CITY OF SAINT PAUL
Deadline for Action: December 2, 2024

BOARD OF ZONING APPEALS RESOLUTION
ZONING FILE NUMBER: 24-086457
DATE: October 28, 2024

WHEREAS, Ruben A. Benegas, Benegas Properties, LLC has applied for variances from the strict application of the provisions of Section 66.231 of the Saint Paul Legislative Code pertaining to the floor area ratio maximum and height maximum. The applicant is proposing to demolish the three buildings on this lot and construct a new multiple-family dwelling. Two zoning variances are requested: 1.) The zoning code limits the height to 40'; 50' is proposed, for a variance of 10'. 2.) The zoning code limits the floor area ratio to 2.25; 2.27 is proposed, for a variance of 0.02 in the RM2 zoning district at 1963 Grand Avenue PIN: 042823320178; and

WHEREAS, the Saint Paul Board of Zoning Appeals conducted a public hearing on October 28, 2024 pursuant to said application in accordance with the requirements of Section 61.303 of the Legislative Code; and

WHEREAS, the Saint Paul Board of Zoning Appeals based upon evidence presented at the public hearing, as substantially reflected in the minutes, made the following findings of fact:

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

   The applicant is proposing to demolish the three buildings on this lot and construct a new multiple-family dwelling. Two zoning variances are requested: 1.) The zoning code limits the height to 40'; 50' is proposed, for a variance of 10'. 2.) The zoning code limits the floor area ratio to 2.25; 2.27 is proposed, for a variance of 0.02.

   The proposed multiple-family dwelling would provide additional housing, which is consistent with the purpose and intent of § 60.103 of the zoning code to promote and to protect the public health, safety, morals, aesthetics, economic viability, general welfare of the community, and to provide housing choice and affordability. In addition, the use as a multiple-family dwelling aligns with the intent and purpose of the RM2 medium-density multiple-family residential district to foster and support pedestrian- and transit-oriented residential development and provide for infill housing to meet a variety of housing needs. **This finding is met for all requested variances.**

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

   This property is within an area designated as Urban Neighborhood in the 2040 Comprehensive Plan. This proposal aligns with Policy H-46, which supports the development of new housing, particularly in areas identified as Mixed Use, Urban Neighborhoods, and/or in areas with the highest existing or planned transit service, to meet market demand for living in walkable, transit-accessible, urban neighborhoods. The proposed multiple-family dwelling would provide additional dwelling units within the neighborhood. This aligns with Policy LU-34, which encourages providing for medium-density housing that diversifies housing options within the Urban Neighborhood. This facility is also in alignment with Policy H-15, which supports accommodating a wide variety of culturally appropriate

housing types throughout the city to support residents at all stages of life and levels of ability. **This finding is met for all requested variances.**

3. *The applicant has established that there are practical difficulties in complying with the provision, that the property owner proposes to use the property in a reasonable manner not permitted by the provision. Economic considerations alone do not constitute practical difficulties.*

   The applicant states that the property line is in the middle of the alley, and that the alley creates practical difficulties in complying with both the height and FAR (floor area ratio) requirements, as it reduces the usable portion of the property. However, public alleyways and streets are a type of permanent easement and are dedicated. The setback is always taken from the edge of the dedicated alley. Zoning code Section 63.101 states that ½ of the alleyway is included as part of the lot for density purposes, so there is not a plight for the FAR requirement, as the lot size includes ½ of the alley. The public alley easement is not a new condition and was opened in 1888. There are no practical difficulties with complying with the FAR and height provisions. **This finding is not met for all requested variances.**

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

   The dedicated alleyway was opened in 1888 and was present when the applicant purchased the property in 2022. It does not create a unique circumstance that would warrant granting variances of the height and FAR requirements. **This finding is not met for all requested variances.**

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

   A multiple-family dwelling is a permitted use in the RM2 medium-density multiple-family residential district. Granting the requests would not permit a use that is not allowed in the zoning district. **This finding is met for all requested variances.**

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

   Multiple-family dwellings are located to the east, west, and south of the subject property. Granting the variance requests would not alter the essential character of the surrounding area. **This finding is met for all requested variances.**

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Board of Zoning Appeals that the requests to waive provisions of Section 66.231 in order to permit a height of 50' and floor area ratio of 2.27 in order to construct a new multiple-family dwelling on property located at 1963 Grand Avenue PIN: 042823320178; and legally described as Rosedale Park Lots 46 47 48 Blk 2; in accordance with the application for variance and the site plan on file with the Zoning Administrator, **IS HEREBY DENIED.**

MOVED BY: Porter
SECONDED BY: Dayton
IN FAVOR: 4
AGAINST: 1

MAILED: October 31, 2024

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 October 28, 2024 and on record in the Department of Safety and Inspections, 375 Jackson Street, Saint Paul, Minnesota.**

SAINT PAUL BOARD OF ZONING APPEALS

Maxine Linston
Secretary to the Board