

CITY OF SAINT PAUL
BOARD OF ZONING APPEALS RESOLUTION
ZONING FILE NUMBER: 15-000893
DATE: February 2, 2015

WHEREAS, Dennis D. Gudim has applied for a variance from the strict application of the provisions of Section 67.703 of the Saint Paul Legislative Code pertaining to 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 in the RM2 zoning district at 2146 Grand Avenue. PIN: 052823410098; and

WHEREAS, the Saint Paul Board of Zoning Appeals conducted a public hearing on February 2, 2015 pursuant to said application in accordance with the requirements of Section 61.601 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.*

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 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. The applicant states that he has been renting the property to students since 2002 and can provide records to prove it. In this case, the request would not negatively impact a purpose and intent of the zoning code to improve the quality of life in the neighborhood. This finding is 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.

Although the student dwelling study found that “students tend to live at higher concentrations of adult residents as compared to rental housing as a whole”, resulting in higher traffic and parking impacts, this property has been rented to students for a long time. As a result, the impacts of parking and traffic in the area are no more worse currently than they were prior to the adoption of the ordinance.

Allowing a well-managed property in the neighborhood to be registered and used as a student dwelling is not inconsistent with 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 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.*

The applicant’s difficulty is that the building is within proximity to the University of St Thomas and has been rented to students since it was purchased in 2002. It would be difficult to rent it to non-students. This finding is met.

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

The location of the house within proximity of the University of St. Thomas is a circumstance unique to the property not created by the applicant. This finding is not met.

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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.*

Since the property has been rented to students for a long time, this request would not increase the concentration of allowed student dwellings in this area. This finding is met.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Board of Zoning Appeals that the request to waive the provisions of Section 67.703 to allow 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, in order to legalize a single family student dwelling on property located at 2146 Grand Avenue, and legally described as Summit Wood Lot 37, in accordance with the application for variance and the site plan on file with the Zoning Administrator

IS HEREBY APPROVED.

MOVED BY: Courtney

SECONDED BY: Bogen

IN FAVOR: 5

AGAINST: 1

MAILED: March 31, 2015

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 February 2, 2015 and on record in the Department of Safety and Inspections, 375 Jackson Street, Saint Paul, Minnesota.

SAINT PAUL BOARD OF ZONING APPEALS

A handwritten signature in cursive script, reading "Debbie M. Crippen", written over a horizontal line.

Debbie M. Crippen
Secretary to the Board