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Title: Memorializing the City Council's denial of an appeal from a Board of Zoning Appeals decision which granted lot size and parking capacity variances in order to construct a 4-unit apartment building at 2150 Grand Avenue.

Sponsors: Mitra Jalali

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Date	Ver.	Action By	Action	Result
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8/28/2019	2	City Council	Adopted	Pass

Memorializing the City Council's denial of an appeal from a Board of Zoning Appeals decision which granted lot size and parking capacity variances in order to construct a 4-unit apartment building at 2150 Grand Avenue.

WHEREAS, on March 20, 2019, MCR Property Holdings LLC, (hereinafter, "Applicant") under DSI Zoning File No. 19-026-900, duly applied to the Board of Zoning Appeals (hereinafter, "BZA") for two variances from the strict provisions of the Saint Paul Zoning Code to build a four-unit multifamily dwelling, with each unit having four (4) bedrooms, on property commonly known as 2150 Grand Avenue, and legally described as Summit Wood Lot 38; and

WHEREAS, the Applicant's multi-family building as proposed required the following variances from the provisions of the Zoning Code: (1) minimum lot size: 9,000 sq. ft. required and 6,388 sq. ft. proposed for a variance of 2,612 sq. ft. [Leg. Code § 66.231(c)] and (2) off-street parking setbacks, 4 ft. minimum from any lot line required and 0 ft. proposed along the rear-yard setback line for a 4 ft. variance and 2 ft. proposed along the westerly side-yard setback line for a variance of 2 ft. [Leg. Code § 63.312]; and

WHEREAS, on April 22, 2019, the BZA, pursuant to Leg. Code § 61.303, duly conducted a lengthy public hearing on the Applicant's variance requests where all persons interested were afforded an opportunity to be heard and, following the end of testimony, the BZA duly closed the public hearing and began to deliberate on the matter; and

WHEREAS, following a lengthy discussion of the matter, a motion was made to approve the requested variances, as recommended by BZA staff in its report dated April 12, 2019, but which failed for a lack of a second, whereupon a second motion was duly made to continue the matter for two weeks for BZA staff to meet with the applicant regarding, among other things, the number of bedrooms proposed in each of the proposed units which motion passed on a 5-1 vote; and

WHEREAS, on May 6, 2019, the BZA took up the matter of the Applicant's variance requests and received additional information from staff regarding the calculation of the number of bedrooms each unit would contain as the number of required parking spaces/unit is based upon the number of rooms in each unit and that, in the opinion of staff, the Applicant was proposing a 4-unit building with each unit containing 2 bedrooms; and

WHEREAS, the BZA again deliberated on the Applicant's variance requests and a motion was eventually made to deny the requested variances which, after debate on the motion, the motion to deny failed for lack of a second, whereupon a second motion was made that the BZA's staff calculation of 2 bedrooms per unit was in error and that a different bedroom count calculation might require a different parking variance with new notice to be provided of the different parking variance, which motion passed on a 6-1 vote; and

WHEREAS, on June 3, 2019, the BZA again took up the matter of the Applicant's variance requests and received revised information from staff recalculating the number of bedrooms/dwelling unit being proposed in the Applicant's structure from 2 bedrooms/unit to 4 bedrooms/unit which, while increasing the number of parking spaces required from 1.5/unit to 2.0/unit, that the Applicant's site plan, with credit for bicycle parking, met the required number of parking spaces, whereupon a public hearing, based upon the recalculated parking requirement was duly conducted by the BZA where all interested persons were afforded an opportunity to be heard;

WHEREAS, at the conclusion of the public hearing, the BZA, based upon all the records, testimony and reports including the BZA staff's continued recommendation to approve the Applicant's variance requests, again deliberated on the Applicant's variance requests whereupon a motion was made to approve the requested variances which motion failed on a 3-4 vote; and

WHEREAS, the BZA, following a brief discussion of the matter, duly moved to reconsider its previous vote which passed on a 4-3 vote; and

WHEREAS, the BZA then duly moved to approve the Applicant's variance applications, which passed on a 4-3 vote, based upon the following findings, as set forth in BZA Resolution No. 19-026900:

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

The applicant is proposing to demolish an existing single-family dwelling and detached garage in order to construct a multi-family development consisting of four bedrooms in each unit with two bathrooms.

Based on the number of bedrooms in each unit, eight off-street parking spaces are required. The proposed site plan indicates there will be bicycle parking which allows for the reduction of one parking space pursuant to Sec.63.207(b), bringing the total of number of required spaces to seven, which will be provided in the rear yard.

The zoning code states that no multiple-family dwelling shall be built, nor shall additional dwelling units be added to an existing building to create three (3) or more dwelling units, on a lot that is less than nine thousand (9,000) square feet in area.

The existing lot size is 6,388 square feet and does not have sufficient lot area to meet the requirement, resulting in the requested variance.

The zoning code requires a minimum setback of 4' from any lot line; a setback of 0' is proposed in the rear yard along the alley and 2' from the west property line for a variance request of 4' and 2', respectively.

The RM2 medium-density multiple-family residential district is intended to provide for more extensive areas of multiple-family residential development as well as uses that serve the needs of the multiple-family residential districts. It is intended to provide for comprehensive development of multiple-family uses and a balance of population concentration near major thoroughfares, transit, and related facilities.

This property is located within ¼ mile of a commercial node at the corner of Cleveland and Grand Avenues, near high frequency bus lines, and the University of St. Thomas Campus. The proposed development meets the intent of the zoning district and is harmony with the general purposes and intent Sec. 60.103 of the zoning code to:

- encourage a compatible mix of land uses, at densities that support transit, that reflect the scale, character and urban design of Saint Paul's existing traditional neighborhoods
- to provide housing choice and housing affordability;
- to lessen congestion in the public streets by providing for off-street parking of motor vehicles.

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

The Housing Section H2.5 of the Macalester-Groveland Community Plan, an addendum to the Comprehensive Plan, supports multi-unit development on the Grand Avenue corridor and promotes a range of housing types and affordability to meet the needs of all people throughout their life and changing lifestyle needs. The proposed multi-unit building increases the density on this property from a one-family dwelling to four units.

Furthermore, the Land Use Section LU1.2 calls for the maintenance of zoning that encourages compact development along mixed-use corridors. This property is zoned RM2 along the Grand Avenue mixed-use corridor and this development is consistent with this Neighborhood Plan.

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.*

Generally, the RM2, medium-density zoning district requires 1,500 square feet of lot area per unit, however, no multiple-family dwelling shall be built, nor shall additional dwelling units be added to an existing building to create three (3) or more dwelling units, on a lot that is less than nine thousand (9,000) square feet in area.

The primary reason for the 9,000-square foot requirement is to ensure that multi-family buildings are proportional to the size of the lot and can accommodate additional parking. The proposed building meets all setbacks, lot coverage, and the required number of off-street parking spaces with a building footprint of only 21% of the lot.

The only use that could be permitted without any variances would be a single-family dwelling, which would not be suitable due to the large apartment buildings on the abutting parcels that would dwarf a single-family dwelling. It is difficult to construct a multi-unit building encouraged under the Comprehensive Plan and that meets the intent of the RM2 medium-density on this lot without the requested variance.

The purpose of providing setbacks is to ensure buildings are not impeding on the abutting properties, that there is adequate access to light and air, and any accessory uses such as parking, is proposed within reason.

The proposed building meets the required setback of 9', however, the parking spaces would be setback 2' from the side property line and 0' setback along the alley.

In order to provide adequate maneuvering of vehicles, a 20' wide drive aisle is required, which subsequently lessens the required setbacks. Furthermore, the two abutting lots have large off-street parking structures which would be aligned with the parking lot proposed for this site. An off-street parking lot next to structured parking is reasonable and would not negatively impact adjacent properties.

There is an alley between the parking lot and the abutting residential properties to the south, which, in turn, serves as a buffer between the residential uses, meeting the intent of the 4' rear yard setback. There is sufficient space to maneuver vehicles within the boundaries of the property without backing directly into the alley.

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

The proposed development meets the 1,500 square feet of lot area per unit requirement, which indicates that the property is of a sufficient size based on the number of units, but does not have additional lot area required, a circumstance unique to the property not created by the land owner. It is a unique circumstance to this property that a building along with parking cannot be developed that aligns with the nearby residential structures.

5. *The variance will not permit any use that is not allowed in the zoning district where the affected land is located.*

The proposed development is an allowed use in the RM2, multi-family residential zoning district.

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

There are two apartment buildings on either side of this lot and multifamily buildings directly across the street. This type of housing aligns with the development pattern of the area and will not alter its essential character.

WHEREAS, on June 10, 2-19, David Gibson ("Appellant"), in DSI Zoning File No. 19-050320 and pursuant to Leg. Code § 61.702(a), duly filed an appeal from the BZA's June 3, 2019 determination and requested a hearing before the City Council for the purpose of considering the action taken by the BZA in this matter; and

WHEREAS, on July 10, 2019, the City Council pursuant to Leg. Code § 61.702(b) and upon notice to affected parties, duly conducted a public hearing on the Appellant's request to review the BZA's action of June 3, 2019 where all persons interested were afforded an opportunity to be heard and, at the close of the public hearing, the Council, having considered the variance applications, the report and recommendation of BZA staff and BZA Resolution No. 19-026900, and the testimony received, the Council of the City of Saint Paul; DOES HEREBY

RESOLVE, to deny Appellant's appeal and uphold the BZA's June 3, 2019 decision to grant the Applicant's

variances in this matter as the Council finds that the Appellant has not demonstrated any errors in the facts, findings, or procedures of the BZA in this matter; and BE IT

FURTHER RESOLVED, that the Council hereby adopts as its own, the BZA's facts and findings in this matter, as set forth in BZA Resolution No. 19-026900, to support the Council's decision in this matter; and BE IT

FINALLY RESOLVED, that the Council hereby directs the City Clerk to immediately mail a copy of this Resolution to the Applicant, the Appellant, the BZA, the Zoning Administrator, the Building Official and the Planning Commission.