

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

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

ABSENT: Peter Warner

The meeting was chaired by Joyce Maddox, Chair.

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

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

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

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

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

There was no opposition present at the hearing.

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

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

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

Ms. Bogen stated she does not understand why this large deck does not need a variance to build. Mr. Diatta stated that the deck is encroaching within the required setback for a duplex so that is why it requires a variance. Ms. Bogen replied so it is the deck that is encroaching? Mr. Diatta replied it is the whole deck and stairs that are encroaching into the required setback. Only 11 feet is available and the duplex needs

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

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

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

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

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

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

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

Submitted by:

Approved by:

YaYa Diatta

Gloria Bogen, Secretary