you kind on satellite and street view before this applicant started this major construction project. It looked quite different. This is what the property looks like. It's it was set back about 20 feet.

Mr. Saylor- So the word original doesn't mean that original means that the construction that we see in the photograph you've shown us today.

Mr. Eide- Correct. Yep, I'm going off what they've been approved for. Okay, which is this, but obviously years ago. This is what it did look like.

Mr. Saylor- Great. Thank you.

Mr. Miller- Okay, so I guess, we'd be considering this like a change order in construction, you know, like they'd they've have a permanent plan and now we're going to alter it in some way. So yeah, like the new construction plan is what you're calling original. My question then would be are there square footage limits to open covered porches, or is it just 6 feet.

Mr. Eide- Chair Miller, no, it is just 6 feet into the required front yard. So it could be the full width of the structure provided it meets the side yard setbacks.

Mr. Miller- Any other questions?

Mr. Rangel Morales- How far can it protrude towards the front yard setback if it's covered.

Mr. Eide- 6 feet into the required front yard, so what they proposed and built complies in the upper right-hand corner.

Mr. Rangel Morales- And they could build it all the way left because it meets the side yard setback.

Mr. Eide- technically yes and extend the roof and have it covered over the entry on the left. But when they started adding like a wall and a window and what not then it becomes an enclosed entry then we look at it differently.

Mr. Rangel Morales- Then this can function as a duplex? I guess we can ask the applicant.

Mr. Eide- Board member Rangel Morales, based on the floor plans it doesn't appear so. That was something that I thought about, but it doesn't appear so, but we could ask the applicant. It shouldn't because the building permit that they got would have said duplex.

Mr. Rangel Morales- Thank you.

Mr. Eide- I did ask about the second entry because I thought it was kind of unusual how they have two entries.

Mr. Miller- Yeah, we can ask about the split levels. Do we have any other questions? Okay. All right, with that, I'll go ahead and ask the applicants representative. Or if the applicant is here. Just go ahead and give us your name and address for the record.

Applicant representative- Thank you. My name is Bob Coughlen, 9449 Creek Ridge Lane, Savage, Minnesota. I'm here on behalf of Muna Ali at 664 Blair. Just confirming can you hear me? Yes, okay. Thank you. Yes, addressing a couple of questions. When we first started doing design on this, the intent was to match the existing two-story houses on either side to fit into the neighborhood and have front porch similar to the neighbor and our original design was laid out assuming that the existing houses were the setbacks. And then when we submitted to the city first round for permitting, it was then confirmed that the needed for a setback was 15 feet from the building and then we changed what was proposed as an enclosed front porch, to an open porch, in order to use the 6-foot allowable front porch into the setback.

So to answer one of the questions. This is not a duplex. The main entry is at grade level. It is a split-level house. So the upper porch is not intended to be a main entrance. It is intended to be a porch serviced from the second floor, but the stairs, you know, we needed access stairs to the porch. So it may look like an entry but it's not intended to be the main entry. The main entry is at the split-level grade. The daycare provider does all the daycare services and in the lower level and continuous for residents in the upper level. So main entry is for all our kids coming in. There is no room for a mud room in the back. There's no back entry to this. So the intent was when kids come in, that this enclosed front could act as a mudroom area to place strollers, or you can drop off their boots and belongings. And so that was the request for increasing the four foot by five foot or 20-foot available entry to a more usable space. The proposed entry goes no further than the original six-foot setback that was set for the second level porch. So as you can see, from the elevations that there was looking from the side view, there's no additional requests for going any further towards the street. We appreciate that five out of the six findings were met. We do have a different interpretation of finding number four, the plight of the landowner is due to circumstances unique to the property not created by the landowner. It is suggested that we didn't plan for this or didn't have room. With the 15 foot setback, there was only eight feet we could extend the house itself. The intention was to give the most use to the use of the house. And 8 feet didn't allow for us to just extend the house two feet which wouldn't have been very much of an additional use and then leaving the remaining six feet for an entryway. So we took the whole eight feet towards the house itself. Originally, when we wanted to add the porch and the entryway, we were getting close to needing to get the permit in time to... This was actually first approved back in November, so that we could break ground and have the construction start before the winter months, so we could get the foundation in. So, it was at the time, the owner Ms. Muna knew that she couldn't wait another month or two for a variance request at that time. So she asked us to move forward for permitting and construction to get it going. And to come back later to ask for these additional permit requests. So that's one of the reasons that we did plan for this ahead of time. But the variance request was put on hold, that's why this was stated as more of a change order to the construction permit. Plight of the landowners due to circumstances unique to the property not created by the landowner. We find that the required setbacks of 15 feet and other limitations are inconsistent with the current non-conforming surrounding properties and do create a very unique burden on this property, compared to the rest of the properties in the neighborhood. Typically it's standard practice that in older developments where there're not conforming or do not meet the current setback requirements. Older developments like this are often granted conditions and setbacks that we call, like, in line with the adjoining properties. So when our first design came out, we stood in the front yard and looked at the left and look to the right and said, well, yeah, we want to match what's going on and so that was one of our original design was. So we find that the existing or the standard setbacks and requirements are inconsistent and put a unique burden upon this property that does make it not created by the landowner. So, we feel that their variances should be allowed, kind of like in a grandfathered in with the neighborhood for the look and feel and as you see by all the other findings. This is meant for the look, the feel, the size consistency. The big question here was adding effectively adding a couple that adding some extra space to the entry to make it usable. And to turning the stairs similar to everybody else that go out towards the street instead of to the side. So with that said, we feel the requested variances are reasonable. They're consistent with nearby properties and fit in the neighborhood and look and feels the different were there all along. Ms. Muna Ali, landowner is striving to have the expansion fit in with their neighbors and to provide an equitable level of usability. She's asking to have the same usability as the rest of her neighbors. So we do find that item four finding number four, we believe is met and therefore, request recommendation of the variance requests. Do you have any additional questions of me?

Mr. Miller- All right. Thank you for all that information. Yeah, I imagine; board members do have any questions for the applicant? Rangel Morales.

Mr. Rangel Morales- So in looking at the materials submitted for the variance, in terms of the blueprint of the home, we only got the front portion of the blueprint of the home and you know we don't see the entire back rear portion and the end up part. The part that I'm having trouble saying this variance is met is the proposed plan that you provided to the city for a permit provides, a very viable plan that meets the zoning code. And so, you know, I hear what you're saying. Now in terms of wanting a mudroom or an area where kids can come in and sort of, you know, take off their clothes specially during winter, but it almost seems like that could have been planned in advance and the way the entire layout

of the inside was done. And so the question that we have is whether there's you know, the plight of the landowner is due to circumstances unique to the property, not created by the landowner. I mean, the permit provides a very viable option. The zoning code is met. Now where I agree with sort of your thinking is that in looking at the photographs of all of the photographs provided or the photographs that we were provided is my initial skepticism was had closed, the stairs come to the sidewalk. It seems like they're like one or two feet away from the sidewalk but looking at the pictures to the left and to the right of the home. It looks like other homes have steps that come right up to the sidewalk.

Bob Coughlen- Yes, it is correct.

Mr. Rangel Morales- But the problem is, that's not what we're asked to consider today. We're asked to consider is whether this is a circumstance unique to this particular property. And what you have described is more a design complexity or design conundrum, that sort of you, sort of put yourself in and now we're hoping the variance will solve it. Now, I'm trying to get to a yes. I'm just hoping you can find something unique to the property that makes this something that we can vote on and overturn.

Bob Coughlen- I'm sorry, but what we find unique to the property is that this property has a 15-foot setback and setbacks for the size of entryways that are not equal and consistent with the rest of the neighborhood. So, neighbor next door does not meet these requirements. Neighbors two houses down, it consistently across the on this street because it's not nature of non-being non-conforming to these current setback requirements. That means that this property is not treated equally to the rest of the properties in the neighborhood. So we are saying that the variance itself is the unique burden on the property that needs to be, that should be set in line with the other properties on the street. So that's what we're saying. It's not a question of meeting the 15-foot setback, or the 6-foot, setback. It's a question of is the 15 and 6 foot setbacks are they consistent with the rest of the neighborhood and should they be applied and forced to this property? So that's where we find it to be a unique burden, inconsistent with the existing non-conforming uses on the on the neighborhood.

Mr. Miller- Yes, thank you for that.

Mr. Miller- Mr. Rangel Morales again.

Mr. Rangel Morales- So maybe I'll ask more pointed question about what we usually use in terms of circumstances unique to the property, you indicated that the property doesn't have a rear door and so I'm hoping can you comment as to why the property doesn't have a rear door and what's back there that prevents you from having a rear door.

Bob Coughlen- So the back of the house is a split-level house. So there's not a full basement. It's a kind of like a half basement or will call garden level. So the rear of the house are bedrooms that do not provide for the ability to have a back entry where the bedrooms are at. And there would have to be a split-level back entry if it were to be one. So the house was just constructed the manner that it was, it had only one entrance in the front. Originally there was a side entrance also, but it was literally only about six feet from the front of the house. So, we're locked into only one entrance to the house and that's in the front. If that helps answer that question.

Mr. Miller- Just one quick clarification. So you're saying that this allows you to provide a second entrance to the house?

Bob Coughlen- No, we're actually... Previously, as you saw in the picture of the main entry was right in the center of the front and the kitchen entry was off to the side just about 5 feet back from the corner of the house. We've now moved the main split-entry... See previously the front half of the building was one level at grade and the back half was split level. I'm sorry to clarify it used to be one level at grade and the back half was a split-level with the bedrooms upstairs and downstairs. Now, we've created the split-level house all the way to the front to provide the living space. Effectively we've raised the living room up to the upper level and we provided more living space downstairs, and we had only eight feet to move forward, which really wasn't a lot to work with. So to say that we could have maybe fit this in to work with the split-level entry and an entryway, it was rather unique. It wasn't as simple as saying you could have made it fit. We did try to try.

Mr. Miller- Okay, thank you. That, that helps. Ms. Trout-Oertel?

Ms. Trout-Oertel- I'm realizing that the rear of the property has a much higher grade or at least a higher grade than the front is that the case.

Bob Coughlen- The property is level. There are no hills. No change in grade. It's a very, very flat property. If you are able to see any back views of the house from Google or anything like that, you'll notice that there will be no change to the back. It's a garden level look out, downstairs and there is no garage in the back. It's only a small yard for the play area for the children.

Ms. Trout-Oertel- Okay. Thank you for explaining that. It was what I perceived is not the case. You clarified that. Thank you.

Mr. Miller- I guess this is Commissioner Miller, my question, which is kind of sticks out to me is the 8 feet that the stairs have to go from that open covered porch straight out and I clearly that's based on the height of it. Did you consider doing a three foot landing and turning those stairs, you know, maybe starting from the corner and turning those stairs. So then they only project three feet rather than a variance of eight feet?

Bob Coughlen- Yes. That was, the suggestion I had given to Ms. Muna as the designer, I suggested to turn the stairs, and then have them come down kind of to the sidewalk that would lead to the front entry. And she had a preference for coming straight out. So she wanted to request straight out. If that is a make-or-break on the excuse me, allowing for the variance and you were to say, a variance would be allowed if the stairs were turned, I believe she would still be happy with that. But maybe I shouldn't speak for her. This is just what the homeowner had requested. So this is what we presented.

Mr. Miller- All right. Thank you for that. Any other questions for the applicant? I'm not seeing any.

Bob Coughlen- All other findings were found to be met, so if it weren't for this "it's our own fault" idea. That if it weren't for number four, which seems more of a technicality, everything else was approved by the recommendation. So we do believe that there are unique burdens on this property due to the setbacks and request that number four be considered met. Thank you. That's it. All I got to say.

Mr. Miller- Go ahead and put yourself on mute and we may end up calling you back. Okay, moving on. Are there any members of the public here to speak in favor of this request? Any members to speak in favor? Not seeing any. Are there any members of the public here to speak in opposition to this variance request? Anyone to speak in opposition? Okay, seeing none, I will close the public portion of the hearing and turn to the board members and see if there's discussion or a motion.

Mr. Saylor- Based on the staff recommendation, which is founded on the finding four discussion. I will follow that and propose denial of the variance request.

Mr. Miller- Okay. I have a motion to deny.

Mr. Miller- Do we have a second?

Ms. Trout-Oertel- I'll second that.

Mr. Miller- Okay, it's been moved and seconded. Maxine, go ahead with the roll call.

Ms. Maxine- roll call vote: Swift-Yes. -Rangel Morales-Yes. - Saylor-Yes. Trout-Oertel-Yes. Miller-No.

Mr. Miller- Your variance request has been denied. And the board's finding is final unless appealed to the city council within 10 days.

Moved by: Saylor / Second by: Trout-Oertel

Denied 4-1

623 Sims Avenue: Chair Miller- The applicant is proposing to split the existing parking lot into two parcels through a lot split. The zoning code states that surface off-street parking spaces shall be a minimum of four feet from all lot lines. The proposed new lot line would be at a zero-foot setback from the adjoining parking spaces on both lots for a variance of four feet each. Mr. Eide, go ahead.

Mr. Eide- Thank you. chair Miller and board members. Again, David Eide with the City of St. Paul. This is a I have it up. Let me share my screen for those attending remote. This is a 25-foot wide by 120 five-foot-long parcel that contains a surface parking lot. An alley abuts this parcel in the north and east sides, residential uses are to the north and the west, and commercial uses are to the east. The section of the code that the applicant wishes to vary is 63.312, which requires off-street surface parking spaces to be set back four feet from lot lines.

Finding 1) regarding the variance being in harmony with the general purpose is an attempt of the zoning code. The applicant is proposing a split this existing parking lot property into two parcels to allow separate ownership of the parking spaces. The proposal will allow Daisy Properties LLC, which owns the property across the alley at 941 Payne Avenue to own a portion of the parcel and a church at 623 Sims Avenue to own the other portion. The zoning code states that parking must be set back four feet from all property lines. The parking spaces abutting the new property line on the north of the southern lot and the south of the northern lot are proposed to be set back zero feet from the property line, resulting in the requested variance. No change in the parking lot design is proposed. The only change will be the new property line and ownership. The division of the parking area into separate ownership will help to flexibly address travel and parking demands from existing and new development, which aligns with 60.103 of the zoning code. This finding is met. Finding 2) regarding the comprehensive plan. Policy LU- 13 in the 2040 Comprehensive Plan supports strategies such as parking agreements. Although this proposed lot will not be utilizing this strategy exactly, the results are similar as this parking lot is proposed to be split into two and be under separate ownership. No expansion is proposed. This finding is met. Finding 3) regarding practical difficulties. Where the applicant to comply with the code, two parking spaces would need to be removed to provide an 8-foot landscaped area between the parking spaces or between the lots. The intent of the setback requirement is to provide a buffer between adjoining properties to mitigate some of the impacts that a parking lot may have on adjoining properties. However, both proposed parcels, will it continue to exist with parking where this variance approved. It is reasonable to permit the property owners to continue to utilize the parking spaces, directly adjacent to one another and not require a buffer given existing conditions. This finding is met. Finding 4) regarding circumstances unique to the property, not created by the landowner. The landowner did not create the current layout of the property. This finding is met. Finding 5) regarding uses that are not permitted being permitted by the zoning variance. Off-street parking is permitted in the VP vehicular parking zoning district. The division of this parcel would not create a use that's not allowed in the zoning district. This finding is met. Finding 6) regarding the essential character of the area. Granting this zoning variance would not change the existing physical characteristics of the existing parking lots. This finding is met. That's all the findings.

Correspondence- Regarding the District Council. We didn't get any recommendation either way from District 5 Payne Phalen Community Council. Staff did not receive any recommendation or any correspondence pertaining to this request. And then based on findings one through six, staff recommend approval of requested variance. And then that the applicant did submit a survey showing the proposed lot width, that I can show you. And the request is pretty brief for what they're asking for. Here's the proposed survey. I think that is pretty much it. If the board has any questions. I'm happy to answer.

Mr. Miller- Thank you Mr. Eide. I guess I'm a little confused about this. What's the point of all this?

Mr. Eide- The Daisy Properties wants to basically sell off parking spaces. So I believe, yeah sell-off parking spaces to a church that moved into 623 Sims. That will let Daisy Properties own their spaces free and clear and then the church will own their spaces, free and clear.

Mr. Miller- And what's Daisy properties right now?

Mr. Eide- It sounds like the applicant might be here. So, if they want to, they might be able to expand further on that. But this handwritten part is what they submitted. So I based upon that, and looking at who owned the part Parcels around. That is my conclusion.

Mr. Miller- Okay, and that sense, maybe we can just wait for the applicant to explain that part board members.

Mr. Miller- Any other questions for staff?

Mr. Saylor- Yeah. I have a question. Yeah, David, the church at 623 would be the new legal owner of this parcel of these spots, right? Or the 641 across the street. Is that correct?

Mr. Eide- BZA member Saylor, yeah, so up on my screen I have the church property is this corner property. I don't know why the address says it's over this property, but it's this corner property is the church. Like I said, yeah, 623, Sims, is address of the parking lot. The church is at this corner property at Payne not 646, Not 941 or 641, not 941. It's not on the corner.

Mr. Eide- Yeah, I think maybe that is an error in my report. The church is on this corner property.

Mr. Saylor- Okay, and the spots are they're purchasing directly adjacent or the ones at the top. Is that correct?

Mr. Eide- Board member Saylor, I think we're going to have to ask the applicant which spaces exactly are going to what use, unless they explain.

Mr. Saylor- Okay. So yeah, that's what I want to make sure, so the church is across the street and or across the alley and they're good. They're purchasing A or B.

Mr. Eide- commissioner Saylor. I'm not sure.

Mr. Saylor- We need to know that and a follow-up question. Actually the question was it's just the church is the church required to have additional parking spaces or they just want them.

Mr. Eide- No, they are not required to, and we don't have minimum parking.

Mr. Saylor- I didn't think so, but want to make sure that I'm trying to find a reason why they're buying parking spaces.

Mr. Eide- Okay, and I also wondered why they didn't just lease so spaces, but I suppose they want to own them free and clear. So that would be a question for the applicant.

Mr. Miller- Any other questions for staff? Okay, not seeing any will go ahead and move to the applicant. If you're here go ahead and just start identify yourself with your name and your address and then feel free to go ahead.

Se Xiong- Okay. Hi, my name is Se Xiong. I'm with Daisy properties and my address is 941 Payne Avenue.

Mr. Miller- Okay, thank you. If you'd like to address any of those questions or add anything to the staff report. Just go ahead.

Se Xiong- Yes. Okay, so my office is right next door to the church, and I used to own the church building and it's been vacant for a few years now. And so there's been we can't get anybody come in there and lease it and there's a lot of graffiti and people just a lot of stuff going on in the parking lot. So, the church wanted to buy it. We sold it to the church. So we're excited for them to come in there and I own the parking in the back as well, and they were wondering if I would sell them half of that, clear and free so that the pastor could park there. And so I went to the City of St. Paul and said we're not changing what we're doing with it so it's just parking through the alley and so I am selling parcel here. Actually, I've already sold the building. I'm just going to give them that parcel so that the church can use it for parking which they are currently using it for parking right now as it is, but they just want to own it, free and clear.

Mr. Miller- All right, I think, let's just get some of the logistical stuff here. Can you see the screen? Or did you call in.

Se Xiong- I can't see the screen.

Mr. Miller- Oh, let's see. Okay, I'm sorry. Did you phone in? or do you have a screen in front of you?

Se Xiong- Okay, I have a screen in front of me; now I see it. I see it now.

Mr. Miller- Could you just kind of lay out like which building is the church and which parking lot we're talking about here?

Se Xiong- Sure. The church is 635 and the church would own all the parking lot behind it. So all the parking spaces behind it yes, right there. 1, 2, 3, 4, 5. Yep, and then my building is 941, which is next to it. And then I would own the four spaces behind them.

Mr. Saylor- Oh, so this is Board member Saylor. For clarification. There we go. The church will now on parcel A and your building 941 will own parcel B.

Se Xiong- Yes. So we're just going to attach them to the building so that they would, I would have let them use it, but they want to own it, so that they can... I don't know... they just want it so that they can own it free and clear. That's what they said so.

Mr. Saylor- okay. Thank you.

Mr. Miller- Okay, I have commissioner Rangel Morales.

Mr. Rangel Morales- I suppose, the only concern that may arise is if they decide to build a property and then you know, your parking spots would impede development in somewhere. And I know that's like not right now. I'm just, I'm just thinking the fact that the one of the parking spots is they're sharing a line like a property line and I'm just curious what you think about like if there's been any discussion of using the property in any other way.

Se Xiong- No, I mean I think the building there and I don't think right now they just want to use it as parking and we welcome them coming in and using this because sometimes cars will just be there and it's been a lot of graffiti and cars and people just leaving their cars in the back and stuff. And I think it would be good for them to come in and start using it even on the weekends. So I actually think it's a good thing that they're moved in and they're going to use it. I guess we've never talked about them doing anything more than that, and I didn't never think that far. But I mean, I don't know. I guess I'm not sure. I haven't thought that far. I just thought we they were going to use it as parking. They've been using it as parking right now as it is. And I have too, and it's been working out just fine. So I guess I don't know. I don't know. I don't have enough experience, but I don't think it would be a problem. I don't know.

Mr. Miller- Thank you. Mr. Eide, go ahead.

Mr. Eide- Mr. Chair and board member Rangel Morales. This property is zoned VP, so it needs to be rezoned before anything could be built on it, besides parking. Thank you

Mr. Miller- I guess that nullifies my question. I was going to ask what could possibly be built on it? It's a very small it looks like it's been split already and as I guess Mr. Eide, I had more of a question for you. The parcel that would remain with Daisy Properties is a 25 by 43-foot parcel. Is that fine to, do we have parcels that small, is that all okay.

Mr. Eide- Chair Miller, that would be fine. I'm guessing that the applicant wants to tie. You can actually tie properties across alley. So it would just be tied with their building and yeah, if they wanted to do anything new there they would need to meet the code. It's pretty small, but you haven't reviewed what they could build. That's a big question.

Mr. Miller- Okay go ahead. If you have a comment about that.

Se Xiong- so we've been here for 15 years and we don't anticipate doing anything. We just use it as parking for employee parking in the back. So and we don't anticipate building.

Mr. Miller- Okay. Thank you board members. Any other questions for the applicant? I'm not seeing any so go ahead and mute yourself, but stick around. We may call you back. Okay? Is there anyone here from the public to speak in favor of

this variance request? Anyone to speak in favor? Anyone here to speak in opposition? Anyone here to speak in opposition? I'm not seeing any, so with that I'll close the public portion of the hearing. Mr. Diatta, I'm just going to point out that I think you're sharing your video at this point, just so you know.

Mr. Miller- Okay, just to recap. It looks like we've got...without my screen notes I'm totally lost. It looks like staff recommendation is to approve, based on findings 1 through 6. Was there a district council recommendation?

Mr. Eide- Chair Miller. No, we did not receive any district council recommendation.

Mr. Miller- So do we have a discussion or motion?

Mr. Rangel Morales- Move to approve based on findings 1, through 6.

Mr. Miller- is there a second?

Ms. Trout-Oertel- I'll second based on findings 1-6.

Mr. Miller- Moved by Rangel Morales and second by Trout-Oertel. Maxine, can we get a roll?

Ms. Linston- roll call vote: Swift-Yes. Saylor-Yes. Trout-Oertel-Yes. Rangel Morales-Yes. Miller-Yes.

Mr. Miller- Your variance request has been approved and that decision is final unless appealed to the city council within 10 days.

Moved by: Rangel Morales / Second by: Trout-Oertel

Approved 5-0

410 Griggs Street North: Chair Miller- this parcel consists of parkland and a parking lot that serves the properties to the east. The applicant is proposing to separate the parkland from the parking lot through a lot split. The zoning code states that surface off-street parking spaces shall be a minimum of four feet from all lot lines. The proposed new lot line would be at zero feet zero-foot setback from the adjoining parking spaces, for a variance of four feet. Go ahead David.

Mr. Eide- thank you, chair Miller and Commissioners. This is David Eide again, with the City of St. Paul. This is a zoning variance request for the same section of code. So this is a 5.3, acre parcel located on the northeast corner of Bigelow Avenue and Griggs Street North. The parcel currently contains Midway Peace Park. The satellite image is not quite correct for what's there currently and a parking lot utilized by the office uses to the east. Surrounding land uses are Gordon Parks High School in North, Commercial uses to the east, I-94 to the South, residential multifamily and commercial to the West. The section of code that the applicant wishes to various 63.312, which states that surface parking spaces must be four feet from all lot lines. Just a little background on this park and whatnot. And St. Paul Parks and Rec is here. So they might want to talk a little bit later when it's their opportunity. A sidewalk was constructed directly next to the proposed property line. According to applicant, this, sidewalk was partially funded with a federal outdoor recreation funds meant to improve the park. The applicant is proposing to place the new property line directly next to the parking lot in order to comply with federal requirements that this park land be perpetually encumbered for park use. The conditions at the site are existing and the parking lot and sidewalk would not change by granting this variance, rather the ownership of the parking lot would change which is an advantageous to the city as the land is currently encumbered by an easement that requires that the city provide for 40% of the maintenance cost for the private parking lot.

Finding 1). I'm going to try to pull up the plan for people that are attending remotely. This is the site plan from when the park was built. Finding one regarding the variance being in harmony with the general purposes and intent of the zoning code. This parcel consists of parkland and a parking lot that serves the properties to the east. The applicant is proposing to separate the parkland from the parking lot, through a lot split. The zoning code states that surface off-street parking spaces must be a minimum of four feet from all outlines. A proposed new lot line would be a zero-foot setback from the joining parking spaces for a variance of 4 feet. The intent of the setback requirement is to ensure that parking lots do not adversely impact neighboring properties. However, at the time of this improvement, the property was owned by one

property owner. Accordingly, the impact is known to all parties and potentially negatively impacted property owners, which is the City of St. Paul. They are requesting the variance. This request is in harmony with the general purposes and intent of the zoning code. This finding is met. Regarding the comprehensive plan. Currently a portion of the lot contains an easement. Like I stated before that requires two hundred sixty-two parking spaces be provided for the neighboring parcel. The easement also requires that the city provide 40 percent of all maintenance costs for this private parking lot. The applicant states that they typically would not acquire land with such encumbrances. But this is a strategic purchase. Granting this variance would permit parking spaces 0 feet from the property line, which would allow the city to retain all the land that was improved partially with federal funding that requires that the parkland be retained, and this is in alignment with the City's "No Net Loss" policy laid out on page 115 of the 2040 comprehensive plan and it's also in the city Charter. This finding is met. Regarding the applicant having established that there are practical difficulties in complying with the provision. Creating the required setback would potentially expose the city to being in non-compliance with the federal funding and would be contrary to the "No Net Loss" policy. It is reasonable to permit the parking lot and improvements to exist as they currently are albeit under separate ownership, with the new property line. This finding is met. Finding 4) regarding circumstances unique to the property, not created by the landowner. The parking lot and sidewalk are arranged in this manner or were arranged in this manner, prior to the decision to split the parcel. The federal funding and unique process utilized to acquire the property with the parking easement are circumstances unique to the property and were not created by the landowner. This finding is met. Finding 5) regarding uses not being allowed being permitted by the variance. A park and parking lot or permitted uses and T4 zoning district. No unallowed uses would be permitted with granting of the variance. Finding 6) regarding the essential character. No uses are opposed to change an existing layout of the site is supposed to remain the same. This finding is met.

Correspondence- Staff did not receive a recommendation from District 13 Union Park District Council. No correspondence was received regarding this matter and based on findings one through six, staff recommend approval of the requested variance. And if you have any questions, I'm happy to answer them.

Mr. Miller- Board members, any questions for staff? Question?

Mr. Saylor- Does this work on this property at all have anything to do with the commercial use? That's commercial for Concordia University St. Paul.

Mr. Eide- Board member Saylor, I believe that Concordia does; they own the building to the east. So I believe that this parking lot does serve that building.

Mr. Saylor- And I ask because that's my employer. Okay, so do I need to recuse myself from this or I want to check before because I know that's next door.

Attorney Skarda- I would.

Mr. Saylor- Yeah, I like that approach. Yeah, I just realized that. Okay. I'll do that then.

Mr. Miller- Any questions for staff? I'm not seeing any. I will ask the applicant to come forward or representative, just identify yourself with your name and address.

Alice Messer- Yes, thank you. Alice Messer manager of design and construction for St. Paul Parks and Recreation, and I'm happy to be here with this request for Midway Peace Park. I just want to reiterate that the park is built. So if you have not been out there, you will see the new configuration on. We're pretty excited to have a brand-new park in our system and thank you for the consideration.

Mr. Miller- Is there anything else you'd like to add to the staff report?

Alice Messer- Yes. Thank you. I would like to add that we did reach out to The District Council in December. We have not heard a response from them. I've also reached out to Friends of Midway Peace Park and discussed this request, and we also went before our Parks Commission in January in 2022 and they were supportive as well.

Mr. Miller- All right. Thank you board members. Do we have any questions for the applicant? I'm not seeing any, so go ahead and stay on mute yourself and we may call you back. Is there anyone here from members of the public to speak in favor of this variance request? Is there anyone to speak in favor? Not seeing any. Is there anyone here from the public to speak in opposition to this variance request? Anyone in opposition? Okay, seeing none, I'll go ahead and close the public portion of the hearing and ask the board members if there's a discussion or a motion. Let's see commissioner Rangel Morales.

Mr. Rangel Morales- Who owns the property?

Mr. Eide- Board member Rangel Morales, the City of St. Paul owns the property.

Mr. Rangel Morales-Then why do we need a split?

Mr. Eide- Board member Rangel Morales, I think it's similar to the last variance request where the city does not want to own this private parking lot. They want to sell it to the user of it. So that's why they're proposing a lot split.

Mr. Rangel Morales- So when this was proposed as a park, was this proposed as a park for 5-acres, or was this proposed as a park for what it is currently built on?

Mr. Eide- Board member Rangel Morales, that would be a great question for Parks and Rec and I think they might be able to answer that better than me. I believe that when they purchased the parcel that there was an easement on it and it wasn't desirable but they wanted the property to expand parkland in the city. So they took it with that easement, and then maybe circumstances changed and maybe they came to an agreement with the property owner and they're willing to buy it now.

Mr. Rangel Morales- Wondering if I could ask the question of the applicant.

Mr. Miller- Yeah, I mean if we can't get through it, we probably could vote to reopen?

Mr. Rangel Morales- That's okay. I'm just curious as to if there was funding available why it wasn't developed as a park, and I get that there's a parking need from us being used here. But it just seems like the way that it's cut up it's just really peculiar looking at it. I'm assuming that the park might have on the second to last pages, or three last pages. I'm assuming the property line is anything that's not the parking lot, right? The park will continue to be.

Mr. Eide- Board member Rangel Morales, it looks like the property line... So the survey is pretty stark. But when you compare the survey to the site plan, the property line would run on the inside edge of the sidewalk. Can you see my screen except for that page.

Mr. Rangel Morales- It is highlighted on if you scroll down one more. All right there. It has the part that is going to be Park highlighted right.

Mr. Eide- Chair Miller and board member Rangel Morales. So this is from the previous site plan that was submitted. So I don't believe it would be tracing the inside edge here. But this was not represented in a way that shows exactly like the survey shows exactly. But what you follow the lines on the survey, it's basically the inside edge of the sidewalk.

Mr. Rangel Morales- So, my question, just lends more to when the funds were required to build this park. It wasn't with the intention of fully building this out and removing the parking lot. It was just the part that was billed out.

Mr. Eide- Yeah, chair Miller and Commissioner Rangel Morales. I believe that in order to acquire the property. My hunch is that the landowner before required X number of parking spaces and wouldn't sell it unless they had that easement on it.

Mr. Rangel Morales- I'm confused by the need to do it. If it all belongs to the city. It just seems maybe the city wants to sell the parking lot, I suppose.

Mr. Eide- Yeah, board member Rangel Morales. I believe that the city is responsible for 40% of the maintenance costs. And when reading what Parks Department submitted, they don't want to be responsible for that anymore and they'd rather just sell it outright.

Mr. Miller- commissioner Trout-Oertel.

Ms. Trout-Oertel- But the people who use the park will still be able to use the parking lot or not?

Mr. Eide- Board member Trout-Oertel, that is a good question. I'm not sure. And that would have been something that the Parks Department could answer. My understanding is that it's just for the office building next door. But I'm not sure actually, so I'd be a question for the Parks Department.

Mr. Miller- Well, there have been a number of questions raised here. And I wasn't fully aware of some of these complexities. Would you guys be opposed to reopening the public portion of the hearing just to get a few answers? I think would be worth it.

Mr. Rangel Morales- Yeah, I'd move to reopen the public hearing.

Mr. Miller- Yeah, we need a roll call for that I believe.

Okay. Yes, so that's motion.

Ms. Maxine- roll call vote to reopen public hearing: Trout-Oertel-Yes. Rangel Morales-Yes. Swift-Yes. Miller-Yes.

Mr. Eide- If I could interrupt, Maxine, I think you're unmuting it when you're speaking and that's what's causing the room audio feedback. You don't need to unmute. (Maxine, really)? Yeah you do not need to unmute your computer, and then we won't have feedback.

Ms. Maxine- See with teams, I'm so use to hitting unmute, got it. Thank you.

Mr. Miller- Okay, so with that we have reopened the public portion of the hearing and I believe we will go straight to the applicant for some of these questions. Can we call the applicant back?

Alice Messer - Yes, I'm here. I'm not sure what the protocol is. So thank you for all the questions. I'll go back a little bit in the history. So these parcels were acquired back in 2015, prior to development of the new Midway Peace Park. There was quite an extensive parking lot that served the building used to be called Central Medical and now is occupied by Concordia. So the parking extended all the way to Griggs Street. The underlying property in perpetuity requires 211 stalls to be available for the current owner, Concordia, and then 50 stalls for Open Cities. So through the park design process, we redesigned the parking lot to provide 262 stalls. So there is one stall that is currently available for the public in that parking lot and as has been mentioned, the city's obligation is 40% of the maintenance cost. So up to 2021 the city has paid \$49,400 dollars as that is our forty percent share of the maintenance cost. So the request is that this is a financially unsustainable model for one parking spot that's available for public use. That stall is not required for park development, and we can accommodate with on-street parking. So we have worked quite hard to find the right balance to get the stalls to fit to meet the easement requirements. While also trying to maximize the public benefit of the park that is there today. If it's if it's helpful, I do have an aerial that shows the before condition and after condition, if that helps kind of show how the parking has been reconfigured and impervious surface has been reduced for the park that's there today. So I should be able to share my screen. Yeah, if you can, let me know if you can see the power point image. Yes. Okay. So here is the before condition. Concordia is just in the shadows here and to the north Open Cities is right here. So University is to this side Interstate 94 is here. This is Griggs Street. So you'll see the existing parking lot comes quite a bit over. There is a vacant lot here, and then some bituminous. And then this is the edge of Gordon Parks. If we come down to after here, you'll see University. Gordon Parks this parking lot, line lines up here. And then you see the park extends up towards Interstate 94. And you can see the surface parking lot that serves Central Medical, or Concordia has been adjusted. And now there's green space along the edge and a basketball court and other amenities. And so the, the lot split, it follows the back of the curb of what is built there now and the reason for the variance is we had federal funds that were used for part of the park construction project and if we were to sell four feet of land, we would need to

return money back for those federal funds. So that's why the request is that the lot split follows the back of the curb of what is built today. It meets the underlined easements of the parking requirements by the two adjacent property owners, and it allows us to continue to have great public benefit for park space and take us out of a financial situation that is unfortunately unsustainable at 40% maintenance cost. I'll stop sharing my screen unless you'd like me to leave it up.

Mr. Miller- Commissioner Rangel Morales.

Mr. Rangel Morales- What was the goal of this? I mean looking at the at the green space that was there before and I see the reconfiguration of it. So the parcel was just one big rectangle before on the top, right?

Alice Messer- Yeah. Commissioner. If you haven't been to the park, there's quite a bit of topography change. So if you can imagine the previous condition actually each the parking lot is higher than the green space in between and then kind of the cracked up asphalt. So I there's probably about 12 to 15 feet of elevation change. So the park...there was an identified need especially with light rail for green space. Skyline Towers is just in the bottom of the corner. There's huge density of residents that really were lacking green space. And so the park design was needed to make accessible connections, to activate the space. There's a play area that takes advantage of the topography change. And so it's hard to tell in this image that was kind of right after construction was done. So it doesn't look as green as it as it does right now.

Mr. Rangel Morales- What's the square footage on greenage before and after?

Alice Messer- Let me let me look it up. I believe we lost about 1.2 acres of impervious with this new arrangement, but I could verify that if you want the exact number.

Mr. Rangel Morales- So I'm the reason I'm asking all this is the city bought this property with the parking lot, and the green space. I'm just trying to understand what's happening because it's a little peculiar for me anyways, the city bought this parking lot with green space. Then the city applied for federal funds to build a park that resulted in a reduction of green space, and then the city ended up getting saddled with a parking lot that they have to maintain; that the city doesn't get into use any public spaces for. And I don't know where my train of thought is going. I'm just confused by it. But why the city and then why we're splitting it with less green space than what was originally on there before that.

Alice Messer- That's actually incorrect. There's more green space than was there previously. So we have added green space and reduced about and 1.2 acres of impervious. So surface parking lot is taken away.

Mr. Rangel Morales- Okay. Sorry. It's a reverse. Yep.

Mr. Miller- Okay. Thank you. Let's see. Any other questions for the applicant?

Ms. Trout-Oertel- Perhaps this is a small thing. But I don't understand why the park has to have one parking place in the parking lot. There's now going to be owned by someone else. Is my understanding that correctly?

Alice Messer - Yeah, thank you Commissioner. The parks does not have a need for a single parking spot and that really is kind of the reason for this lot split is the public value. So the essentially cost that Parks needs to pay for the parking lot that we right now only have use of one stall is not financially sustainable. So we would like to split this lot off in the surface parking would be sold hopefully Concordia is willing to purchase the parking lot and we will accommodate park users if they come by car on street.

Ms. Trout-Oertel- Oh, so you're not going to have a parking place in the parking lot after this variance?

Alice Messer- No, if this variance is approved. Thank you.

Ms. Trout-Oertel- That makes more sense.

Mr. Rangel Morales- How does how are you? How is, how is the city getting around any easements that were required? So you started out by saying that there was a requirement of how many stalls in perpetuity need to be needed to be

provided in this lot. And it was like 200 and something. Then 50 of them had to be public. How did that get reduced to one? And then, how is that getting removed? In other words are they then in perpetuity there can be changed that way?

Alice Messer- So I saw the numbers are incorrect. Concordia per the underlying easement says that they have 211 stalls and open cities has access to 50 stalls. So you add those two together and it's 261 stalls, in the plan that we built. We provided 262 stalls. So, right now there is one extra stall that's available for public use and those came with the purchase of the land. So again, there's a very limited value from the public of one parking stall and within this parking lot.

Mr. Rangel Morales- So this law will never be able to be anything maybe you build up a ramp and then something else on top of it or below it.

Alice Messer -Yeah, from the parks department perspective. We have worked really hard to provide a great new public park while meeting the underlying obligations of the parking requirements. Unfortunately, a maintenance split of maintenance cost comes with that, and we would like to try to get out of those maintenance cost because with time snow removal, the cost just continues to increase. So that's why we would approach a sale of this parking lot and sort of get out of that agreement that exists right now.

Mr. Rangel Morales- Going forward, the lot can be used for anything but parking or any use that has those 261-parking lot, spots.

Alice Messer -Correct, and unless the easement changes unless parties are open to changing the underlying an agreement.

Mr. Miller- I'm sorry, those two parties are Concordia and Open Cities?

Alice Messer -Yeah, I'm using the current occupant, but it goes with the address underneath.

Mr. Rangel Morales- I think that just adds more questions to be honest, but I'll defer to other commissioners. Did Concordia at some point owns this property?

Alice Messer Yeah. I would have to go back to the records from 2015. There were a couple of various landowners, one was a car dealership another was Alerus. I'm not sure on the surface parking lot. I don't believe so because we purchased it from other people.

Rangel Morales- I'm just curious as to how an easement so big, end up putting in this lot, if they never owned it.

Alice Messer- Well Concordia as a new resident to it was formerly Central Medical building. So I'm not quite sure on the history going back. I think really the question for Parks right now is how we can enjoy this new park land, and put our valuable resources towards taking care of park space and not maintaining surface lots that have very minimal use to the public.

Mr. Miller- All right, board members. Does that get us through the questions for the applicants? We have a discussion with that new information,

Mr. Rangel Morales- I think so.

Mr. Miller- Okay. Thank you for coming back. Procedurally do I have to ask about? Since I reopened the public hearing, if there's anybody here in favor or against, giving those comments? I'll do it quickly. Is there anyone here in favor to speak in favor of this variance request? anyone from the public in favor? Seeing none. Is there anyone here to speak in opposition to this variance request? anyone in opposition? Okay, I'm not seeing any. So I'm going to go ahead and close the public portion of the hearing. And ask the board members if there is a discussion or a motion. With the comment that was a lot more in-depth than I was expecting when I first read through the application. And I definitely share some of the concerns that commissioner Rangel Morales brought out.

Mr. Miller- Commissioner Rangel Morales.

Rangel Morales- So I guess I would just comment on. I know the issue that is before us is just whether we're going to grant the variance of the lot split. The larger issue for me is sort of understanding what do you when we consider this is what's going to happen to this property. That the parking lot and or what could potentially be the use of this parking lot and going forward similar to cases I know we don't use president but similar to the last application that we just had in terms of what happens. If someone develops in the front or in the back or the larger question is... what's the city's, I understand that the city is interested in getting rid of this property because it's costing them money to maintain it. And I guess it seems like there's a lot more going on in terms of the property being sold and I guess we're not privy to, but it certainly makes it hard to rule one way or the other on this for me anyways.

Mr. Miller- Just a general question about an easement between those two addresses. If the city were to sell to one of them. Let's just use Concordia as an example. It seems more likely, what does it take for Concordia to eliminate that easement and then do whatever they want with the property?

Mr. Rangel Morales- And that's essentially my question is/does Concordia have like a veto? It seems like they have a veto authority over what can be built on it. That was granted that we don't really even understand how the easement came to be or why this city bought this property with this easement in place to develop, you know, only partially of into a park land. I mean it seems like that was the intended purpose. You would almost assume that they bought it thinking that they could reconfigure the parking lot and get an extra one and a half acres perhaps of green space. And then sell off the remaining what back to Concordia? I don't know.

Mr. Miller- I don't know if this is even here there, but if that was just a profitable business move, potentially, if they use federal dollars and then develop half of it, and then sell the other half, but I don't know.

Ms. Swift- Is that allowed?

Mr. Miller- I'm guessing it's weird because this isn't just, you know such and such properties, you know, LLC. This is the city of St. Paul. So I'm assuming that they would have some foresight into what could potentially happen, but I guess I don't know.

Mr. Rangel Morales- But I suppose for what we're being asked I'll, leave it up to someone else to make the motion.

Ms. Trout-Oertel- Hi, I'm having trouble with it because it seems like every time we ask the question, the answer made things more confusing for me. Anyway, is the city you know, how much are they going to get, if they sell to Concordia? I don't know. It's just that none of the details are there. So I think the details they made may not make a difference in our in our decision they add some credibility to the whole scenario, you know. It would make it more understandable. I think, I don't know.

Mr. Miller- Yeah, I agree, and I think this does directly relate to the findings of what we're asking to decide because the plight of the landowner is due to circumstance unique. Not due to circumstance unique to the property that's due to the situation they've created. So that being said, I'm not thinking that I would prefer, I can't anyway, but I don't know that I would vote to deny this either. I feel like we might just need a little more information.

Mr. Rangel Morales- I just don't know what additional information we need because a lot of this would be out of the hands of the city really? I mean if they decided to sell the property and Concordia decides to, I'm assuming Concordia would be the buyer since it's some sort of the implication here, but, you know, they decided to maintain it as a parking lot or I guess agreed to amongst themselves to end the easement while continuing to provide the extra amount of spots that are needed for Open Cities. Well, I guess I'll just see where we're at. I would move to delay this for 2 weeks and perhaps we can get more information to staff about how this is not an issue that was caused by the city when they acquired the property, because I do think that becomes a question like chair Miller pointed out. You know, when they acquired it, if their intent was always just split it.

Mr. Miller- Yeah, and maybe we'll learn something or maybe we won't.

Mr. Diatta- What are the specific questions that you would like staff to look into and get back to the board that you have not received today? And I believe the staff from Parks was there to answer questions. I'm not sure what that was. Additionally, information that you need to help make your decision on the variance.

Mr. Eide- Chair Miller and Commissioners. Are you asking why they didn't build in a four-foot buffer for the sidewalk when they were building this park? Is that your main question? If they knew they were going to subdivide or maybe they didn't know they were going to subdivide it.

Mr. Rangel Morales- So here's the problem. So we have an applicant come before us just a little bit ago, and it seemed that the mess was created by the planning of the home and that the variance could have been avoided simply by the way that it was planned. And so I understand that it's the city, but it seems unfair to hold someone by one standard and the city knew that this was like the easements that they had to do. Because they don't need it without this minimum, right? They don't need a variance to lot split this. I assume, right? They can split it if they can't account for. If they can provide the space for the variance requested, they don't need. They could just split themselves.

Mr. Eide- Right board member Rangel Morales. They could move the parking lot in four feet from the proposed parking lot line. Their concern was that if the sidewalk within the four feet was sold to private property owners would be in violation of the federal funding that they received, which says that those improvements need to remain on parkland. So, I suppose that to comply, they could move the gutter four feet in from the sidewalk, which would be difficult for them. I mean, they'd have to remove the whole curb and put a buffer in and perhaps there's catch basins or things that I'm not sure about the drainage specifically, but there might, you know, the way that this was designed, there might be catch basins or whatnot that were designed to flow in the gutter the way it was constructed. So, yeah, I suppose. So this sidewalk here was constructed with those federal funds and it is right along the inside edge of the parking lot. So I suppose if they wanted to comply and do it by right. They could cut out four feet on the inside. So the zoning office, we don't care where the setback is. They could move the property they could. They could split it four feet in on the sidewalk, but the Parks Department's problem is that they use federal funding to build that sidewalk. They need to keep that as park land. So to do it, to comply with that, they would need to move the property line 4 feet into the parking lot and redo the gutter and whatnot.

Mr. Rangel Morales- Well I guess.

Mr. Eide- So I mean, perhaps the question was, did the Parks Department know that there was a four-foot setback requirement when they were developing this?

Mr. Rangel Morales- That's yes.

Mr. Eide- And most likely they did or not. That'd be a question for them.

Mr. Rangel Morales- So I guess having had that explanation, well we have a motion on the floor.

Mr. Miller- So yeah, there is a motion on the floor.

Ms. Swift- I would second that.

Mr. Miller- Moved and second to delay 2 weeks of the next meeting.

Mr. Rangel Morales- Yeah, so I was having trouble wrapping my mind around what it was that we were sort of being asked to do today and I think Mr. Eide and that last information clarified it for me. And I don't know what the parameters of the federal funding that were used to acquire the property where, but I would assume that it was acquired at the designation of what it's currently being proposed. So I guess maybe we can have that answer question answered about when the property was acquired was there a specific reason for the delay.

Mr. Miller- Let me interrupt for a second. Let's do the discussion will put together a list. I want to get this roll call done quick. Yeah. So Maxine, can you do roll call starting with Swift.

Ms. Maxine- roll call vote: Swift-Yes. Trout-Oertel-Yes. Rangel Morales-Yes. Miller-Yes.

Mr. Miller- The motion to delay for two weeks has passed. Okay, you can continue with that talk.

Mr. Rangel Morales- Yeah. I guess maybe perhaps just getting clarification if we could get clarification on whether I've been trying to decide whether like Mr. Eide said when the property was acquired and when this was all drawn up, whether this was a consideration with regards to the four-foot setback or whether it was something specifically tailored to the federal funding that required it to be developed in the way that it was. Because then that would be to me circumstance need to the property. But otherwise, it just seems like there was a issue that was created by whoever drafted this or drew it up.

Mr. Saylor- And wonder if since it's closed, I wonder if the city just used the money?

Mr. Eide- Chair Miller it seems like the two questions are why did the city not plan for the setback between the sidewalk between the improvements and the inside of the curb and the other one is did the federal funding required to be the curb to be located at the at the location it was built at?

Mr. Miller- It seems like that's good information to know in order to meet your finding four.

Mr. Eide- Okay, my understanding is that the easement just said X number of spaces need to be provided, and didn't necessarily say where, so they just built the sidewalk along the edge.

Mr. Saylor- And then the owner, this is closed I can talk now? is this closed, can I talk?

City Attorney Skarda- No.

Mr. Saylor- Oh, are we done. Did we close this?

City Attorney Skarda- If you are done asking questions, closed the public hearing and voted, then the meeting is over.

Mr. Miller- Okay, so I need to adjourn this meeting.

Attorney Skarda- If you've got all your questions on the table for Mr. Eide, to take back to staff.

Mr. Miller- Right? Okay. Yes, I think so. Yes, before we adjourn, we can't talk about anything after the meeting, is that how that works?

Mr. Saylor- I want to make sure we're done and the meeting is closed.

City Attorney Skarda- Then you can't engage in any decision making if the meeting is closed.

Mr. Saylor- right? Okay.

Mr. Rangel Morales- I think those two are the questions that I have for my side and just additional information on it or if we can have something that's actually tailored to the property for why this variance is needed because the way that it's currently phrased. It says, it's based on the federal funding, but that doesn't necessarily tie to the property itself. Under current configurations. It doesn't sound like, but it might.

Mr. Miller- In addressing that practical difficulty. I think we've discussed the physical movement of the curb and the construction of the different space that would be required. Keeping in mind that financial considerations alone do not constitute practical difficulty.

Mr. Eide- So Miller from a zoning perspective four feet of the sidewalk could be where the property line could be four feet from the edge of the parking space from a zoning perspective. Okay, the parks department, the federal funding that was used to improve that to make that put that sidewalk in states that needs to be remaining park land.

Mr. Miller- Okay, that's the worst case. They would have to put a buffer on the other side of that sidewalk. Correct? That would then go with the new property.

Mr. Eide- Yes

Mr. Miller- Okay, and potentially they can't meet their easement requirements or whatever. If they can't provide the same number of spots. Maybe I don't know.

Mr. Eide- Correct. The minimum dimensions are 20 feet. So perhaps this could be shrunk but it's already constructed so that or, you know, they'd have to saw cut the bituminous...

Mr. Miller- And are we talking about both? Sidewalks and the basketball court. And one that's north, also for the proposed property line was going to go in here.

Mr. Eide- So it looks like they do have some extra room built in but you know, looks like 24 feet here. So you need 20 minimum. So technically it would work for the maneuvering but well, that you can, yeah, that would probably help.

Mr. Miller- I didn't also quite realize that this just isn't a setback moving from 4 feet to 0. If you count the lineal footage of where the supplies is a lot. I was kind of picturing right by the basketball court, but it's the whole thing. That sidewalk goes along the whole property line.

Mr. Miller- Okay. I think those are the two things we could just use a little more information. All right, and with that, unless there's something else. All adjourn.

Moved by: Rangel Morales / Second by: Swift

Laid over 2 weeks 4-0

Submitted by: Maxine Linston

Maxine Linston
Maxine Linston (Apr 6, 2022 08:50 CDT)

Approved by:

David Eide *David Eide*

Diane Trout-Oertel, Secretary

Diane Trout-Oertel
Diane Trout-Oertel (Apr 5, 2022 20:47 CDT)