

BOARD OF ZONING APPEALS STAFF REPORT
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TYPE OF APPLICATION: Minor Variance **FILE #**13-182715
APPLICANT: Soua Xiong
HEARING DATE: June 10, 2013
LOCATION: 1108 WILSON AVENUE
LEGAL DESCRIPTION: H F Schwabes Addition Lots 3 And Lot 4 Blk 3
PLANNING DISTRICT: 4
PRESENT ZONING: R4 **ZONING CODE REFERENCE:** 63.501(b)(2)
Daytons Bluff Special Sign District
REPORT DATE: May 28, 2013 **BY:** Yaya Diatta
DEADLINE FOR ACTION: July 6, 2013 **DATE RECEIVED:** May 8, 2013

A. **PURPOSE:** The applicant is requesting a variance from the parking regulations stating that off-street parking spaces shall not be located within the front yard in order to legalize an existing paved parking space constructed in the front yard.

B. **SITE AND AREA CONDITIONS:** This is a 74 by 124-foot lot with no alley access located at the end of a dead-end street. Off-street parking is provided in the existing one-car detached garage accessed from the street and the recently paved parking area constructed in the front yard.

Surrounding Land Use: Mostly single family dwellings.

C. **CODE CITATION:**

Sec. 63.501. - Accessory buildings and uses.

Accessory buildings, except as otherwise provided in this code, shall be subject to the following regulations:

- (b) Accessory buildings, structures or uses shall not be erected in or established in a required yard except a rear yard. The following additional standards shall apply to residential parking:

(2) Off-street parking spaces shall not be located within the front yard.

D. FINDINGS:

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

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

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

The parking area in the front yard was recently paved and has not been in existence for 10 years, therefore, this condition is not met.

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

The surface of the alley is at a higher elevation than the grade of the property making access to the rear yard impractical for parking in addition to that in the garage and driveway. This topography of the lot meets the hardship condition even though additional parking is not required.

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

Although the applicant has submitted a petition signed by a number of property owners in the immediate area stating their support for the variance, the petition contains only 1/3 of the property owners within 100 feet along each side of his property. This condition is not met.

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

The parking space is paved.

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Because this request does not meet conditions (a) and (c) of the guidelines for parking within a required yard, this finding is not met.

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

The applicant's request would allow occupants of the house to park on the property and free up street parking. This is consistent with a goal of the Comprehensive Plan to provide off-street parking in order to lessen congestion in the public streets, therefore, this finding is met.

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

According to the applicant, his request is due to the following reasons: he has 5 family members who have vehicles and the existing single-car garage and driveway do not meet their parking needs, the narrow space between the garage and the house prevents the extension of the existing driveway to the rear yard in order to provide additional parking to the back of the house, the lack of alley access further makes it impossible to provide parking in the rear yard and finally, the presence of a fire hydrant at the end of the street which requires cars to be parked 10 feet away further reduces the option for on-street parking. The requested variance is reasonable and the above described difficulties are sufficient to meet this finding.

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

The circumstances related to the lack of alley access, the location of the property at the end of a dead-end street and the lack of sufficient space between the existing garage and the house for a driveway access to the rear yard are circumstances unique to the property. These circumstances were not created by the applicant, therefore, this finding is met.

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

The requested variance if granted would not change the zoning classification of the property, therefore, this finding is met.

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

This would be the only property on the block with front yard parking. This request would change the character of the area, therefore, this finding is not met.

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13-201598

- E. **DISTRICT COUNCIL RECOMMENDATION:** Staff received a letter from District 4 recommending approval of the variance.
- F. **CORRESPONDENCE:** No additional correspondences have been received.
- G. **STAFF RECOMMENDATION:** Based on findings 1 and 6, staff recommends denial of the variance.

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