CITY OF SAINT PAUL
BOARD OF ZONING APPEALS RESOLUTION
ZONING FILE NUMBER: 16-099004
DATE: December 19, 2016

WHEREAS, Gnia D. Kong has applied for a variance from the strict application of the provisions of Section 63.501(2) of the Saint Paul Legislative Code pertaining to front yard parking. In conjunction with the Wheelock Ground Round street reconstruction project, this property was found to have parking in the front yard that is not allowed under the zoning code. The applicant is proposing to keep the existing front parking although there is already three surface spaces and a one-car detached garage in the rear yard. The applicant is requesting a variance from the zoning code requirement to allow the front yard parking to remain in the RT1 zoning district at 312 Wheelock Parkway East. PIN: 192922110033; and

WHEREAS, the Saint Paul Board of Zoning Appeals conducted a public hearing on December 19, 2016 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 variance request is in 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 driveway has been in existence since 1957 when the duplex was built with an attached two-car garage. The existing surface of the driveway is asphalt. This finding is 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 applicant states that this duplex is half rental and half owner occupied. One of the two units has been a rental since the current owner bought the property in June of 1989. There is an unimproved alley along the east side of the lot, but access to the

rear yard parking is by an asphalt driveway on the applicant's property that is accessed from Wheelock Parkway. The rear parking area behind the duplex has the capacity to store 6 vehicles in a stacked position, plus one in the garage. This is a reasonable alternative to the parking in the front yard. This finding is not met.

c) *The applicant submits a petition signed by 2/3 of 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.*

The applicant was required to obtain 5 signatures and they received 8. The applicant has submitted a sufficient number of signatures. This finding is met.

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

The asphalt for the parking space in front of the duplex was removed by the street contractor at the request of the applicant, who expected that it would be replaced. The applicant intends on paving the portion of the driveway that was removed in the Spring of 2017. This finding is met.

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

The applicant already meets the goal of the Comprehensive Plan to lessen congestion on public streets because they already have parking availability for up to 7 spaces in the rear yard behind the duplex. The applicant's request to maintain the front yard parking is for convenience only. This finding is not 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.*

This building is a legal conforming duplex. The use requires three off-street parking spaces and the parking located in the rear of the property can accommodate at least 6 vehicles in a stacked position. Currently there is sufficient room for the homeowner and tenants to park in the rear yard behind the duplex. There is no practical difficulty to support this finding and this finding is not met.

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

There is currently parking in the rear available for more than the minimum number of space required. There are no unique circumstances to this property to justify the requested variance. 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.*

Off-street parking is a use permitted in this zoning district. 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 other properties within the surrounding area that also have existing parking in the front yard. However, these properties have driveways leading to garages in the front or have parking that leads to the sides of the house. Parking in a driveway that leads to legal parking is allowed under the zoning code. The applicant's property would be the only one located on this block face that has front yard parking, which could change the character of the area. This finding is not met.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Board of Zoning Appeals that the request to waive the provisions of Section 63.501(2) to be allowed to keep the existing front parking on property located at 312 Wheelock Parkway East; and legally described as Kavanagh Dawsons Add To Stp No Part Of Vac St And Fol Lots 17 18 Lot 19 Blk 1; in accordance with the application for variance and the site plan on file with the Zoning Administrator. ***IS HEREBY DENIED.***

MOVED BY: Saylor
SECONDED BY: Ward
IN FAVOR: 4
AGAINST: 3

MAILED: December 20, 2016

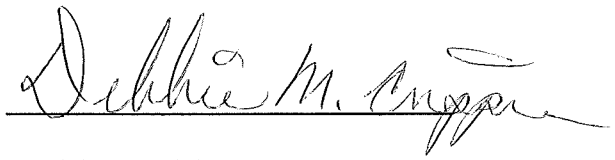
TIME LIMIT: **No decision of the zoning or planning administrator, planning commission, board of zoning appeals or city council approving a site plan, permit, variance, or other zoning approval shall be valid for a period longer than two (2) years, unless a building permit is obtained within such period 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 December 19, 2016 and on record in the Department of Safety and Inspections, 375 Jackson Street, Saint Paul, Minnesota.

SAINT PAUL BOARD OF ZONING APPEALS



Debbie M. Crippen
Secretary to the Board