



APPLICATION FOR APPEAL

Saint Paul City Council – Legislative Hearings

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CITY CLERK

310 City Hall, 15 W. Kellogg Blvd.

Saint Paul, Minnesota 55102

Telephone: (651) 266-8585

We need the following to process your appeal:

- \$25 filing fee (non-refundable) (payable to the City of Saint Paul) (if cash: receipt number _____)
 - Copy of the City-issued orders/letter being appealed
 - Attachments you may wish to include
 - This appeal form completed
 - Walk-In OR Mail-In
- for abatement orders only: Email OR Fax

<p>HEARING DATE & TIME (provided by Legislative Hearing Office) Tuesday, <u>Nov. 4, 2014</u></p> <p>Time <u>3:00 p.m.</u></p> <p>Location of Hearing: <u>Room 330 City Hall/Courthouse</u></p>

Address Being Appealed:

Number & Street: 1401 Eleanor Ave City: Saint Paul State: MN Zip: 55116

Appellant/Applicant: William T. Dillon Email wtd381@hotmail.com

Phone Numbers: Business _____ Residence _____ Cell 717-609-5480

Signature: _____ Date: 10-24-14

Name of Owner (if other than Appellant): _____

Mailing Address if Not Appellant's: _____

Phone Numbers: Business _____ Residence _____ Cell _____

What Is Being Appealed and Why?

Attachments Are Acceptable

- Vacate Order/Condemnation/
- Revocation of Fire C of O _____
- Summary/Vehicle Abatement _____
- Fire C of O Deficiency List/Correction _____
- Code Enforcement Correction Notice _____
- Vacant Building Registration _____
- Other (Fence Variance, Code Compliance, etc.) Encroachment Permit / fence variance

City of Saint Paul

Christopher B. Coleman, Mayor

Technical Services Division
1000 City Hall Annex
25 W 4th Street
Saint Paul, MN 55102-1660

Phone: (651) 266-8850
Fax: (651) 266-8855

July 1, 2014

Mr. William Dillon
1401 Eleanor Avenue
Saint Paul, Minnesota 55116

Subject: Encroachment Permit Application for 1401 Eleanor Avenue

Dear Mr. Dillon:

The City of St. Paul Department of Public Works has received and reviewed your application for an encroachment permit to place a fence onto the boulevard alongside your property at 1401 Eleanor Avenue. After review by various City Departments and Utility Companies, your request for an encroachment permit, as described in your application, is denied.


The Department of Public Works and the Forestry Division of Parks and Recreation offer the following reasons for denying your encroachment permit request:

- 1) Allowing the fence to remain in the right-of-way would enclose a public street tree (16" DBH Red Oak) located directly adjacent to the side of the house. Contrary to notes #8 and #9 in your letter of request, this fence would interfere and be in conflict with Forestry's ability to access and maintain the tree as well as replant this section of Albert Street in the future.
- 2) As per Chapter 134 of the St. Paul Legislative Code, your request can be reasonably accomplished on your private property.

If you wish to appeal this decision you may contact the Director of Public Works, Rich Lallier, at (651) 266-6099. His address is 25 4th Street West, 1500 City Hall Annex, St. Paul, MN 55102.

If you have any additional questions regarding the encroachment permit process, please call me at (651) 266-6217.

Sincerely,



David Kuebler, P.E.
ROW Management Section
Traffic and Lighting Division
St. Paul Public Works Department

cc: Rich Lallier
Paul St. Martin
Brent Gillen

Letter of Request

On May 7, 2014 I entered the City of Saint Paul Department of Safety and Inspections located at 375 Jackson Street, Suite 220, Saint Paul MN. 55101. The purpose of my visit was to submit a fence application form and a Site Plan Format showing the location, length, height and type of wood privacy fence I wanted to install at my newly purchased home located at 1401 Eleanor Avenue, Saint Paul MN 55116 so that I could obtain a building permit.

I had two questions for the Department while there as follows:

1. **Height of Fences.** What is the height restriction of this fence? My property is located on a corner lot and I was confused by the language in the Fence Requirements (Sec. 33.07). It states that, "One a corner lot of two intersecting streets in a residential zoning district, no fence, wall or other structure shall be allowed above a height of two (2) feet from the sidewalk grade in the triangular area of the lot included within ten (10) feet of the corner along each lot line unless the structure is more than 80% open." The inspector I spoke to told me since the back of my lot was an Alley Way and as long as I didn't take the fence past the front of my home the fence could be my requested height of 6 feet 2 inches.
2. **Site Plan.** I was unable to locate the pins on my property using a metal detector however I did have a Survey provided to me in my loan / title paperwork. The question of my property line was not with the neighbor to the west as there was already an existing fence there and I would not be building along that property line. My question was directed towards my property line and the sidewalk / street (Albert St.). The survey listed 7 feet from my home to the property line and my site plan to build this fence was listed as the same. My question to the inspector was this,

"Could I rely on this information to ensure 7 feet from my home was the correct property line or was there additional information I could use to verify the property line? The inspector told me two things:

- a. It is sometime difficult to find the property pins in older neighborhoods.
- b. The survey from the title company was only a visual inspection (as it actual states on the bottom of the survey itself) and is not correct, my property line was, in fact, the sidewalk.

He went on to tell me that I could build this fence right up to the side walk if I wanted. I had the measurements with me and proceeded to add those dimensions to my site plan. I wrote in, right in front of the inspector, 16 feet from the side of the house to sidewalk and 161" from garage to side walk. I then listed each section "A", "B" and "C" and then added a detail of each with the corresponding lengths. I handed him the site plan and he approved the permit. A copy of the site plan which clearly shows both my original plan of 7 feet from the home to my property line and the change to 16 feet is included here as well as a copy of the permit I was given.

Relying on the information I received from the inspector with my approved permit I was confident that I was doing everything correctly and I proceeded to build my fence according to the site plan that was approved. I had already spent \$3,800 and nearly 60 hours of time building the fence when an inspector stopped by and told me I needed to stop building the fence until he reviewed my submitted paperwork. He called me a day later and agreed that paperwork did, in fact, show two different sets of measurements but unfortunately the information I was given by their office was incorrect. He further went on to tell me the property lines normally are to the sidewalk but in my case it wasn't.

The steps I took were to ensure I was in compliance with all regulations to build a fence so it was done correctly. I was not attempting in any way to build this fence outside of my property line. This fence is 75% completed and would cost more than I have already spent to move it. This cost would be a hardship that I cannot afford to take on.

The fence as it is now should not be a concern and I feel, given the circumstances, I should be granted an encroachment permit for the following reasons:

1. The encroachment does not conflict with an adopted street improvement or similar plan, or one that is in development or can be reasonably anticipated;
2. The encroachment does not pose a public health or safety hazard, in the opinion of the Engineer I had complete the site plan for your review (included here);
3. The encroachment would not substantially obscure the main property frontage;
4. The encroachment is sufficiently set back from the street curb or edge of pavement to not inhibit the reasonable use of the area, such as passenger-side access to parked vehicles;
5. The encroachment does not impede on the Through Pedestrian Zone of the sidewalk corridor;
6. The encroachment does not adversely affect drainage or create debris buildup;
7. The encroachment does not pose any safety issues nor impede traffic or traffic view (see photos enclosed);
8. The encroachment does not interfere with the city's ability to access, operate, maintain existing or planned city facilities;
9. No conflict exists with utilities, drainage, fire hydrants or other city facilities.

Furthermore, if granted this encroachment, I understand:

1. I shall keep the fence in good repair and shall comply with all City Ordinances related to fences. The City shall have no responsibility to maintain the fence.
2. The City or any utility company having authority to use the easement shall not be liable for repair or replacement of the fence in the event that they are moved, damaged, or destroyed by virtue of the lawful use of the easement.
3. I shall be responsible for any costs associated with the removal of fencing, if necessary in the future, encroaching into the easement area.
4. I understand an encroachment permit does not give me property ownership of the easement area.
5. I must comply with any agreement as set forth in the encroachment permit, if granted.



Highland District Council
1978 Ford Parkway Saint Paul, Minnesota 55116
651-695-4005 Fax 651-695-4019
Email: hdc@visi.com

**Resolution in Support of the Appeal of the Encroachment Permit Denial
for 1401 Eleanor Ave**

Whereas, the property owner at 1401 Eleanor Ave applied for and was issued a permit by the Department of Safety and Inspections(DSI) to install a fence on his property at 1401 Eleanor, and

Whereas, the property owner installed the fence where DSI told him to; and

Whereas, the City of Saint Paul Public Works then told him the fence was in the wrong spot and that he needed to apply for an encroachment permit; and

Whereas, the property owner then applied for an encroachment permit and it was denied because of a City tree being enclosed by the fence, with the person denying it never really looking at the paperwork or history of the original permit; and

Whereas, the fence was moved so the tree is no longer enclosed; and

Whereas, the immediate neighbors have all signed letters that they do not object to where the fence has been built; and

Whereas the property owner has been waiting for months to finish the fence; therefore

Be it Resolved, that the Community Development Committee of the Highland District Council recommends the appeal for the encroachment permit be granted by the Legislative Hearing officer and supported by the Saint Paul City.

Approved October 21, 2014

By the Community Development Committee of the Highland District Council

Resolution 2014-32D