

JUN 02 2025

**ZONING APPEAL APPLICATION**To/From Board of Zoning Appeals

Dept. of Safety & Inspections
Zoning Section
375 Jackson Street, Suite 220
Saint Paul, MN 55101-1806
(651) 266-9008

To / From Planning Commission

Dept. of Planning & Econ. Devt.
Zoning Section
1400 City Hall Annex, 25 W 4th St.
Saint Paul, MN 55102-1634
(651) 266-6583

Zoning Office Use Only

File # 25-038208Fee Paid \$ 462.00Received By / Date D. Eide - 6/2/2025Tentative Hearing Date 6/25/2025**APPELLANT**

Name(s) Mark Schwartz
Address 461 Arlington Ave W City St. Paul State MD Zip 55117
Email RighttimeSoberliving@gmail Phone 763-415-0488

PROPERTY LOCATION

Project Name Daly St
Address / Location 438 Daly St. St. Paul MN 55102

TYPE OF APPEAL: Application is hereby made for an appeal to the:

- ☐ **Board of Zoning Appeals**, under provisions of Zoning Code § 61.701(c), of a decision made by the Zoning Administrator.
- ☐ **Planning Commission**, under provisions of Zoning Code § 61.701(c), of a decision made by the Planning Administrator or Zoning Administrator.
- ☒ **City Council**, under provisions of Zoning Code § 61.702(a), of a decision made by the Board of Zoning Appeals or the Planning Commission.

Date of decision May 27th, 20 25 File Number 25-028645

GROUND FORS FOR APPEAL: Explain why you feel there has been an error in any requirement, permit, decision or refusal made by an administrative official, or an error in fact, procedure or finding made by the Planning Commission or Board of Zoning Appeals. Attach additional sheets if necessary.

Attached with other supporting Documents.

☐ If you are a religious institution you may have certain rights under RLUIPA. Please check this box if you identify as a religious institution.

Appellant's Signature Mark Schwartz Date 6/1/25

All In Sober Living
438 Daly St.
St. Paul, MN 55102
Righttimesoberliving@gmail.com
763-415-0488

City of St. Paul
City Council
15 Kellogg Blvd. West
St. Paul, MN 55102

Date: June 1, 2025

Subject: Appeal of Variance Denial for 438 Daly St. – Zoning
Board of Appeals Hearing on May 27, 2025

Dear Members of the St. Paul City Council,

I am writing to appeal the Zoning Board of Appeals' decision on May 27, 2025, to deny the variance request for All In Sober Living, located at 438 Daly St., St. Paul, Minnesota, seeking relief from the 1,320-foot separation requirement for supportive living facilities. As the operator of All In Sober Living, I respectfully request that the City Council overturn this decision due to procedural irregularities during the hearing, inconsistencies with prior approvals, and the significant public interest in maintaining stable housing for our residents, who face displacement without this variance.

Background and Basis for Appeal

All In Sober Living operates a sober living facility at 438 Daly St., providing critical housing and support for individuals in recovery. The variance request was necessitated by a recent state policy change affecting our revenue streams, compelling us to adapt our operational model to continue serving our residents. The denial of this variance threatens to displace current residents, many of whom rely on this facility to maintain their recovery and avoid homelessness.

The variance sought relief from the 1,320-foot separation requirement between supportive living facilities. The City's measurement calculated "as the crow flies," determined the distance to the nearest facility to be 851 feet. However, my independent measurement, taken doorstep-to-doorstep, yielded a distance of 1,429 feet, which exceeds the City's separation requirement. This discrepancy raises concerns about the accuracy and consistency of the measurement methodology applied.

Procedural Irregularities

During the May 27, 2025, hearing, I observed significant procedural irregularities that undermined the fairness of the process. Notably, a city attorney, who had not been present at prior meetings, attended the hearing and engaged in conduct that appeared to pressure and coerce Board members. The attorney used intimidating legal language and implied consequences for Board members if they did not vote a certain way. Video footage of the hearing reveals multiple instances where Board members were interrupted and prevented from fully performing their deliberative functions. These actions compromised the Board's ability to independently evaluate the merits of our variance request, which, by the Board's own statements, appeared to meet all required conditions for approval.

Inconsistent Application of Standards

The denial of our variance request is inconsistent with prior

approvals granted under similar circumstances. On March 3, 2025, I received approval for a variance at another property, 1070 Jackson St., St. Paul, where the distance to the nearest facility was even less than at 438 Daly St., and the arguments presented were substantially the same. Additionally, I am aware of other applicants who received approvals for similar variances before the City attorney's involvement in these proceedings. The disparate treatment of our application raises concerns about fairness and equal application of zoning standards.

Public Interest and Hardship Considerations

Granting the variance for 438 Daly St. is critical to preventing undue hardship for our residents. All In Sober Living currently houses individuals who are actively engaged in recovery and rely on the stability and support provided by our facility. Denying the variance would force the closure of this operational sober house, displacing residents and placing them at risk of homelessness—a direct contradiction to the City's commitment to supporting vulnerable populations. The state's recent policy change has already strained our ability to sustain operations, and this variance is essential to adapting our model to continue serving our community.

Request for Relief

In light of the procedural irregularities, inconsistent application of zoning standards, and the significant public interest in maintaining stable housing for our residents, I respectfully request that the City Council:

1. Overturn the Zoning Board of Appeals' denial of the variance for 438 Daly St.
2. Grant the variance to allow All In Sober Living to continue operating as a supportive living facility.
3. If necessary, remand the matter to the Zoning Board for a new hearing to ensure a fair and impartial process free from undue influence.

Conclusion

All In Sober Living is committed to supporting individuals in recovery and preventing homelessness in St. Paul. The denial of this variance not only jeopardizes our mission but also risks destabilizing the lives of our residents. I urge the City Council to consider the procedural flaws, the precedent of prior approvals, and the dire consequences of displacement for our residents. I am happy to provide additional documentation, including the video footage of the hearing, or to meet with Council members to discuss this matter further.

Thank you for your time and consideration. I look forward to your favorable response and the opportunity to continue serving the St. Paul community.

Sincerely,

Mark S.

Owner/Operator, All In Sober Living

1070 Jackson approval

AGENDA
BOARD OF ZONING APPEALS PUBLIC HEARING
March 3, 2025 – 3:00 P.M.
ROOM 330 – CITY HALL
SAINT PAUL, MINNESOTA

NOTE: The order in which the items appear on this agenda is not necessarily the order in which they will be heard at the hearing. The Board of Zoning Appeals will determine the order of the agenda at the beginning of its hearing.

Applicant: It is highly recommended that you or a representative attend this hearing to answer any questions the Board or the public may have.

Public Testimony:

Public comment can be submitted to dsi-zoningreview@stpaul.gov. Any comments and materials submitted by 2:00 p.m. February 28, 2025, will be provided to the BZA for their review. You must include your name and residential address for the public record. Please note, any comments and materials received after 2:00 p.m. February 28, 2025, will not be provided to the BZA.

I. Approval of minutes for: February 18, 2025

II. Approval of resolution for: None

III. Old Business: None

IV. New Business:

| | | |
|--|---|--------------------|
| A. Applicant - Location - Zoning - Purpose: <u>Major Variance</u> | Amani Construction & Development 550 Brunson Street H2 The applicant is proposing to construct a four-unit townhouse-style multiple-family dwelling on this vacant property. The zoning code permits a maximum of 10% of the lot to be paved for surface parking spaces and driveways; 22.8% is proposed, for variance of 12.8%. | (25-011600) |
|--|---|--------------------|

CITY OF SAINT PAUL
BOARD OF ZONING APPEALS RESOLUTION
ZONING FILE NUMBER: 25-010878
DATE: March 3, 2025

Deadline for Action: April 5, 2025

* Approved

WHEREAS, Mark Schwartz has applied for a variance from the strict application of the provisions of Section 65.162 of the Saint Paul Legislative Code pertaining to the required distance between congregate living facilities. The applicant is proposing to establish a supportive housing facility for up to 16 residents. The zoning code states that supportive housing facilities shall be a minimum distance of 1,320 feet from specified congregate living facilities with more than six (6) adult residents; this facility is 850 feet from a congregate living facility with more than six (6) adult residents, for a zoning variance of 470 feet in the H1 zoning district at 1070 Jackson Street PIN: 302922130136; and

WHEREAS, the Saint Paul Board of Zoning Appeals conducted a public hearing on March 3, 2025 pursuant to said application in accordance with the requirements of Section 61.303 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.

The proposed facility would provide a supportive housing option for up to 16 persons. The variance request is consistent with the purpose and intent of § 60.103 of the zoning code to promote and to protect the public health, safety, morals, aesthetics, economic viability, general welfare of the community, and to provide housing choice and affordability. **This finding is met.**

2. The variance is consistent with the comprehensive plan.

This property is within an area designated as Urban Neighborhood in the 2040 Comprehensive Plan. This proposed addition would provide an additional supportive housing option within the neighborhood. This aligns with Policy LU-34, which encourages providing for medium-density housing that diversifies housing options within the Urban Neighborhood. This facility is also in alignment with Policy H-15, which supports accommodating a wide variety of culturally appropriate housing types throughout the city to support residents at all stages of life and levels of ability. **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 currently owns and operates a 16 resident sober house at this location under an approved request for reasonable accommodation. The applicant now proposes to change the use of the property to a 16-resident supportive housing facility, which would include

food delivery services. This change would render the existing approved request for reasonable accommodation null and void. The supportive service is limited to food delivery, so no additional staff will be added on-site. The change in funding has created practical difficulties in complying with the provision. No comments nor testimony speaking against the proposal were received from the neighborhood, and a nearby resident attended the hearing to support the request. Ensuring the continued housing of residents is in the community's interest. The applicant stated that they are applying for a lodging license from the Minnesota Department of Health, which will add state oversight to the property, providing additional regulatory assurance.

The facility within 1,320 feet of this proposed facility, which is located at 135 Geranium Avenue East, was granted a conditional use permit (22-126621) for up to 81 residents and is not currently in operation. The facility is located two and a half blocks away, and not on the same street. The distance between the facilities meets the intent of the ordinance to ensure that residents of these facilities are in mainstream community settings, and not placed in clusters that replicate an institutional environment. **This finding is met.**

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

The applicant currently operates a 16-resident sober house at this location and intends to change the use to a 16-resident supportive housing facility. The addition of food delivery services qualifies the facility as supportive housing. The supportive service is limited to food delivery, so no additional staff will be added on-site. The change in funding, which is beyond the landowner's control, necessitates the variance. The operational impact on the neighborhood will remain unchanged as the number of staff will be the same. **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 supportive housing facility is a permitted use in the H1 zoning district. Granting the variance would not allow a use that is not permitted in this zoning district. **This finding is met.**

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

The surrounding area is residential in nature. If granted, the proposed facility would not alter the essential character of the surrounding 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 65.162 in order to permit a supportive housing facility with 16 residents 850 feet from another supportive housing facility with more than six (6) adult residents on property located at 1070 Jackson Street PIN: 302922130136; and legally described as Whittier Division Lot 13 Blk 2; in accordance with the application for variance and the site plan on file with the Zoning Administrator, **IS HEREBY APPROVED.**

MOVED BY: Clarksen
SECONDED BY: Benner II
IN FAVOR: 4
AGAINST: 1

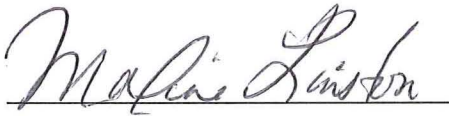
MAILED: May 1, 2025

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 March 3, 2025 and April 14, 2025 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 "Maxine Linston", written over a horizontal line.

Maxine Linston
Secretary to the Board