

**APPLICATION FOR ZONING VARIANCE**

Department of Safety and Inspections
375 Jackson Street
Suite 220
Saint Paul, MN 55101-1806
General: 651-266-9008
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RECEIVED IN D.S.I.**DEC 30 2014**

01-06-15

Check at front counter
#7943**Zoning office use only**

File Number: 15-00089
Fee: \$ 420.00
Tentative Hearing Date: 02/02/15
Section(s): 67-702
City agent: YD/ATP

APPLICANT

Name Dennis Gudim Jr. Company _____
Address 1025 Selby Ave.
City St. Paul ST MN Zip 55104 Phone 651-707-7446
Email StateraFitness@comcast.net Fax _____
Property Interest of Applicant (owner, contract purchaser, etc) owner
Name of Owner (if different) _____ Phone _____

PROPERTY INFORMATION

Address / Location 2146 Grand Ave. St. Paul, MN
Legal Description (attach additional sheet if necessary) 2146 Grand Ave. Section/Township/Range:
23 Plat: Summit Wood Leg description: Lot 37
Lot Size 6,098 sqft Present Zoning RM2 Present Use Rental / Students
Proposed Use Rental / Students

Variance[s] requested:

Legalize @ short dwelling

Supporting Information: Supply the necessary information that is applicable to your variance request, provide details regarding the project, and explain why a variance is needed. Duplex/triplex conversions may require a pro forma to be submitted. Attach additional sheets if necessary.

Attachments as required:

☒ Site Plan☒ Attachments☒ Pro Forma

Applicant's Signature

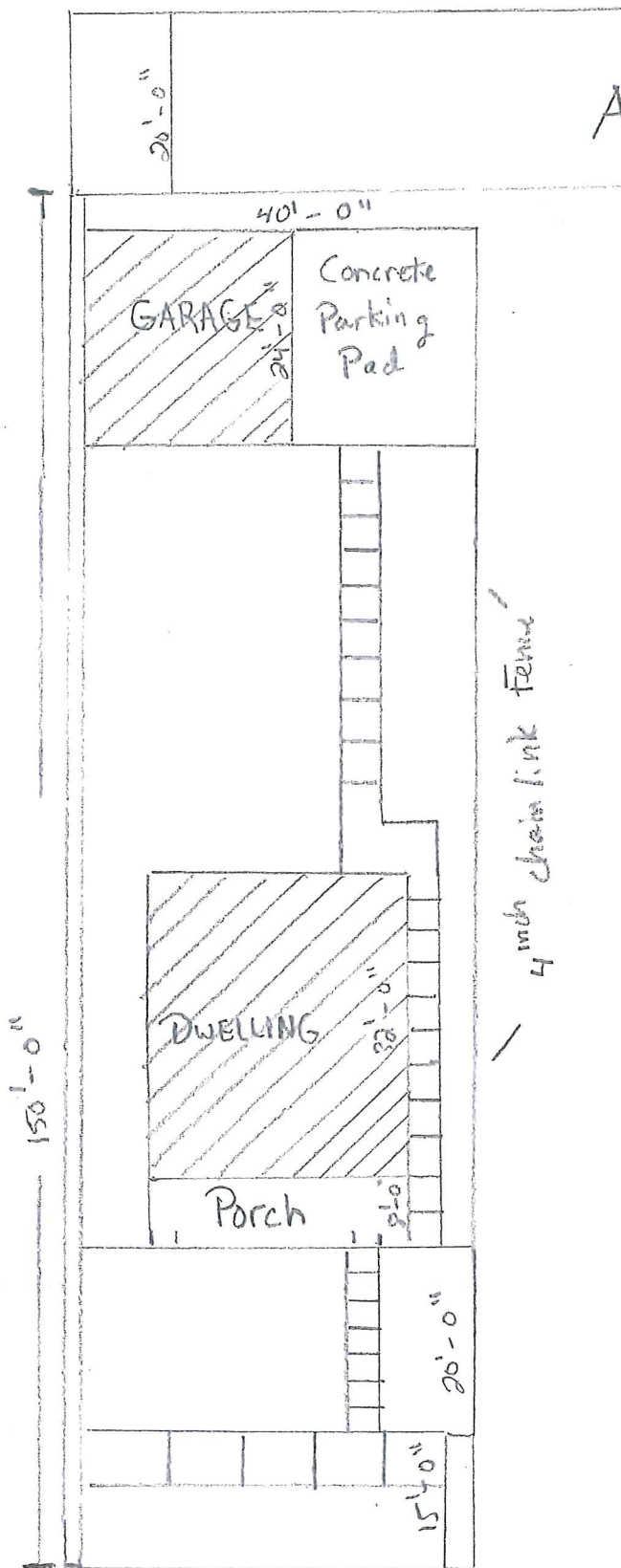
Date

12/29/14

1" = 20' 0"

EILE
15-00893

ALLEY



Dennis Gudim
1025 Selby Ave.
St. Paul, MN
55104 (651-707-7)

2146 Grand Ave.
Sec/Town/range: 2
Plat: Summit Wood
Leg. Description: Lot 37

NORTH
↓

Grand Avenue

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FILE
75-000893

To Whom it may concern:

I am requesting a zoning variance for continued student rental regarding 2146 Grand Avenue. A letter for a continued variance to rent to St. Thomas students was sent out within the past 2 years by the city of St. Paul but was never received by the owners of the property. The other rental properties surrounding 2146 Grand Avenue all received the letter and have signed the letter and continue to rent to students. My name is Dennis Gudim Jr., an owner of 2146 Grand Avenue. We purchased the property 14 years ago to rent to the University of St. Thomas students and have successfully rented to many students over that time and are very interested in continuing renting. We have cooperated with the University of St. Thomas and the neighbors regarding conduct issues and noise issues and have successfully enforced the wants and needs of the neighbors, the University and the city. Since we have been responsible property owners and would have definitely signed the document sent by the city had we received the letter, we are asking for leniency regarding the request for the zoning variance and the continued ability to rent to students at 2146 Grand Avenue. We appreciate your consideration for our request.

Sincerely,

Dennis Gudim

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FILE
15-000893

Variance Requests: From Dennis Gudim/Owner

To whom it may concern:

1. The variance is in harmony with the codes intent, due to the fact that the houses around 2146 Grand Avenue have been grandfathered in as rentals for students through the signing of a mailed document which we did not receive. The zoning laws intent is to disallow further student rentals to more than 2 students in the same dwelling for future property owners but not for grandfathered in property owners.
2. I believe the comprehensive plan is to prevent disruptive behavior by students and to avoid disturbances to neighbors that live by the student houses, as well as prevent neighborhood housing from typical rental house deterioration. We have rented to students successfully since 2000 and have worked with the University of St. Thomas and neighborhood concerns regarding disruptive behavior and property management and have resolved any issues that may have occurred.
3. We have rented to students successfully for 14 years and would like to continue to do so in the future. We would have definitely signed the grandfather zoning document had we received the letter. Unfortunately, we did not receive the letter and would like to be grandfathered in like our neighbors. We do propose to use the property with respect to the provisions that are permitted. We will work with the neighbors addressing their concerns. We will also communicate to our renters the concerns of the neighborhood and the city.
4. We purchased the property to rent to students at St Thomas. We purchased in an area that was closely located to St. Thomas's campus and other rentals for the convenience of students. We also would have signed the document to continue renting to students due to the above reasons. Our plight is due to the location of this property and to not receiving the zoning change document.
5. The variance will allow us to use the property as the existing neighbors are using their properties, by being grandfathered in.
6. The essential character of the surrounding area will not be altered due to the fact that no changes are being made to the property or the land at 2146 Grand Avenue.

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BOARD OF ZONING APPEALS STAFF REPORT

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TYPE OF APPLICATION: Major Variance **FILE #**15-000893

APPLICANT: Dennis D. Gudim

HEARING DATE: February 2, 2015

LOCATION: 2146 GRAND AVENUE

LEGAL DESCRIPTION: Summit Wood Lot 37

PLANNING DISTRICT: 14

PRESENT ZONING: RM2; Sign-Grand

ZONING CODE REFERENCE: 67.703
Macalester-Groveland Special Sign District

REPORT DATE: January 13, 2015 **BY:** Yaya Diatta

DEADLINE FOR ACTION: March 6, 2015

DATE RECEIVED: January 6, 2015

A. **PURPOSE:** A variance of the minimum distance requirement between student dwellings in order to legalize a single family student dwelling. The code requires a student dwelling to be located at least 150 feet from another student dwelling. The applicant is proposing a 40 foot separation from the existing student dwelling to the east at 2138 Grand Avenue and a zero foot setback from the existing student dwelling to the west at 2150 Grand for variances of 110 feet and 150 feet respectively.

B. **SITE AND AREA CONDITIONS:** This is a 40 by 150-foot lot with alley access to a two-car detached garage and a one-car surface parking pad in the rear yard.

Surrounding Land Use: A mix of single family dwellings and multiple family dwellings.

C. **BACKGROUND:**

At the request of the City Council, the Saint Paul Planning Commission conducted a study on student housing and made recommendations regarding amendments to the zoning code, which were subsequently adopted by the City Council and became effective August 8, 2012. The intent of the study was to prohibit the proliferation of new student rental housing in neighborhoods of high student concentration. The ordinance created a

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Student Housing Neighborhood Impact Overlay District as shown on the map attached and established a definition for student dwellings. Within the overlay district, a 150' separation between properties used for student dwellings is required.

D. CODE CITATIONS:

Sec. 67.702. Student dwellings.

Within the SH student housing neighborhood impact overlay district, a student dwelling is a one- or two-family dwelling requiring a fire certificate of occupancy in which at least one (1) unit is occupied by three (3) or four (4) students. For the purposes of this article, a student is an individual who is enrolled in or has been accepted to an undergraduate degree program at a university, college, community college, technical college, trade school or similar and is enrolled during the upcoming or current session, or was enrolled in the previous term, or is on a scheduled term break or summer break from the institution.

Sec. 67.703. Standards and conditions

Within the SH student housing neighborhood impact overlay district, the following standards and conditions shall apply for student dwellings:

- (1) A student dwelling shall be located a minimum of one hundred fifty (150) feet from any other student dwelling located on a different lot, measured as the shortest distance between the two (2) lots on which the student dwellings are located.

Sec. 67.706. Establishing new student dwellings

Establishing new student dwellings. After sixty (60) days following the conclusion of the registration and establishment period under this article, additional properties may be registered and established as new student dwellings, subject to the standards and conditions specified in Legislative Code § 67.703(a) and (b). A process for reviewing proposed new student dwellings shall be established by the Department of Safety and Inspections. The owner of a building deemed ineligible for establishment as a student dwelling may apply for a variance under Legislative Code § 61.601, as applied.

E. FINDINGS:

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

This property is located within the Student Housing Neighborhood Impact Overlay District. Saint Paul has nine universities and colleges and five of those institutions are located within or in proximity to the student housing overlay district. The

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ordinance is intended to: “ameliorate the impact of dedicated student housing within and preserve the character of predominantly one- and two-family dwelling neighborhoods”. This property is located between two registered student dwellings (40 feet from 2138 Grand Avenue and zero feet from 2150 Grand Avenue).

The proposed student dwelling is a 4-bedroom single family dwelling occupied by four University of Saint Thomas students. According to the applicant, this request is in harmony with the intent of the zoning code because his student rental property was in existence prior to the establishment of the student dwelling ordinance. The applicant also claims that he did not receive any notification pertaining to the student dwelling registration during the registration period in 2012.

Existing student dwellings were allowed to remain providing they had a fire certificate of occupancy or provisional fire certificate of occupancy before the date of the ordinance adoption (June 27, 2012) and must have had three or four undergraduate college students living in the unit any time within the 18 months preceding the effective date of the ordinance (August 8, 2012). This property had a certificate of occupancy for a non-owner occupied single family dwelling but the property owner never registered it as a student dwelling within the registration period.

The study found that students are generally “a transient population with respect to the area they inhabit, and so have less connection to the long term well-being of that neighborhood than more permanent residents may”. As a result, noise and inattention to property appearance and litter tend to be an issue. Consequently, the applicant’s request would result in a concentration of student dwellings in this area and could negatively affect the quality of life in the neighborhood; it is not in keeping with the above stated intent of the student housing ordinance. This finding is not met.

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

The applicant states that this property has been managed well since he started renting it to students in 2002 and has worked with the University of Saint Thomas and the neighborhood in order to minimize any disruptive behaviors from tenants at this location.

However, the student dwelling study found that: “students tend to live at higher concentrations of adult residents as compared to rental housing as a whole. As a result, traffic and parking impacts tend to be greater than for rental housing in general.” The student housing ordinance requires a separation between student dwellings in order to minimize the concentration of students and maintain the quality of life in the neighborhood. Allowing an additional student dwelling in the neighborhood is not in keeping with Policy H 2.1 of the Comprehensive Plan which states that the City must “Maintain the vitality and high quality of life in existing stable neighborhoods”. This finding is not met.

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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 building on this property is a single family dwelling and can be rented to anyone, not just students. Although this request is not unreasonable, the rental of the property to students is a choice, not a result of any difficulty. This finding is not met.

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

According to the applicant, he purchased this property due to its proximity to the University of Saint Thomas in order to rent it to students. He contends that his plight is due to the fact that he did not receive any notification in 2012 about needing to register his student dwelling. That claim does support this finding. There is nothing unique to this property that would prevent the owner from renting to anyone other than students. The rental niche targeted by the applicant is a choice, a circumstance he created. Therefore, there is no undue hardship making compliance with the code impractical or unreasonable. This finding is not 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 will not change the zoning classification of the property. This finding is met.

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

There are a number of other student dwellings within the immediate area. This request would increase the concentration of allowed student dwellings in this area contrary to the intent of the student housing ordinance. This finding is not met.

F. **DISTRICT COUNCIL RECOMMENDATION:** Staff has not received a recommendation from District 14.

G. **CORRESPONDENCE:** Staff received a letter from a property owner at 2153 Lincoln Avenue in opposition to the variance request citing concerns that approving this request would be contrary to the intent of the zoning ordinance to create a balance between student dwellings and non-student dwellings.

H. **STAFF RECOMMENDATION:** Based on findings 1 through 4 and 6, staff recommends denial of the variance.

MINUTES OF THE MEETING OF THE BOARD OF ZONING APPEALS
CITY COUNCIL CHAMBERS, 330 CITY HALL
ST PAUL, MINNESOTA, FEBRUARY 2, 2015

PRESENT: Mmes. Bogen & Porter; Messrs. Courtney and Saylor of the Board of Zoning Appeals; Mr. Warner, City Attorney; Mr. Diatta, Ms. Lane and Ms. Crippen of the Department of Safety and Inspections.

ABSENT: Joyce Maddox*, Buzz Wilson*, Daniel Ward*

*Excused

The meeting was chaired by Gloria Bogen, Co-Chair.

Dennis D. Gudim (#15-000893) 2146 Grand Avenue: A variance of the minimum distance requirement between student dwellings in order to legalize a single family student dwelling. The code requires a student dwelling to be located at least 150 feet from another student dwelling. The applicant is proposing a 40 foot separation from the existing student dwelling to the east at 2138 Grand Ave. and a zero foot setback from the existing student dwelling to the west at 2150 Grand for variances of 110 feet and 150 feet respectively.

Mr. Diatta showed slides of the site and reviewed the staff report with a recommendation for denial based on findings 1 through 4 and 6.

One letter was received opposing the variance request from the neighbor at 2154 Fairmount Avenue. One e-mail was received from the neighbor at 2146 Grand Avenue opposing the variance request.

One letter was received from District 14 regarding the variance request recommending no action being taken against the building until June of 2015 to allow the students who rented in good faith to complete the school year and their lease ends.

The applicant **DENNIS D. GUDIM**, 14921 White Oak Drive, was present. Mr. Gudim stated that he purchased the property in 2002 and started running the house as student housing. One of the reasons that he purchased a property for student housing located in the St. Thomas area is that the University will intercede and have discussions with the students to assure that there are no tenant issues in the neighborhood with noise, parties and that the students are being responsible tenants. He stated that he had rented to four young adults prior to renting to students, there were a lot of issues with parties and police coming to the home, but he spoke with them and was able to work out the issues with the tenants. Mr. Gudim stated that is an example just to show that he will be able to rent the property even if he cannot rent to St. Thomas students. However, he feels it is much better to rent to the St. Thomas students as the University will intervene if any situations arise and that keeps the neighborhood happy.

Mr. Gudim stated that he did not receive the notification of the Student Housing Registration, he does not know if it was misplaced or just never arrived. He did not find out about the registration until a Fire Marshall called for an inspection and told him that he had to have the students out of the building by January 16, 2015, which is the middle of the school year. The other issue is that he is renting to St. Thomas students. He argued that the ordinance that was created was for new student housing and all the findings are based on new student housing. He contended that he has been running student housing since 2002 in this location for twelve years so this does not qualify as new student housing. Mr. Gudim stated that he attended the neighborhood meeting and there was a 7-5 vote against his variance request. There was some question on how the District could know that he had rented to St. Thomas Students, because names of the students had to be submitted for the proof of rental. He stated that St. Thomas kept records of all the students that have lived there in the past twelve years, it would have been easy for him to find

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the students and have them sign that they had rented there and send it in. Mr. Gudim stated that he is requesting that the Board grant his request.

Amy Gage, 2115 Summit Avenue, Neighborhood Liaison for the University of St. Thomas, stated that the University does not want to take any stand on this either for or against. She wanted to make a plea that whichever way this goes that the City not evict our students in the middle of the school year the semester just started.

Mr. Courtney asked Ms. Gage if it was possible to own property in that area and not know the law with regard to the changes in the student housing. Ms. Gage stated that it is certainly possible to rent to a 19-20 year old and not know. She stated that she is arguing on behalf of the four students that live on the property.

Ms. Bogen asked Ms. Gage if the property owners got the names of students to rent to from St. Thomas University? Ms. Gage replied no, the owners may advertize through the school, they do not have to, the University will post rental notices for property owners. Ms. Bogen further questions if the University intervenes if there are tenant issues in the neighborhood? Ms. Gage stated that there are three different ways that they hear about complaints. People can call the police and those filter down to public safety and eventually they filter down to her. She has only been in the job for eight months and now that they know her they come to her directly. When she gets a complaint she first verifies that there are St. Thomas students on the property. Ms. Bogen asked how she verifies that tenants are students. Ms. Gage stated that first she goes to the landlord and they have been very willing to cooperate with her. The landlords in general want to rent to law abiding students. Sometimes she will go directly to the students but usually she starts with the landlord as her first point of contact.

Mr. Courtney asked Ms. Gage if she has a list of the students that have lived at 2146 Grand Avenue since 2002. Ms. Gage stated that what she has is a file that was kept by John Hershey, who she took over the job from and kept very good files. She stated that before attending the Neighborhood meeting she looked up the file for 2146 Grand Avenue and we do have records going back to 2002 showing that this property has been renting to students since 2002. She stated she did not think to bring it with her but could produce it if needed.

There was opposition present at the hearing.

Cheryl Fogerty, 2166 Lincoln Avenue, stated that the neighborhood has worked very hard with their City Council people to get the Student Overlay District in place to help protect our neighborhood from going over the tipping point where there were way more than 30% of student rentals on many blocks in and around St. Thomas. She stated that they are very protective of that and appreciative of the City Council. She asked that the Board keep that in mind and not grant the variance which she thinks would weaken the Overlay District and lead to other landlords making attempts for variances for similar circumstances for failure to get registered during the grandfathering period. Ms. Fogerty stated that if they escaped a student rental they would like to keep it that way.

Rachel Westmeyer, 1935 Summit Avenue, stated that she is a co-chair of the Wesmac Board(?), the West 7th Advisory Committee Board at the University of St. Thomas and was very much involved in championing this Student Overlay District. She stated that they were very diligent to get it passed because many of their streets have over the number of student rentals that the neighbors say that they can absorb. About two student rentals a block is all they can manage. Ms. Westmeyer stated that she opposes

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this variance request, she also owns a rental property in the area, contending that being a landlady in the area makes it her job to know the law with regard to student housing. She stated that she often gets ordinance information from the City as new laws come into St. Paul. Ms. Westmeyer stated that it is Mr. Ryan's responsibility to know the laws and ordinances with regard to his rental property. The people around him that are student rentals complied with the requirement. She stated that it is not a hardship to rent to someone else, he can rent to graduate students, he can rent to two students rather than four and he can also rent to families. She does not think that this is a hardship she assumes he graduated from the University of St. Thomas and feels that he has the intelligence to know what ordinances apply and what laws apply being he is a duplex owner. She would like to see this variance denied.

Mr. Ryan stated that the bottom line is that they are not discussing the Overlay which is for new student housing, this is not new. He stated that he does not disagree with the Overlay that is what the neighborhood voted for and what they want and that is how it should be. This, however, is not about that it is about someone that has been renting to St. Thomas Students for the past twelve years. We are talking about a misunderstanding that he will be penalized for.

Mr. Courtney asked staff if there were any other violations here that made it in the applicant's best interest not to notify the City that he is renting to students. During this period of two and a half years would any of his neighbors have been prevented from having student housing because they were within the 100 feet of his property. Mr. Diatta asked if Mr. Courtney is asking about a zoning violation or any violation. Mr. Courtney replied something similar to the case on Selby where there were homesteading and it made it convenient for them not to apply. Mr. Diatta replied that is not the case here. The house is currently not owner occupied and is being rented to students. Mr. Courtney further questioned if the applicant has applied within the 18 month registration period would any of his neighbors been prevented from getting a student housing application because they were closer to his property than 100 feet. Mr. Diatta replied no, when the ordinance was passed it was to grandfather in anybody that was already renting to students. If the neighbors were renting to students at the same time that he was when the ordinance was passed then he would have been fine. Mr. Courtney further question if someone applied in the last two and a half years would they have been turned down if his property had been registered at student rental. Mr. Diatta replied no one did apply within 150 feet of his property.

Ms. Lane stated that if anyone had applied it would not have made any difference because the property immediately on one side is student rental housing and on the other side there is one two properties down that is student housing so anyone new would have been denied because of the neighboring student housing. There would not have been any applications that would have been prevented if this one had been registered because of the existing registered student rentals on either side of his property.

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

Mr. Warner stated that when the ordinance was passed the City Council built in fairly extraordinary measures to get the word out to property owners about this. The City had a fairly good idea in the study area where the student housing was through records from the Fire Department and with St. Thomas' cooperation. The ordinance was structured so that even if someone had established student housing and did not tell the City. The word went out that if property owners wanted to rent to students that they just needed to let the City know and this applicant says that he missed that.

Mr. Courtney asked if there were any other prejudice aside from the neighbor who is also a landlord and does not want to allow this, which he can understand. Mr. Warner asked prejudice to who? Mr. Courtney

questioned if Mr. Gudim had registered on time. Mr. Warner replied he would have been fine. Just like his neighbors. There could have been 15 student rentals in a row on the block and they would all have been grandfathered in. That was the idea so that people that had made these investments could be protected.

Ms. Porter clarified that the issue with this is because he did not get grandfathered in, there is an over saturation of student housing. Ms. Lane replied yes, she thinks because Mr. Gudim did not get registered under the existing student dwelling, DSI(Department of Safety & Inspections) has to treat it like a new student housing property. It has to meet today's standards.

Ms. Porter moved to deny the variance and resolution with a recommendation for denial based on findings 1 through 4 and 6.

Mr. Saylor seconded the motion, which failed on a roll call vote of 2-2(Courtney, Bogen).

Mr. Courtney stated that he is impressed that Mr. Gudim can prove that he has had student housing in there since 2002. He stated that is enough for him to suggest laying this over until we have more Boardmembers in attendance.

Mr. Courtney moved to continue the matter two weeks until February 18, 2015, when more Boardmembers would be in attendance.

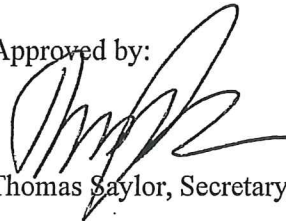
Ms. Bogen stated that this house has been used as student housing and it has not impacted anybody and they all probably all assumed that it was grandfathered student housing, which is why she voted against denying this.

Submitted by:



YaYa Diatta

Approved by:



Thomas Saylor, Secretary

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