

BOA Minutes
January 28, 2010
BZZ-4670 1101 East River Parkway

Matt Perry: Alright, item number 3.

Bruce Manning: Mr. Chair, if I might interject?

Matt Perry: Sure.

Bruce Manning: I will be recusing myself on item number 3. The Applicant is a potential litigant on the other side of clients of mine on my day job. I don't believe I'm required to do so under the standard rules of recusals in this matter. I have no financial stake in the outcome, I don't live in this neighborhood, I have not talked with the Applicant or any other Board member regarding this application. But, I feel to eliminate any confusion or later claims, certainly I've been a lawyer long enough now to know now not to hand any arguments to lawyers. I will be recusing myself from item 3.

Matt Perry: Alright, and that recusal and the explanation is so noted. Is there anybody else? Alright. Let's begin the presentation.

Shanna Sether: Alright. Thank you Mr. Chair. Item number 3 is for the property located at 1101 East River Parkway. This property is zoned R-2B 2 Family Residential. The present use of the property is a single family dwelling with a detached garage. The Applicant and property owner is Michael Snow and he is asking for a variance to reduce the minimum lot area required from 10,000 square feet to 7,949 square feet in order to allow for the conversion from the single family dwelling to the duplex. A minimum lot area to allow for a two family dwelling in the R-2B district is 10,000 square feet of lot area. The proposed variance is approximately 20.5 %; the maximum variance allowed to reduce the lot area requirement is 30 %. There's an existing two-story structure about 896 square feet. Oh, I'm sorry, the Applicant is proposing to construct a two-story structure 896 square foot addition to the existing single family home and that will be the second dwelling unit on the property. I'll show you the site plan. This is an irregular shaped parcel with frontage along Huron, East River Parkway and then the detached garage is actually accessed from Yale Avenue. What you see here in dark is the existing structure and this is the proposed addition. So the only variance required as previously stated is to reduce the lot area to allow for the use. The minimum lot area requirement in the R-2B district from 1963 to 1995 was the only 5,000 square feet of lot area. The City of Minneapolis City Council asked Planning staff to do a zoning study city-wide to determine whether or not we felt as though duplexes should meet a higher lot area. There are a large number of conversions from single family homes to duplexes in the R-2B district which is a zoning classification that's used on a number of properties. It's a low density residential district. However, so any structures that were either existing or converted prior to January 1 of 1995 are conforming with a lot area of 5,000 square feet or more, however, any duplexes either newly constructed or single family homes converted to a duplex in the R-2B district after January 1, 1995 must meet the standard of 10,000 square feet of lot area per dwelling and that is why the Applicant is before us today to request the variance. Additionally, on August 22, 2009 the property was rezoned to add the University Area Overlay District. That introduces some additional standards, including additional parking requirements for both vehicles and bicycles based on the number of bedrooms instead of as we're used to with other multiple family dwellings as per unit. This particular project does meet the required minimum parking area. There are somewhere between 7 and 8 bedrooms on the property so the parking requirement is either 3 or 4. There's an existing two-car detached garage with at least two parking spaces provided on the existing driveway. As previously mentioned the Applicant is requesting a variance to reduce the minimum lot area from 10,000 square feet to 7,953 square feet a 20.5 approximately percent variance to convert the use from a single family dwelling to a duplex in the R-2B district. Strict adherence to the Code does not allow for that conversion without meeting the minimum lot area. Staff did a pretty extensive search on surrounding uses from the property. We went from the subject property out 350 feet, and then also to 500 feet. We looked at properties that are in the same zoning classification R-2B, and then also properties that are within 500 feet of a different zoning classification, the only other zoning class within 500 feet is R-5. We found two examples of

duplexes within that subject area of 500 feet. They're also located within 350 feet. They do have lesser lot area than the subject property before you today. However, these uses as previously mentioned, were legally established prior to 1995 and are conforming because they are greater than 5,000 square feet of lot area. Of the surveyed properties there were 15 total that were zoned R-2B and 13 of the remaining properties were all single family dwellings on similarly sized lots. When staff took a look at what the density calculations would be to remain, or to have the use remain single family dwelling versus to go to the duplex, the particular density for this particular property is far greater than what is in the surrounding area. There are two large multiple family uses within the area. Both are zoned R-5. One is an 80-some unit building, the other one I believe is 22 dwelling units. Even taking a look at the average lot areas, so the number of dwelling unit per square foot, this would still be more dense than any of the other properties on average within 500 feet as I previously mentioned. Staff believes that strict adherence to the Ordinance does limit the use to a single family home, but it does not create undue hardship. Staff believes that the circumstances and the conditions upon which the variance is sought are not unique to the parcel of land and have been created by the Applicant. The Applicant as previously mentioned needs about 2,050 square feet additional of land to legally convert the single family home to a duplex without a variance. We do not believe that the existing lot size, while is a circumstance created by the Applicant, the average lot area per dwelling and the surrounding parcels are of all similar size and the same use - single family dwelling. Further, that granting the variance will not be keeping within the spirit and intent of Ordinance which requires 10,000 square feet of lot area. Lastly, we do believe that the variance is meeting the fourth required finding. It's meeting the parking requirement, so increase of congestion of public streets should not be a problem as it's meeting the new University Overlay standard, and further, any sort of addition would have to comply with the building code. Therefore, staff does not believe that the addition will increase the danger of fire, be detrimental to the public welfare, endanger the public safety. This subject property is also located within 1,000 feet of the Mississippi River, therefore is within the Shoreland Overlay so staff is asked to address the three additional findings. We do believe all three of those findings are met. That if the Applicants are approved for the variance, the Applicants will have to prevent soil erosion and potential pollution of public waters both during and after construction and have to meet the City requirements in order to do so. There may be the necessity to construct a silt fence. But again, that's something you'd address with the building permit. The surrounding properties are a majority single family dwellings with similar height and detached garages towards the rear of the structures. Staff does not believe that the particular addition will be any more visible from the river than any of the other structures and the proposed variance should have not impact on the types, uses and numbers of watercraft that occupy the Mississippi River. However, staff does not believe findings 1 through 3 have been met, therefore, is recommending denial of the proposed variance to reduce the minimum lot area from 10,000 square feet to 7,949 square feet to allow for the conversion from a single family home to a duplex. The Prospect Park Neighborhood Association has weighed in that letter is within your packets. They are asking the Board of Adjustment to also deny the proposed variance request. I believe they stated at least 3 reasons, or 3 particular, yes 3 reasons within their letter. With that I can take questions.

Matt Perry: Thank you Ms. Sether. Mr. Sandberg and then Mr. Koch.

Dick Sandberg: Thank you Mr. Chair and thanks Ms. Sether. When you characterize this proposed use as being more dense than the surrounding property is that based on the number of dwelling units per square foot of lot area or the number of bedrooms per square foot of lot area?

Shanna Sether: The number of dwelling units per lot area.

Matt Perry: Thank you. Mr. Koch?

Chris Koch: Were this to remain a single family home could the Applicant put any kind of addition on or have the maxed out - basically a lot area for ...

Shanna Sether: The most certainly would have the ability to construct the addition as proposed. It just couldn't be a second dwelling unit.

Chris Koch: Okay.

Shanna Sether: So there is quite a bit of land left to allow for a larger structure.

Chris Koch: Thank you.

Matt Perry: Mr. Gates.

Paul Gates: Thank you Chairman Perry. With regard to density I was thinking that you were talking about lot coverage.

Shanna Sether: Oh, no. Dwelling units per lot are, or per square footage, excuse me.

Paul Gates: And do you have any comments about how the lot coverage would compare to the lot coverage of adjacent sites?

Shanna Sether: Staff did not take a look at the lot coverage, but the lot coverage for this particular project is being met. We just looked at the number of dwelling units per square foot.

Paul Gates: Okay, thank you.

Matt Perry: Ms. Lasky?

Marissa Lasky: Could the Applicant do a mother-in-law apartment and still have the single family dwelling?

Shanna Sether: The City of Minneapolis does not allow for carriage houses or second dwelling units on the property in a separate structure except with a Conditional Use Permit in the North Phillips Overlay or in the one circumstance that we saw before in the R-2 district with a variance which is not this particular zoning classification and it has to meet a few other requirements. Any use of the property that is more than one dwelling unit and so if there was a mother-in-law or a second dwelling unit it would still be considered a two family for the use so that would not be allowed.

Matt Perry: Mr. Ditzler.

Matt Ditzler: Thank you Chair Perry. I assume that if this is granted, if the lot is zoned R-2B and the use were to be reclassified as a duplex that the possible rental license would also follow?

Shanna Sether: Yes. If it is a rental property they are required to obtain a rental license.

Matt Ditzler: But it would be, as of now being a single family house, even though it's on an R-2B lot, if the use is single family they cannot receive a rental license for a duplex because the use is only single family.

Shanna Sether: That is correct.

Matt Ditzler: If we grant the change to the use of a duplex obviously then the duplex rental license, a two-unit rental license would also be able to be pulled.

Shanna Sether: Yes.

Matt Ditzler: Thank you.

Matt Perry: Any further questions? I have a question. This may not be pertinent, it depends on what the answer – my memory is not what it used to be. Can you remind me what the R-3 district allows for?

Shanna Sether: Yes. The R-3 district, there are several permitted uses. The first being a single family dwelling. Second being a two family dwelling of a lot size – well, I’ll get to that in a moment. The third use would be a multiple family dwelling of three and four units and also a multiple family dwelling of five or more is a condition use. In the R-3 district the lot area requirement for uses other than a single or two-family is 1,500 square feet – excuse me, we just changed it – 1,250 square feet of lot area per dwelling unit. So if this, for example, were zoned to be R-3 they would be able to allow for a duplex on a 5,000 square foot lot. I didn’t bring my calculator, I know they would have at least enough lot area to do three units, maybe even four. Sure - four and potentially five with a Conditional Use Permit.

Matt Perry: Okay.

Shanna Sether: If it was zoned R-5.

Matt Perry: Yes. I wanted to call that out because, well I’ll leave it as is. That’s a piece of data for us to consider. Any other questions? Thank you for your presentation. Is the Applicant present? Would you like to make a statement? Please say your name and address for the record.

Michael Snow: My name is Michael Snow, S-N-O-W, and I’m the owner of record of the property through MLS, LLC. I reside at 2649 Arcola Lane, Wayzata, Minnesota. First, I’d like to thank the staff. I thought the work was done very well. And I’d like to thank you the Department of Community Planning and Economic Development who are working on this, I understand, having served in similar capacities of what an unsung job it is. So thank you for that. I know you know because Shanna just told you that before 1995 we wouldn’t be here. Before 1995 if you had 5,000 square feet you automatically were approved permissive for a duplex. But that changed, and I know that we have to follow today’s rules, but one thing that I do want to stress is that although it changed, the regulations explicitly provide for variances up to 30% and we’re asking for a variance of about – well slightly less than 21%, which I think is important. During the design process we’ve really tried to be sensitive to our neighbors. It’s a very, very odd lot as you can see if you’ve got it before you and if not, I’m going to ask one of my members or our team to provide it for you. We’ve tried to protect the trees on the lot. We’ve tried to protect the sight lines from the neighbors – for the neighbors for the City and the river. I have a real strong personal reason for having this. Currently the Staff Report reported that it was non-homestead. Well, I don’t live there and I own it and I’ve already got a homestead and that’s in Wayzata. Number 2: I have three children and the ‘U’. Two of my children, one in a doctoral computer science, lives in the house with his significant other and one of my two daughters also lives there with her significant other, and I have a third daughter who lives on the same block in the property on Superior Street – 806, and she lives there as a tenant with several other students. If you permit me to go ahead with the duplex it would be my current intention to allow my third child to live there. If she has roommates I don’t intend, at this point, to request a rental license. We don’t charge rent to my kids or their significant others. On a personal note, I’m also looking at this as kind of my next home. I live out in a big old house in Wayzata, three children, and sadly my wife had got terminal cancer and I look at this as being perhaps where I would move when my passes away. That’s a personal hardship and certainly not one that I think meets the test that you all are considering. With respect to trying to increase the lot size, if you note there are properties on either side of my lot. And to the, I guess, north and west, that is a triplex right next door, and it’s on 6,658 feet. So they have none to give. To the southeast there is a homestead and they’ve got 10,586. They’re not interested, from what I understand in selling, but even if they were 586 so they can maintain their 10,000 square feet, I don’t even know – obviously it still wouldn’t meet the variance request. But I’m not sure that you could get the City to agree to split off 586 feet. I just don’t have that experience and don’t have that knowledge. One of the other hardships of the lot is, as you can see, is that it’s made up of nine different lines or boundaries, that connected by eight different angles. It truly is a unique property. I’ve asked my architect, Mr. Bruce Schmidt to be here and make a short statement and answer questions. I’ve also asked Jason Klohs to be here. Jason’s right here, Bruce Schmidt right there and to his left is my legal counsel, real estate lawyer Ed Chanin and he’s here to weigh in and also provide any answers that he can give. Thank you.

Matt Perry: Thank you Mr. Snow. Are there any questions of Mr. Snow? Mr. Ditzler,

Matt Ditzler: Thank you Chair member Perry. Thank you Mr. Snow for your presentation. I guess my first question is why not just expand the house and go that route and bypass all this? Why a duplex?

Michael Snow: Because if one of my children decides, or two of my children decided that will become their permanent home then they'll probably – well we hope they get married and have their own families. It makes more sense that they each have their own home and not one big house to live in. It works fine for two out of three right now to live together. But their not willing to live with the third one and therefore I'm willing to build an addition or a duplex for my third child.

Matt Ditzler: Okay thank you.

Matt Perry: Ms. Lasky.

Marissa Lasky: I think you're building a reasonable case for me and I came in not wanting to grant this. Is the triplex a licensed triplex do you know?

Michael Snow: Honestly, I don't – it is? Yes. (unintelligible) and when Jason and architect Schmidt come up here, they'll point out to you the very heavy density within that 500 yard radius with multiple apartment units, nursing homes, duplexes that have less than 10,000 square feet where variances have been granted as well. But I'll let them speak to you and please, if I can answer any more questions call me up.

Matt Perry: Thank you Mr. Snow. Before we have other people speak in favor of this application, since you presented them as part of your team Mr. Snow, I'll ask them to please not repeat information that has already been mentioned and to confine their comments to the four findings that a variance must meet in order to be granted. So with that, is there someone else to speak in favor of this application? If you'd state your name and address for the record sir.

Jason Klohs: Yes sir, thank you Mr. Chair and Board of Adjustments. My name Jason Klohs. I reside at 1030 Evergreen Lane North in Plymouth. I would like to respond to the Staff Report and I'll do so in a chronological order that they have. The background: Ms. Sether stated that there's 15 properties. There's actually 14. There's 12 single family and 2 multi-family. Both of the multi-families are on smaller lots than what we are currently proposing. Those two lots – one is on 5,793 square feet and one is on 6,658 square feet. The subject property at 7,953. But the bigger issue is, I think, that 14 properties is not a good sampling of the neighborhood. If you go out to that 500 foot radius you start looking at R-5 and R-6. This is oriented to North here.

Matt Perry: Excuse me sir. Ms. Sether we can't see this. It's not your fault sir, it's too bright.

Jason Klohs: Again, this is the 14 properties here. This is the triplex and this is the duplex. I'm sorry, 809, I'm sorry 815. 815 is the duplex. This here at 1217 is a 4-unit and these are R-5 and this is R-6 over here. So there's quite a bit. If you out to that 500 foot radius, you know we're talking about a neighborhood. We're not talking about a block, we're talking about a neighborhood and that's our point. We're not changing the character if you're looking at the broad 500 foot area. The area plan is also calling for more density in this area, and this is a perimeter property. We believe this could be a very positive area to create more density as the light rail comes through there asking for more places for people to live. You know, whether they be doctors going to school, whatever. The property will be currently owner occupied on both sides. As for finding number 1, the finding in this report is different than in some previous ones that I found. I have them with me if you'd like to see them, I'll give you the names. They're BZZ-3594.

Matt Perry: I don't think we need those sir.

Jason Klohs: Okay. Very, very similar cases that we're looking at where they were granted the variances within recent years.

Matt Perry: We're looking at this property uniquely and so we don't look at other property's variances that were granted.

Jason Klohs: Okay. My question is to staff. In reading the Staff Report that what is the, what is it that causes this to be denied when there's so many positive things said about it. We're not causing injurious situation to the neighbors. There's no danger. There's no safety issues, and this is per the Staff Report. I'm at a loss why there's being recommendation for denial when they state that there's no other injurious or enjoyment of safety issues? Number 2: In responding to staff finding number 2, the – I don't want to go back to the other cases - I'm wondering what are the conditions that are created by the owner and how are they different from another property? They state that these conditions are created by the owner and not unique to the property. From my readings before, it was just the opposite so I'm not sure what was created by the homeowner that created the condition to the property. As Mr. Snow stated, it would be very hard to appropriately gain the amount of property as you would really change the character of the area at that point if you were to buy a property to the left or the right, take down a single family home and then build a duplex here. I think you begin to do more damage at that point than working with what we have. Finding number 3: I'm confused because staff states that granting the variance will not keep with the spirit and intent of the Ordinance mentioned, but staff believes that the addition of the one dwelling unit will "not likely alter the essential character or locality or be injurious to the use or enjoyment of other property in the vicinity." So, you know, I've got to point to the larger area 500 feet, that there's much more density and it seems to fit. 4: we agree. We agree with the staff. So I would ask that seeing that I'm not sure what the conditions are that cause this to be denied when staff speaks highly of the safety and livability. I ask that you respectfully – we respectfully ask that you would approve this variance for the building of the duplex. Thank you.

Matt Perry: Thank you. Is there anyone else here to speak in favor of this application? Your name and address for the record sir?

Ed Chanin: Ed Chanin, 18171 82nd Place North, Maple Grove, Minnesota. I'm a real estate lawyer and Michael has been my friend for many years. It's clear that there's sufficient evidence for you to grant the variance if you choose to do that. The law in Minnesota, as you know, is quite clear. You do not need – all that you need to determine is that use of this property for duplex is reasonable and is not permitted under the strict application of the Ordinance. And as Michael noted, there's specifically is a contemplated a variance of up to 30%. The property is uniquely shaped. All the other findings the staff agrees are saying is fine. It's clearly within your power to grant the variance if you should choose to do so. I think in terms of the addition, Michael has been very careful in the aesthetics and how it would blend in with the surrounding community. I saw the letter from the neighborhood association and take issue with each of the assertions in that. Michael wasn't concerned about seeking some sort of property tax exemption, even though his children were living there. It is his desire to bring his third daughter onto the property. He's not creating a mini-dorm. The assertion that there would be undue hardship really isn't relevant. All you need to do is ...

Matt Perry: Excuse me sir, I'm sorry for interrupting. You don't need to argue a third party piece of evidence. Thanks. Is there anyone else to speak in favor of this? Yes ma'am. If you could state your name and address for the record please?

Kathleen McCosko: My name is Kathleen McCosko, I live at 625 Oak Street SE. It's not very far from the property in question and we live also in a duplex. We rent to students or visiting faculty and I am also – my husband is a professor at the 'U' and I'm part of the neighborhood association there. There is definitely a need for more nice housing for, for example, visiting professors on sabbatical and I believe that this addition of a duplex would help the situation. In know the neighborhood Board would like to see more housing like this. It's a good design and it will enhance the neighborhood and I would like to see this go through. Thank you.

Matt Perry: Okay, thanks for your comments. Is there anyone else to speak in favor of this application? I see no one. Are there – I believe all of you are here to speak against this? I'll ask you the same thing that I asked the others. If you would not repeat what's already been stated before you that would be great. That

will help us move along and we'll be listening carefully to what each of you say. So who would like to go first? If you'd state your name and address for the record?

Eleanor Zanna-Brown: My name is Eleanor Zanna-Brown and I live at 811 Superior Street. I too would like to thank all of you. I also would like to thank our police force, because when I move in 811 in 1985 we had a couple of houses that had turned into, literally, tipping homes. Our neighborhood officer, safety officer and the police department helped us turn those neighborhoods around. Our daughter was born there in 1987. Went through Minneapolis Public Schools. I was a teacher in Minneapolis Public Schools for 37 years and now our daughter is at the University of Minnesota in the Honors Program. We have had up times and down times in this very fragile neighborhood and you can yank me if I get off the subject here, but this Bridal Falls Neighborhood is a very small triangle between 27th and River Road and Huron and Yale. As you saw, the R-5 was along 27th and part of Yale, but the rest of it is still fragile, being that R-2. I watched four houses turn into kind of rental properties and when they say up and down, it's when you have to work with the safety officer and the people who own the homes to get, like students under control. When, I – the reason I

Matt Perry: If I can ...

Eleanor Zanna-Brown: I'm speaking against it is, I'm getting to the point – sorry I have to give alot of background. Is the seven bedrooms feels to me more like having more kids and alot of times having more kids means more cars. You – even though it says it's three, it can accommodate the three parking places – what happens in the, on the streets there are a zillion cars. And I kind of protest the fact that it would be adding alot more cars if there are only three spaces per the number of bedrooms – I don't know if I have that right or not. But we would love it if actual owner occupants would be there but in the long term what I have seen is other people saying that they're going to come and live there and what happens is that hasn't been homesteaded. It has been, because it's such a wonderful place to live and go to school, multiple kids live in these homes that people have come in and bought – like four different homes in the last ten years. So that's why I'm speaking against. It just seems like it's too much density, too many cars, and where you need that little sticker, there's no room to park any more.

Matt Perry: Okay, thank you for your comments. Again if folks would speak to the findings I would appreciate that. We've got another variance behind you, but I also want to respect everybody's time with speaking with regard to this variance. Yes sir. While he's approaching the podium, I'd also like to just note that for folks new to this process, we are granting or not granting this variance depending on what the Board decides, not based on the people, not based on the future, it's on the property. Yes sir. Your name and address please?

David Brown: My name is David Brown. I live at 811 Superior and my concern is parking. Now in this Overlay area, the University Overlay of that whole area it says that you only have to have ½ of a parking spot per living unit. In other words, per bedroom. I'm not sure what kind of reality that represents, but when you get right down to it students come to the University and a very high percentage of them have cars and they park on our streets and they have the right to do that, but we're trying to keep this an owner occupant neighborhood. It's not working so far too well. But this is another case where people say come in and they – this is a family deal. This is the third time that this family story has been told to us. The first two ...

Matt Perry: I'm very sorry for that and I understand how it can be frustrating, but again, we're looking at this property...

David Brown: I understand that.

Matt Perry: Before you sit down, this person who spoke before you referred to this triangular area as a certain neighborhood?

David Brown: Bridal Veil Falls Neighborhood.

Matt Perry: Okay, thank you.

David Brown: Thank you for the right to speak.

Matt Perry: Anybody else to speak in opposition?

Kathy Hammergren : My name Kathy Hammergren, I live at 800 Superior and I happen to live on the Bridal Veil Falls – that triangle neighborhood. My house – I'm, kitty-corner to where this house would be. Our little area where I live is very unique as far as all – there's no alley. So all the houses face – kinda share the same backyard area, which you don't really see anywhere else. This is the only place I've ever seen it. And adding another huge structure in that area – it's gonna be awful. I mean I cannot imagine not having any yard space at all. There's beautiful trees there and I know they said they're gonna save the trees and whatever, but it's alot smaller area than what is pictured on this, on the picture. I mean just to look at it – it's really hard to explain, but it's a really small – and that whole shared – and it's not shared because everybody has their property. But it's very small back there and I can't imagine putting whole 'nother house in this small, the area that is small already to start with. And that's one reason why I think that variance, that 10,000 feet or whatever it is, variance is really important because there really is not space. If you look at it, not on the map, but if you actually go and look at the area there is not space for another huge structure. My backyard abuts their driveway that goes into their garage and since they've been there the garage has never been used and I always have two cars parked in the back of my, in the middle part – and they're not on the street, they're in the driveway that goes to the garage and there's always two cars parked there. And that's fine, they have a right to park there, but I can't imagine where they're going to put cars. And I know you keep saying we keep repeating about the parking, but it is awful. It is absolutely awful. And if you have seven bedrooms – and I know we can't talk about whatever – but once you start, once they decide they don't want to live there and more kids move in each of those kids is gonna have a car. And where they gonna go? It's a gorgeous little neighborhood, I you know, it's a beautiful house, that's fine, but it's just, there's not space for another structure right there. There just isn't. There's no alley, there's nothing. Just to put up another structure would just be like intense houses, one on top of each other.

Matt Perry: Okay. And I don't mean to not allow people to speak, but I think the Board – I will speak for the Board that we're pretty clear that there's a definite concern about the parking issues that are in this neighborhood. Anybody else like to speak against this? And if you'd state your name and address for the record that would be great.

Karen Murdoch : Hello. My name is Karen Murdoch. I live at 1212 Yale Avenue SE, about one block from this proposal. I'm also a member of the (unintelligible) Zoning Committee. I've been a member for about 15 years so I've seen all sorts of requests for variances and so one point I'd like to make is I think this request for a variance is too big at 20%. We don't usually see requests that large. Usually they're smaller than that within 10%. The smallest variance I remember giving is a one inch variance. This was a man had put up a garage four or five feet from the property line, it didn't need a variance and then when they surveyed it after it was built it turned out to be one inch too close to the property line so he asked for a variance. That's the smallest variance I can remember, but usually variances are within 10 %. So most requested variances are very small and in my opinion there has to be a very good reason to grant a more than 20% variance. There's also some question about the current use of the property because any rental requires a rental license and there's no rental license on the property. I'd also like to invoke the University Alliance, which is a group that includes representatives from the U of M and all business associations and neighborhood organizations around the U. The Alliance has issued a report calling for the maintenance of viable neighborhoods around the U of M. It's in the best interest of the University to have stable residential neighborhoods. There's less crime and less civil unrest and I do not believe that the creation of another mini-dorm will contribute to the goal of maintaining a stable neighborhood. Even if they, the man, Mr. Snow, is going to live there now, who knows if when it could be sold within a few months and then it will become a mini-dorm with seven bedrooms. The also –the PPERRIA I'm a member of the executive – I'm the, I'm a secretary of PPERRIA and therefore a member of the Executive Committee of the Board of Directors. The Executive Committee met January 11th and discussed this issue and we voted unanimously to reject the request for variance. I understand you have copies of that letter that was sent out.

Matt Perry: We do.

Karen Murdoch: I've got extra copies if you need them. I also brought up this issue at the Board meeting this past Monday, January 25th. I did not request a Board vote at the time because I had the Executive Committee vote, but there was a general sentiment to reject this variance. Therefore I disagree with Mr. Klohs that there's sentiment in the neighborhood to support this sort of thing. And most importantly, I believe that there's no hardship involved in here. The R-2 means that the duplex is possible if the other requirements are met, but the duplex requires 10,000 square feet and the fact that the owner wants to rent more bedrooms and can't do it is not a hardship as far as I'm concerned. Doesn't meet any of the requirements for a hardship. And also the – under the things that are need to grant the variance it says that you have to, it has to be a situation which the owner is denied reasonable use of the land. I think having three or four of five people in there is perfectly reasonable use of the land. And my final point, and this is my final point of all of us that have come to testify against this – is that if you grant this variance it will set a terrible precedent. If 1101 gets this variance, every rental property owner in the University District is going to want to do the same thing and in that case zoning protections will crumble. So please deny this variance. Thank you.

Matt Perry: Before you step down I'd like – again I'd like – I'm just curious about this neighborhood boundary. Could you run your finger on that map and outline the neighborhood that folks are speaking of?

Karen Murdoch: The little area we call Bridal Veil Falls triangle is a sub-neighborhood of ... (end of tape delay) ... \

Matt Perry: I think the Board quite, is quite aware that there are some very strong concerns about parking. Yes. We'll close the public hearing. Board comment? Ms. Lasky.

Marissa Lasky: I have to correct – I feel very compelled to correct the neighborhood about some of the City requirements in regard to density on rental property in case you don't know, because ...

Matt Perry: Well Ms. Lasky, if you want to correct – if you want to educate the Board that's great, but you don't need to...

Marissa Lasky: Okay, then I'll educate the Board.

Matt Perry: It's not necessary. If it's pertinent to the variances.

Marissa Lasky: Because some of the information that we received – I'm hoping that they don't take from the neighborhood association the property could not become a mini-dorm because the City of Minneapolis limits single family and duplexes to a maximum of three unrelated persons. And then if you want to get beyond the definition of unrelated person I can do that, but it's not pertinent here. And anything beyond that for number of persons would have to be regulated by the City of Minneapolis. So if there was multiple persons that would be something you could complain about as a neighborhood association or neighborhood.

Matt Perry: Okay. Mr. Ditzler and then Mr. Koch.

Matt Ditzler: This is an interesting one for me and it's a little tough to be honest with you. I'm trying to decide – part of what it is is that to look at the proposed construction of the Applicant and tie it directly to the use of the lot because it seems to be that seven bedrooms seems a bit big for three siblings. If that's what the intended use of this property is: to have three siblings, so we have three bedrooms, but we have seven bedrooms. While the Applicant's perfectly allowable to build that much, that to me, leans me to be very sympathetic to the neighborhood and have their concerns about how many people are actually going to be living on this property. Not only now, but after the Applicant's done using it and sells it for whatever - which is his complete legal right to do - what is the state going to be after that? And as we look at multi-family properties that come before us, that is something that we consider often, is that while the intended

use of the Applicant may be noble and good, that we also have to keep the neighborhood's interest in mind and what happens in the future. Because we don't know what the use is going to be beyond that. So in that case, I'm very sensitive to the neighborhood concerns, however, yet at the same time, the allowable variance within that 30% is we are within that threshold. We're at 20.5 or whatever it is, so we do fall within that. I don't know how I feel about staff's – maybe someone on the Board can speak more to this because they have more history on it than I do, staff's sampling of 500 feet. I know that staff is able to use whatever measuring stick that they deem appropriate and maybe that is a standard measure of use when they go out and do a sampling of it? Because from my understanding of staff's assessment, based on a 500 foot from this property the proposed use is too dense based on the square footage.

Matt Perry: Do you have a question of staff?

Matt Ditzler: No, well I asked the Board first.

Matt Perry: Okay

Matt Ditzler: Does anybody on the Board have, or I guess I could ask both. I'll ask staff and Board: Is this a common ...

Matt Perry: I think it ...

Matt Ditzler: A common measurement.

Matt Perry: I think it's a fair question.

Shanna Sether: Sure. I would say the general unit of measurement when we take a look at surrounding properties is 350 feet. Given the nature of the surrounding area seeing as how this isn't your usual lot and block residential neighborhood. We went a little bit further in our sampling. Just to again make sure that there wasn't more cause to look at whether or not this is an outlier or this is pretty consistent with the surrounding area.

Matt Ditzler: Well that being the case, with that information, at this point I'm leaning towards staff's recommendation and their expertise in sampling the area. Although a little reluctantly because I do think that the parcel may fall within the probability of getting a variance.

Matt Perry: Okay, thanks. Mr. Koch.

Chris Koch: You have that unique shape of the lot, I think works against the Applicant here. My feeling is the spirit of the Ordinance is to not take green space and fill it with building as well as to maintain density but also just massing on the property. Given the unique shape of that property, a good amount of that square footage is taken up in kind of weird anyway. There's like a whole leg that's too narrow that's where the garage is and then for me I look at the square footage and say okay. Really I'm talking about that kind of big lump of square footage. So I just can't find any hardship here. I just don't see, I'm leaning towards supporting the staff's recommendation as well I guess.

Matt Perry: Okay. Mr. Gates. I'm giving Mr. Gates a chance because you've already made a statement Ms. Lasky. Mr. Gates.

Paul Gates: Thank you Chairman Perry and thanks to my colleagues for setting the tone. This one is really difficult. I'm really having a hard time with it. I'm not quite sure where to head with it. My questions keep going back to the issue of the R-2B zoning in that triangle and wondering about original intent if we can go that far back. And why the Council would have decided to zone that R-2B. Ms. Sether I'm wondering if there are any parcels within that triangle that actually are at 10,000 square feet. Do we know that?

Shanna Sether: There are none.

Paul Gates: There are none. And so would you care to speculate as to why the Council would zone a sector for two family dwellings where none are legal?

Shanna Sether: Sure. The adoption of the 1963 Zoning Ordinance was the first time we looked at breaking out our residential districts R-1 through R-6. Prior that we had just a General Residence District which was single and two-family, and that was from 1924 to 1963 and then a Multiple Family District and varying densities within that was a second set of criteria. The properties in the City of Minneapolis were rezoned from the end of 1962 to – or somewhere in 1963, I think it was November 1. So the zoning classification was already existing throughout the City of Minneapolis. The City Council in 1995 said if R-2B truly is a low density district then we should require greater lot area to prevent the conversion from single to two-family and the negative potential effects on surrounding property owners by then requiring greater lot area per dwelling unit. So it went from essentially 2,500 square feet of lot area per unit to 5,000 square feet of lot area per unit. The City did not, at that time in 1995 through that lot area density requirement change, rezone any properties. So this property has been zoned R-2B since 1963.

Paul Gates: Okay, so I may continue.

Matt Perry: Sure.

Paul Gates: So did I hear that there was concern on the part of Council, City Council that there would be alot of single family residences converted to duplexes as opposed to this case, where it's not converting a single family home it's actually building a whole second unit that happens to be attached.

Shanna Sether: It was a general trend in the late '80's and early '90's where we saw alot of single family homes being converted to duplexes, nuisances came into the City in large numbers. The Council asked Planning staff to take a look at what we could do differently in the R-2B district. What changed was the lot area requirement. So this particular circumstance we have an applicant that's saying this is a relative homestead, essentially. It will be either homesteaded or relative homesteaded but it is still a conversion form a single to a two-family. So whether or not that meets the Ordinance as it was intended in 1995, staff believes it does not, but the Board of Adjustment may decide that it does.

Paul Gates: Thank you Ms. Sether.

Matt Perry: Ms. Lasky and then Mr. Ditzler, then Mr. Finalyson.

Marissa Lasky: If I'm looking at the Ordinance literally, I'm hearing that we have 30% to vary and they're asking for 20, and I know we've varied 20 before. So then I say, okay what's the hardship that we don't grant the 20? So I'm trying to find the hardship that we shouldn't grant the 20. Is it because the addition is taking up too much green space? So we are penalizing the architect for taking up too much green space. But I'm having trouble with the underlying zoning as R-2B. So we're penalizing him for having underlying zoning of R-2B and for being under the allowance for the variance. I can't penalize him for bringing renters in potentially in five or fifteen or twenty years. It's not a penalty I'm going to do. So I want to stick to just the zoning, the underlying zoning and what the allowance would be and I think it would be appropriate, whether or not we like the footprint that he's doing or not, I wish it were smaller footprint on the green space but we don't plan.

Matt Perry: No we do not. Thank you. Mr. Ditzler and then Mr. Finalyson.

Matt Ditzler: To answer Mr. Gates' question, or maybe comment on his comments, part of – maybe not the problem, but part of the mechanism here is, of course, we have zoning and we have use. And they're different. Just because you buy a property that's zone R-2B doesn't mean it's a duplex. And just because you buy a duplex on R-1A lot doesn't mean it's a single family home or a duplex. They're not necessarily tied because the zoning law – because obviously the property was built before the Rezoning Coding and the Rezoning Coding has changed multiple times as has the use. And so that's my struggle with this is that we have these two working mechanisms at the same time and they can – and while the actual zoning of the lot

is unlikely to change, the use very well might. And it's really a use that's going to be changing and that's why I'm having a problem with it as I am. And future uses.

Matt Perry: Thank you Mr. Ditzler. Mr. Finalyson?

John Finlayson: I want to thank you for getting my head right on this one. It's messy. Because we've commonly granted variances where – to substandard lots before. And in excess of 20%, 25% approximately in that area and R-2B districts. But commonly we were dealing with R-2B Districts where this small lot was the outlier and there were a lot of full size lots that were meeting the R-2B District requirement. But here we've got a case where all the lots are small. And it's not so much taking one small lot and granting it the right to expand its building footprint, or finished square footage, what we're talking about is allowing one small lot among many other small lots expanding its square footage and thus creating a negative impact. So I'm in agreement with staff's recommendation to deny.

Matt Perry: I think everybody has commented but Mr. Sandberg. Would you like to weigh in on this?

Dick Sandberg: Yeah, I'd like to thank Mr. Finlayson for his explanation there. It was definitely enlightening. Up until he spoke I was trying to think if there's a way for an argument to be made that a duplex is a reasonable use because it is an R-2 and it's defined as one of the uses there. But understanding that those uses are dependent on the character and the surrounding properties I think I'm inclined to agree with staff recommendation.

Matt Perry: Alright. We've heard from a lot of people and we've had a good discussion here. I would suggest we entertain a motion. Mr. Koch.

Chris Koch: I will move staff's recommendation.

Matt Perry: Is there a second?

Matt Ditzler: Second.

Matt Perry: There's motion and a second to adopt staff recommendation. I will ask is there any further discussion, but I don't think there is. Alright, will the clerk please call the roll:

Clerk: Mr. Ditzler?

Matt Ditzler: Yes.

Clerk: Mr. Finalyson?

John Finlayson: Aye.

Clerk: Mr. Gates?

Paul Gates: Yes.

Clerk: Mr. Koch?

Chris Koch: Yes.

Clerk: Ms. Lasky?

Marissa Lasky: Yes.

Clerk: Mr. Sandberg?

Dick Sandberg: Yes.

Clerk: The motion passes.

Matt Perry: The variance request is denied. You can see staff after the hearing about your options. I would make one quick comment as with all of these types of things regardless of the outcomes: You're all still neighbors. So please keep that in mind when you're working on this beyond this time frame. Thanks.

Michael Snow: Can I just give you a copy of what's on the Hennepin County property map so that all of you are well advised about how many triplexes, duplexes, apartment buildings are in the Bridal Veil park? Because I don't think you understand it, and the information wasn't before you. I know it's a *fête accompli* but I'd like to make copies available if anybody would like to take look at it. It's right off the computer.

Matt Perry: If anybody wants a copy they can see Mr. Snow afterwards. We have to move forward. And we have made our decision on this. There are options for the Applicant to look into. They are not with this Board, so let's move on.