



City of Saint Paul

Signature Copy

Resolution: RES 16-30

FILE
16-012819

City Hall and Court
House
15 West Kellogg
Boulevard
Phone: 651-266-8560

File Number: RES 16-30

Memorializing the decision of the Council to grant the Summit Hill Association's appeal from a decision of the Board of Zoning Appeals granting variances to construct a multi-family dwelling at 1174 Grand Avenue.

WHEREAS, Ryan Burke, d/b/a Bleuant Designs LLC ("Applicant"), applied to the Board of Zoning and Appeals ("BZA") under BZA File No. 15-163947 seeking variances from the strict application of the Zoning Code's dimensional standards for residential districts under Leg. Code § 66.231 and the Code's lot coverage standard under Leg. Code § 66.232 for that property commonly known as 1174 Grand Avenue and legally described as Manson And Simonton's Addition W ½ Of Lot 3 And All of Lot 4 Blk 3 [PIN No. 032823410039]; and

WHEREAS, at the Applicant's request, the subject property had recently been rezoned from "BC" community business to "RM2" multiple family and the Applicant now sought the said variances for the purpose of constructing an eight-unit, multi-family residential structure with enclosed parking on the subject property; and

WHEREAS, the Applicant, in order to construct the proposed structure as designed, requested four variances: (1) front yard setback: 23.4 feet required, 22 feet proposed for a variance of 1.4 feet; (2) rear yard setback: 25 feet required, 19 feet proposed for a variance of 6 feet; (3) side yard setback: 9 feet required, 7.5 feet proposed for a variance of 1.5 feet along the east- as well as the west-side property lines; (4) lot coverage ("building footprint"): 35% maximum permitted [here 3,339 sq. ft.] and 51.4% [4,905 sq. ft.] proposed for a variance of 16.4% [1,566 sq. ft.]; and WHEREAS, on October 12, 2015 and pursuant to Leg. Code § 61.601, the BZA duly conducted a public hearing on the said variance applications where all interested parties were given an opportunity to be heard and, at the close of the public hearing, the BZA, based upon all the files and records, including the BZA staff report and all the testimony, duly approved each variance requested by the Applicant, based upon the following findings which were set forth in BZA Resolution No. 15-163947 as follows and adopted herein by reference:

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

The buildings currently on this site consist of a duplex constructed in 1886 and a three-car detached garage in the rear yard with surface parking accessed from the alley. This property is located in the Hill State Historic District and in 2015, it was evaluated and determined to be a non-contributing property. The applicant is proposing to remove the building and the garage and develop the parcel into a new, three-story eight-unit building (the first and second floors have 2 two-bedroom units and a one-bedroom unit each and the third floor has 2 two-three bedroom units) with underground parking for eight vehicles and three surface parking spaces.

The zoning code requires a 23.4 foot setback from the front property line for this block, a 25 foot setback from the rear property line, a 9 foot setback from the side property lines and limits the footprint of the building to a maximum of 35% of the lot.

The proposed building would be set back 22 feet from the front property line, 19 feet from the rear property line, 7.5 feet from the side property lines and would occupy 51.4 % of the lot, which cannot be accomplished without the requested variances.

Among purposes of these dimensional standards and lot coverage requirements are to ensure that buildings are constructed in a manner that provides regularity in pattern and spacing, to not create overly dense sites, and to not overly burden adjacent properties with impacts created by the new

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development. The proposed building is generally consistent with the size, the form and the setbacks of the immediate multi-family buildings to the east and to the west. The spacing provided would allow adequate light and air access to property, meeting a purpose of intent of the zoning code. The proposed lot coverage is comparable to that of the immediate buildings to the east and to the west and allows underground parking to be provided. This finding is met.

2. The variance is consistent with the comprehensive plan.

The proposed site development would provide housing opportunities. It is consistent with Policy 1.2 of the Housing Chapter of the Comprehensive Plan, which states: "Encourage the development of attached single-family and neighborhood-sensitive multi-family infill housing at appropriate locations as identified in the Land Use Plan and small area plans to increase housing choice." Strategy 3.4 states: [Infill housing should meet] "...design standards so that infill housing fits within the context of existing neighborhoods and is compatible with the prevailing pattern of development". The infill house proposed would fit into the neighborhood character. Although this project is seeking variances from the RM2 requirements, the density conforms to the zoning standards and the increase in density and parking is being addressed on site. 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 size of the parcel makes it challenging to construct a multiple-family building comparable in scale, spacing and bulk to the existing adjacent apartment buildings to the east and to west of the site that are also zoned RM2. The requested variances are needed to permit a reasonable use of this property to allow a development consistent with existing spacing between buildings, the pattern of the block and the comparable in scale, spacing and bulk to the existing multiple-family buildings in the immediate area while meeting the current parking requirements. It also allows underground parking, which the existing buildings do not provide. This finding is met.

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

Due to the size of this parcel, developing any type of multifamily housing comparable in scale, spacing and bulk to the existing multiple-family buildings in the immediate area while meeting the current parking requirements would be rendered impractical by the strict application of the provisions of the zoning code. 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.

A multiple-family dwelling is a use allowed in the RM2 multiple-family zoning district and with the proposed eight units, this building meets the lot area requirement per unit. This finding is met.

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

The proposed building would be similar in scale and massing to buildings immediately to the east and to the west; it will not change the character of the area. This finding is met."

AND WHEREAS, on October 22, 2015, the Summit Hill Association ("SHA"), pursuant to Leg. Code § 61.702(a), duly filed an appeal from the determination made in this matter under BZA File No.15-172899 and requested a hearing before the City Council for the purpose of considering the actions taken by the BZA; and

WHEREAS, on November 18, 2015, the City Council, pursuant to Leg. Code § 61.702(b), upon notice to all affected parties, duly conducted a public hearing on the matter where all interested parties were given an opportunity to be heard; and

WHEREAS, the City Council, having heard the statements made and having considered the variance application, the report of staff, and all the records and minutes in this matter including BZA resolution no. 15-163947; does hereby

RESOLVE, the Council of the City of Saint Paul hereby reverses the decision of the BZA in this matter, based upon the following findings of the Council:

The Council finds that the BZA's decision in this matter was in error with respect to Finding's No. 1, 2, 3, 4, and 6 for the following reasons. Although an eight-unit, multi-family residential structure is

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a permitted use in RM2 zoning districts, the Council finds that the variances requested are the result of the Applicant's own building design and are not due to any circumstances unique to the Applicant's property [Finding No. 4]. The size and scale of Applicant's building, based on the number and extent of the variances requested, demonstrate that the building would alter the essential character of the surrounding area [Finding No. 6]. Located to either side of Applicant's property are multi-family structures on lots similar in size to the Applicant's lot. The viability of these multi-family use structures indicate that there are no practical difficulties in putting Applicant's property to a reasonable multi-family use by using a design comparable in scale, spacing, and bulk with that of the existing multi-family buildings [Finding No. 3]. Based on any combination of the lot coverage or set back variances requested by the Applicant, the scale of the Applicant's proposed structure does not compare to that of the multi-family structures immediately to the east and west of Applicant's property: the Applicant's proposed building is bigger yet provides only 8 housing units as compared to the immediate multi-family structures which provide - from west to east - 18, 19, 14 and 15 housing units. A bigger building requiring several dimensional variances to provide fewer housing units is not in harmony with the general purpose and intent of either the Zoning Code [Finding No. 1] or with the Comprehensive Plan's goal that the design of infill housing fit within an existing neighborhood's context so that it is compatible with the prevailing pattern of that neighborhood's prevailing pattern of development [Finding No. 2]. Multi-family housing can be developed on the property in keeping with the scale, spacing, and bulk of the existing multiple-family buildings located on either side of the Applicant's property.

AND, BE IT FURTHER RESOLVED, based upon the Council's findings above, that the appeal of SHA is hereby granted; and, be it

FINALLY RESOLVED, That the City Clerk shall immediately mail a copy of this adopted resolution to Applicant Ryan Burke, to Appellant SHA, and to the Zoning Administrator, the Planning Commission and the BZA.

At a meeting of the City Council on 1/6/2016 this resolution was adopted.

Yea: 7 Councilmember Bostrom, Councilmember Brendmoen, Councilmember Thao, Councilmember Tolbert, City Council President Stark, Councilmember Noecker, and Councilmember Prince

Nay: 0

Vote Attested by
Council Secretary



Trudy Moloney

Date 1/6/2016

Approved by the Mayor



Chris Coleman

Date 1/7/2016

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City of Saint Paul

City Hall and Court House
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Master

File Number: ABZA 15-5

File ID: ABZA 15-5	Type: Appeal-BZA	Status: Archived
Version: 1	Contact 651-248-9002 Number:	In Control: City Council
Department: Department of Safety & Inspections		File Created: 10/29/2015
File Name: 1174 GRAND AVENUE		Final Action: 11/18/2015

Title: Public hearing to consider the appeal of Summit Hill Association to a decision of the Board of Zoning Appeals (BZA) approving variances of the front, side and rear setbacks and lot coverage requirements in order to remove the existing duplex and construct an eight - unit apartment building with underground and surface parking at 1174 Grand Avenue.

Notes:

Code Sections: ;

Agenda Date:

Agenda Number: 34

Sponsors: Thune

Enactment Date:

Attachments: 1174 Grand Appeal - Appeal docs, 1174 Grand - Variance application, 1174 Grand - Staff report, minutes and resolution, 1174 Grand - Building rendering, site, floor and elevation plans, 1174 Grand - existing buildings footprint and setbacks, 1174 Grand - correspondences, 1174 Grand - Planning Commission Resolution on the rezoning of the property., 1174 Grand - Site and area maps, 1174 Grand - Zoning Committee staff report and Planning Commission Resolution on variances, 1174 Grand - 15.99, 1174 Grand - Site pictures, Lux Letter, Response to Appeal 4839-6559-5434 v 2

Financials Included?:

Contact Name: YAYA DIATTA

Hearing Date:

Entered by: yaya.diatto@ci.stpaul.mn.us

Ord Effective Date:

Approval History

Version	Date	Approver	Action
1	10/29/2015	Lane, Wendy	Approve
1	10/30/2015	Dave Thune	Approve

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History of Legislative File

Ver- sion:	Acting Body:	Date:	Action:	Sent To:	Due Date:	Return Date:	Result:
1	City Council	11/18/2015	Granted				Pass
	<p>Action Text: Appeal granted</p> <p>Notes: Yaya Diatta, DSI, gave a staff report. This 1174 Grand Avenue. It currently has a vacant duplex on it. The applicant would like to remove it and build an eight unit apartment building. The apartment building will have 8 underground parking spaces and 3 parking spaces in the back of the building. There is a 3 car garage which would be removed as part of the development.</p> <p>(He showed a picture and explained what is surrounding the building.)</p> <p>Diatta continued: the applicant applied for variances. (He explained more.) Board of Zoning granted the variances. District 16 is appealing the BZA decision on the grounds that it was made in error.</p> <p>(Pictures shown of what the building looks like from different angles.)</p> <p>Council President Stark said it looks like the apartment buildings have a high lot coverage ratio. What is the lot coverage on the neighboring parcels. Diatta responded he had information on the lot coverages. (He gave the percentages of the lot coverages.)</p> <p>Councilmember Thune asked how big is the building and asked to see the last picture.</p> <p>(Another picture shown.)</p> <p>Thune asked where the new building is proposed and how big is the building. Diatta went to get this information. Stark said to bring it up when he finds it.</p> <p>Amanda Karls, 1171 Lincoln Avenue, said there are 5 of us here. She lives right behind this project. There is overwhelming neighborhood support. Referring to the Phillip Wallberg letter, it highlights the issues very quickly. She wanted to hit on a few of them. 1) This project is not in harmony of the zoning code. This will be large. It will be 22.5% taller than the existing buildings adjacent to it. Lot coverage is asking for 50 something percent. They are covering over half of the lot. Not sure about Diatta's findings. This is a dead end alley. Some of the existing buildings would not meet today's standards, but they were built before current zoning laws. We do not need to compound the problem by adding a building that is bigger. In order to succeed in getting a zoning variance, the applicants need to show there are practical difficulties and they have a plight unique that are not created by the landowner. They are trying to maximize profit. This is about setting the standard and following the rules.</p> <p>Mark Genereux, 1165 Lincoln Avenue, said he and his wife have lived there since 1976. The neighborhood opposition is based on a lot of things. Wallberg has written a detailed and clear analysis. When you allow a development like this, it starts eroding the standards of the neighborhood. The accompanying buildings are all too big for the lots. Now we are going to allow even larger buildings in terms of % of coverage. People might say if you allow that one you have to allow this one. There are standards the City has set and it is the Council's job to enforce it.</p> <p>Don Husband, Summit Hill Association board member, proposed construction is too large. It is 51% where the standard is 35%. By the BZA, all the standards do not meet, except the setback. The variance is in harmony. They are stretching every variance as much as they can. The current buildings are 2½ stories and this will be 3½ stories. It is a nice building, but it does not belong on this site. What they want does not fit the code. They are stretching everything to the max. (He mentioned some numbers.) Pushing it to the maximum, it will stand out. They could put a smaller building there or one that fits in with the other buildings. They purchased the building. They created this problem.</p> <p>Winnie Moy, 1185 Lincoln Avenue, said a 50% increase and footprint is extreme. 50% breaks the footprint rule and sets a bad precedent. They could ask the architect to build a 3D model with mathematically correct ratio. That way they can all gather together and decide if it will work.</p>						

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Margaret Keefe, 1195 Lincoln Avenue, said this is common sense. They have zoning laws in place for a reason: so that an outside entity cannot do whatever they want. They bought the lot before they knew what they were going to do. The alley concerns her. They have a lot of traffic. They cannot have more traffic. The City does not get to the alley to plow it in the winter, so the neighbors do it. This will add more cars. Stark responded the City does not plow alleys anywhere in the City.

(Karls showed a diagram. Diatta showed a diagram.)

Thune said he is still having trouble. (Someone gave Diatta another picture which had highlights.) Thune said that is better. Finney concurred.

Karls challenged the scale. The building is wider than adjacent properties.

(The next speakers were opposed to the appeal and in support of the project.)

Ryan Burke said they are looking to develop it. They met with City zoning and planning before they bought the properties. They were directed to the City development plan. Their goal was they wanted the parking addressed. They took the garage plan to address all this parking. They met with the City and residents. This will be privately owned condos as opposed to an apartment, 8 underground stalls and 3 on the surface. Eleven spots to meet the City requirement. They shrunk it about 5 feet in width since meeting with neighbors. They shrunk the driveway as much as they could. They shrunk the depth of the stalls. They worked with the engineer and contract to raise the floor a little bit, and they are able to pull the building 25 feet off the garage door. They are well under the allowable height. The livable square footage is 12,925 square feet. The other four buildings are averaging 13,295 square feet. Their foundation size is 4,599 square feet. The average square foot of the foundation of the other buildings are 4,515. Privacy is a big concern with the neighbors. The garage is 25 feet off the alley. Next to the garage is a stair tower. Eight units is allotted for the size of the alley. Doing the math, is makes the most sense. When you read the City's comprehensive plan, it has mixed use buildings. Nearly half of every section mentions it. It is on Grand Avenue where many of the buildings have 100% lot coverage. This is not between single family homes. They need to be in line of the front of the buildings. This was signed by everyone on Grand Avenue. There are residents behind us. As far as Grand Avenue itself, the project does fit.

(showed a signature page)

Burke continued: this is an appeal. The appellant must show the error. The appeals fails to show errors in the law. It can't be appealed in the fashion that it was. The Minnesota Law does not show for the basis of denial.

Thune closed the public hearing
7 in favor, none opposed
Public hearing is closed

Thune said he is looking at the reports: the zoning staff report, the Planning Commission resolution. He asked is that the one we are dealing with and what is the date of the Planning Commission. Diatta responded the PC heard this previously and they denied the variances. The applicant applied for variances and zoning at the same time. The PC can hear zoning and variance at the same time. When the Planning Commission denied the variances, they approved the zoning. The applicant tweaked those plans. The applicant proposed a greater setback and a smaller building. The footprint changed and the setback changed. The BZA approved the variance. You are hearing what the BZA approved and not what the Planning Commission denied.

Thune asked the lot coverage. Diatti said they are looking at a lot coverage they are proposing is 51.4%, and the allowed is 35%. The side yard setback is 7.5 they are proposing. The zoning code is 9 feet. The rear required is 25 feet and they are proposing 19 feet, so it is 6 feet. The front setback is 25 and they are proposed 23.4%.

Thune said it is confusing. They still have a great deal of difference in the lot coverage. Every single coverage or setback is exceeded on these things. The PC found a number of things that was not in harmony with the rest of the neighborhood. They are choosing to build condos. It really is their own fault. This does change the character of the neighborhood. There is something in the comp. plan about more density, but building something the same size is still more density because the building being torn down is very small. They don't have to build bigger to increase the density.

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Thune moved to uphold the appeal of the Summit Hill Association because it is not in harmony with the zoning code. The fault is with the landowner. The coverage is excessive, does not comply with the spirit of the comp. plan, will alter the essential character neighborhood, and not consistent with scale, spacing, or bulk.

Stark said he is torn. The surrounding properties, the lot coverage is similar. The variances are being requested. They are not granted as of right. They are a judgement call. The neighbors are concerned about parking and access and not that the building itself is the issue. The height argument is taller, but it is within code on the height. These are judgement calls.

Councilmember Bostrom said the proposed project is going to look more like the character of the neighborhood. It seems like it would bring a certain consistency with the neighborhood. They have done a decent job providing for underground parking. It would appear it would fit in the neighborhood.

Thune said the question isn't if the existing building fits into the character. It does not. It is too small. The existing building isn't part of the equation. It is really their own fault.

Councilmember Brendmoen said they are hearing an appeal to the decision of the BZA and Thune is commenting on the PC report. Thune responded he is using the same rationale, even though they changed the numbers.

Stark said they asked for this rezoning and then asked for a variance from the new zoning they asked for.

4 in favor, 3 opposed Bostrom, Finney, Thao

Appeal is granted

Yea: 4	Councilmember Brendmoen, Councilmember Thune, Councilmember Tolbert, and City Council President Stark
Nay: 3	Councilmember Bostrom, Councilmember Thao, and Councilmember Finney

Text of Legislative File ABZA 15-5

Public hearing to consider the appeal of Summit Hill Association to a decision of the Board of Zoning Appeals (BZA) approving variances of the front, side and rear setbacks and lot coverage requirements in order to remove the existing duplex and construct an eight - unit apartment building with underground and surface parking at 1174 Grand Avenue.

On July 24, 2015, the applicant sought and was granted approval by the City Council to rezone this property from a BC community business converted district to a RM2 multiple family district (File # 15-134693). This property currently has a duplex and a three-car detached garage, which the applicant intends to remove and construct an 8-unit building (the first and second floors have 2 two-bedroom units and a one-bedroom unit each and the third floor has 2 two-three bedroom units). Underground parking for 8 spaces would be provided and 3 off-street surface parking spaces. The applicant requested variances of the front yard setback (23.4 feet required, 20 feet proposed), the rear yard setback (25 feet required, 19 feet proposed), the side yard setback (9 feet required, 7.5 feet proposed from the east and west property lines) and the lot coverage (35% maximum allowed, 52.4% proposed) requirements from the Planning Commission early this summer but the variances were denied.

The applicant subsequently revised his plans and proposed a greater front yard setback (from 20 feet initially proposed to 22 feet), a rear yard setback of 19 feet (same setback as initially proposed), a side yard setback of 7.5 feet from the east and west property lines (same setback as initially proposed) and a smaller building footprint (from 52.4 % initially proposed to 51.4%). Since this is a new application, the applicant requested variances from the BZA.

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Among purposes of these dimensional standards and lot coverage requirements are to ensure that buildings are constructed in a manner that provides regularity in pattern and spacing, to not create overly dense sites, and to not overly burden adjacent properties with impacts created by the new development. The proposed building is generally consistent with the size, the form and the setbacks of the immediate multi-family buildings to the east and to the west. The spacing provided would allow adequate light and air access to property, meeting a purpose of intent of the zoning code. The proposed lot coverage is comparable to that of the immediate buildings to the east and to the west and allows underground parking to be provided.

The proposed site development would provide housing opportunities. It is consistent with Policy 1.2 of the Housing Chapter of the Comprehensive Plan, which states: "Encourage the development of attached single-family and neighborhood-sensitive multi-family infill housing at appropriate locations as identified in the Land Use Plan and small area plans to increase housing choice."

The size of the parcel makes it challenging to construct a multiple-family building comparable in scale, spacing and bulk to the existing adjacent apartment buildings to the east and to west of the site that are also zoned RM2. The requested variances are needed to permit a reasonable use of this property to allow a development consistent with existing spacing between buildings, the pattern of the block and the form of existing buildings in the immediate area. It also allows underground parking, which the existing buildings do not provide.

Due to the size of this parcel, developing any type of multifamily housing comparable in scale, spacing and bulk to the existing multiple-family buildings in the immediate area while meeting the current parking requirements would be rendered impractical by the strict application of the provisions of the zoning code.

The BZA conducted a public hearing on October 12, 2015 and approved all the requested variances as recommended by staff. The District Council recommended denial of the variances.

Does this issue fall within the 60 day rule? Yes

If yes, when does the 60 days expire? November 19, 2015

Has an extension been granted? Yes

If so, to what date? January 19, 2016

YAYA DIATTA

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