

**Excerpt from the
ZONING BOARD OF ADJUSTMENT MEETING
Community Planning & Economic Development (CPED)**
250 South Fourth Street, Room 300
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The following actions were taken by the Zoning Board of Adjustment on June 25, 2015.

Board Members: Sean Cahill, Anja Drescher, John Finlayson, Eric Johannessen, Dan Ogiba, Matt Perry, Dick Sandberg, Jacob Saufley, Ami Thompson

Committee Clerk: Fatimat Porter 612.673.3153

ITEM SUMMARY

Description:

Item #3- 1101 7th Street Southeast (BZZ# 7187, Ward 3) (Janelle Widmeier)

The Department of Community Planning and Economic Development recommends that the Zoning Board of Adjustment adopt staff findings for the application(s) by Stephen Chan to allow a driveway with two parking spaces for the property located at 1101 7th Street Southeast:

A. Variance to reduce the minimum interior side yard requirement.

Action: The Zoning Board of Adjustment **denied** the variance to reduce the interior side yard requirement from 5 feet to 3.7 feet to allow parking.

Aye: Drescher, Ogiba, Perry, Sandberg, Thompson

Nay: Cahill, Finlayson, Johannessen, Saufley

Motion passed

B. Variance to allow a surface parking space to be located less than 6 feet from habitable space of a dwelling.

Action: The Zoning Board of Adjustment **denied** the variance to allow a surface parking space to be located less than 6 feet from habitable space of a dwelling.

Aye: Drescher, Ogiba, Perry, Sandberg, Thompson

Nay: Cahill, Finlayson, Johannessen, Saufley

Motion passed

C. Variance of the UA University Area Overlay District standards.

Action: The Zoning Board of Adjustment **denied** the variance of the UA University Area Overlay District standards to allow parking outside of the rear 25 feet of a lot.

Aye: Drescher, Ogiba, Perry, Sandberg, Thompson

Nay: Cahill, Finlayson, Johannessen, Saufley

Motion passed

TRANSCRIPTION

Staff Widmeier presented the report.

Chair Perry: Thank you Ms. Widmeier. Are there any questions of staff? And I think you said, oh Mr. Finlayson.

Board Member Finlayson: I'm curious, I'm looking at the plat of the existing house on it, and distance from 11th Avenue Southeast, there's a distance of 11 foot 4 to the lot line. Would it be feasible to put a parking pad in there?

Staff Widmeier: I don't believe so. First of all it's the front yard so they would need a variance for that. Somewhere in here I have photos of that side. I think there's a grade change there as well. We'd have the same challenges with maneuvering. I guess anything is possible but it wouldn't be without a number of exceptions. Yeah, it looks like there is a little bit of a retaining wall and a grade change, mature boulevard trees. And I believe this is probably an entrance that they need to use. So that location would also complicate things.

Board Member Finlayson: Thank you.

Chair Perry: Ms. Widmeier, they can put up a fence up to four feet by right?

Staff Widmeier: By right. But anything higher would trigger a variance.

Chair Perry: It could be opaque?

Staff Widmeier: It could be opaque right.

Chair Perry: So right at window height. No the windows aren't quite that low, right?

Staff Widmeier: I don't have an exact measurement. Where'd that picture go?

Chair Perry: I'm thinking of the neighbors.

Staff Widmeier: At four feet, would maybe cover the bottom. But, the four foot fence out here, with some screening, not a substantial amount.

Chair Perry: Ok, thanks. I don't think we have any other questions. Thank you very much again for your presentation. Is the applicant present?

Applicant Stephen Chan (1101 7th St SE): My wife and I with my five children have lived in this property since 1989, for 26 years now. We have grown to love the neighborhood, that's why we didn't want to move. Even a lot of our neighbors have moved out and it has turned

into rental properties. We still kept up with our residence and character, and looks better than other houses around us. Except it's a very tiny lot. Since 1989 until a few years ago we had managed to be able to park on the street. It has become increasingly impossible. The reason being the placement of many of the residential homes with large apartment complex actually was kitty corner from our house. And then there were also additional student houses built all along 8th Street which is the next street from ours. On-street parking has become a fierce competition in the words of the neighborhood association that I went to. The cars come from residence, as well as non-residence, commuters that park by the U. And walk or bike to school. Due to the safety concerns with the overcrowding of on-street parked vehicles, the City has enforced a one side on-street parking, which makes it even more difficult. Mr. Chair and board, could you please allow me to share with you the practical difficulties and hardships that my family has. This map here shows the location of my property. I'm right in the center here, so all along here, all these houses, that doesn't go all the way to the alley, they already have a driveway established before these requirements were set. So they don't have parking problems. However, even though they don't have parking problems, as some of the pictures that I show here, they still park all over the place. Not complying to the requirements that are being applied to me right now. This is my next door neighbor which also has 2.6 feet elevation. The driveway is right next to the house, as well as right next to mine, which has windows. It doesn't have screening, doesn't have opaque screening that is in the requirement today but it wasn't in the past. But I don't find it inconvenient. Even with the driveway, pedestrians walk by, because that's normal to have driveways besides houses, so I don't see any inconvenience really. And then of course, there is no twenty five feet rear parking requirement ever followed in the past, but it's a new requirement today. I understand that this City and University area requirements are needed to limit the further deterioration of our neighborhood. However, as you pointed out this is a very small property lot. It has no problem for a larger property lot to work around other ways to meet these requirements. But it has become a very big difficulty for me to try to meet these requirements. That's why I have to apply for the variances, because the lot is below average size. On June 2nd I presented these variances to the Marcy-Holmes neighborhood association about these variances. This represents the neighborhood community and who understands the problem we have with parking in our neighborhood. Their Land Use co-chair Mr. Hung Russell and Mr. Larry Prinds as well as the board members, they understood my parking difficulty as well as this small property lot, as well as the hassles on my family. And they have all voted to support my variance for the project. And Mr. Perry, they have sent you a letter on June 18th.

Chair Perry: We are in receipt of it.

Stephen Chan: Thank you very much. Not being able to park our cars next to our home brings significant hassles for my wife and my daughters in particular. My wife has a drop foot medical condition shortly after the birth of our fourth child, that was 26 years ago. And she today, from then to today she still wears a leg brace to walk with. She has been diagnosed with a degenerative disc condition in her spine and was ordered by the doctor

after surgery that she has an eight pound weight carrying restriction. Unless she can park close to home she cannot perform the basic task of caring the groceries from the car to the house. Over the past 25 years she has a permanent disability parking permit to allow on-street parking in a restricted space on the 11th Avenue side of our home. However, this restricted space has become very unreliable recently, because other vehicles either with or without proper parking display often park their cars there. During the day, in the evenings, as well as weekends, especially during a TCF Stadium event, which is only a few blocks away. So, it is really crucial that we have a driveway next to our home. Because then our home will become more handicap accessible for my wife who has this chronic degenerative condition that will only progressively get worse. There will also reduce the distance and steps she will need to walk from the car to the house. Secondly, my two daughters, both now graduate from the U of M, they are both nurses who are working evening shifts at night. They have fear for their safety because they have to walk up to a mile at night from their parked cars to the house. You will probably remember that the news media has been talking a lot about the spike in crime rate in the university area over the last few years. So as a husband and a father, I'm obligated to do whatever it takes for my wife and my daughters. Which is the reason that I'm applying for permission to be allowed to put a driveway next to my home. The primary purpose would be for my family to occasionally park two vehicles when nearby on-street parking is unavailable, especially at night. We did have the driveway approved in the year 2000 for the same reason that I wanted to make the home handicap accessible for my wife. But, at that time, it was approved but I did not construct it because we had some issues with a neighbor at 1107 who has since moved away. They were concerned about affecting the property value. So, they threatened to sue us, at that time I did not take up the challenge to construct the driveway. According to Mr. Finlayson we also looked at what about doing it on the other side of the house, the west side. So I resubmitted another plan in the year 2000 however the City did not approve the other side because there was not enough yard space involved. Thank you very much. And thank you very much for Mr. Perry and the board members for listening. I would respectfully plead that you would kindly consider to allow for these variances. I would be glad to answer any questions. Thank you for listening.

Chair Perry: Thank you Mr. Chan. Are there any questions of Mr. Chan? I see none. Thanks for your testimony. Is there anyone else that would like to speak in favor of this application? I see no one. Is there anyone that would like to speak against it? I see no one. Let's close the public hearing. I have another process question of staff. Mr. Chan mentioned that he had applied for and was granted a variance or implied that, I don't know if it was a variance or not. Wouldn't we see that in our report? You've done that in the past.

Staff Widmeier: There wasn't a record of a variance but a plan had been approved previously. I couldn't track down the plan. I checked with public works, they didn't have a copy. So there's no variance record. But there was something approved.

Chair Perry: By whom?

Staff Widmeier: Without the plan I don't know. So I don't know if it was ever looked at by zoning staff. But the record that we have shown that the address.....

Chair Perry: I'm really excited for the City's new customer relationship management system to get in place so that we can have information like this. I think that would have been helpful.

Staff Widmeier: It's not information that will be on that system.

Chair Perry: My hopes are dashed. They were elevated, now they're sunk. Anyhow, thank you. So you tried, couldn't find it, if you'd found it, it would have been in our report.

Staff Widmeier: Exactly.

Chair Perry: Ok, board comment on the variances being requested? Mr. Cahill.

Board Member Cahill: Thank you Mr. Chair. I'll just point out that this is just a bad situation. I mean, I think the combination of this is an incredibly small lot, with a very practical and I think reasonable request. And on top of that I think showing kind of the perfect difficulties all-around of a single family residence with very realistic concerns, very common concerns I think. In addition in a community which is seeing a lot of high density development which maybe hasn't figured out the best enforcement and solutions for dealing with some of the side consequences like parking. That is a reality of what's going on there and I think it is something that all home owners are struggling with there. So there's, to a certain degree some practice difficulties that everyone is dealing with. I'm not sure if it's good enough to pass muster under our findings. But, I, to be honest, looking at this, I think it's a reasonable request given the entirety of the circumstances. I think their practical difficulties in finding any parking on the property. My only questions are whether or not difficulties are so great that we can't do anything with it. Whether that property is simply too small to have vehicles present. And that's really what I see the question turning on. Granted the findings of staff really turn on what those collateral consequences are, snow removal, safety issues, light, sound, and there are a lot. I think that an honest assessment, I don't think its inaccurate but I do think at some point is, at what point do we try to provide people with off-street parking in a really tough situation, on-street parking that really has become worse. It really has, this is probably just a bad combination of a problem with off-street parking in combination with a high density area where there's no room to build. And so, I'm struck by the applicant's needs, case, but I'd like to hear from my fellow board members.

Chair Perry: Thank you Mr. Cahill. I will just point out the applicant has given some very heartfelt reasons why his family needs this. I would like to remind the board that we are granting this variance to the land, not the property owner. So as dire as that need might be for the particular property owner at the time, we have to take that long view of the

variance as it relates to the property and adjoining properties. And one last thing before I get to Mr. Sandberg; staff has found practical difficulties here; it's the other two findings that they could not find for the request. Mr. Sandberg.

Board Member Sandberg: Thanks Mr. Chair, I was just going to say what you said. I can certainly sympathize with Mr. Chan's situation here but we have to look at this variance with regard to what's happening on the property. I think the characteristics of this property don't lend itself to receiving the variance with the elevation, the existing tree, the closeness of the neighboring property. So I would support staff recommendations.

Chair Perry: Thanks for those comments Mr. Sandberg. Other comments? Ms. Thompson.

Board Member Thompson: For me the challenge was really number three. If you built the curb cut, you'd be losing a spot, so you'd be shifting the parking burden from, you'd be giving the benefit to the individual and taking something away from the greater community. I agree with staff findings and so I move staff findings.

Chair Perry: There's a motion to adopt staff findings and deny the variances.

Board Member Sandberg: Second

Chair Perry: And there's a second. There's something else that I would like to point out before we take a vote on this. There is a return in here. And I inadvertently did not bring that up during the disposition, the suggested disposition of, at the beginning of the meeting today. So, acknowledging this return and adopting the agenda as we have is all we need to do about that. We don't need to take any other action on that so we're just focusing on the three. The fourth one that's returned is not one that we have to worry about, any other board discussion about this item? Seeing none, will the clerk please call the roll?

Aye: Drescher, Ogiba, Sandberg, Thompson

Nay: Cahill, Finlayson, Johannessen, Saufley

Tie vote

Chair Perry: And I am going to vote, the motion is to adopt staff recommendation, and I am going to vote yes for the motion. I find the, as compelling as the applicants statements are, we are confined to the findings of fact. And I think the staff has made a very compelling case. I think also, I think this is one of the things as a city, we need to be, and this is one of the things that happen as the City is looking to reduce parking requirements even further. It's increasing density. There're proposals at least being talked about right now where there would not be parking required for additional units near transportation hubs or transit hubs. The City is moving even more towards a situation where cars on the street, it's going to be difficult to find parking. So as much as I on a personal level, understand and feel for the applicant, looking at the findings of fact for the property I have to agree with staff dings. So

that motion passes. So these three variances are denied. You do have an option to go forward and I would encourage you to talk with staff about what that option is. And with that we are going to move on to agenda item #4 which is 1407 Emerson Avenue North.

Aye: Drescher, Ogiba, Perry, Sandberg, Thompson

Nay: Cahill, Finlayson, Johannessen, Saufley

Motion passed