Legislation Details (With Text)

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		In control:	City Council
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Title:	Memorializing City Council action taken on January 21, 2015 denying the appeal of Ramiro D. Maya of a decision of the Board of Zoning Appeals denying certain variances to legalize the conversion of a single family home at 867 East 6th Street into a duplex.		
Sponsors:	Kathy Lantry		
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Date	Ver.	Action By	Action	Result
2/13/2015	1	Mayor's Office	Signed	
2/11/2015	1	City Council	Adopted	Pass

Memorializing City Council action taken on January 21, 2015 denying the appeal of Ramiro D. Maya of a decision of the Board of Zoning Appeals denying certain variances to legalize the conversion of a single family home at 867 East 6th Street into a duplex.

WHEREAS, on November 17, 2014, Ramiro D. Maya ("Appellant"), in DSI Zoning File No. 14-348038, duly applied to the Board of Zoning Appeals ("BZA") for three variances from the strict application of the zoning code's dimensional standards for T2 property under Leg. Code § 66.231 for the purpose of legalizing a second residential unit added in the basement of that property commonly known as 867 6th Street East and legally described as W Grubes Sub Of B104 Lymn Day Lot 18 Blk 104 [P.I.N. No. 332922220179]: (1) A minimum lot size of 6,000 feet is required, 5,320 square feet is available for a variance of 680 square feet. (2) A side yard setback of 9 feet is required for a duplex, 3 feet is available on the west side for a variance of 6 feet. (3) A lot width of 50 feet is required, 40 feet is available for a variance of 10 feet in the RT1 zoning district at; and

WHEREAS, on December 8, 2015, the BZA, in accordance with the requirements of Leg. Code § 61.601, duly conducted a public hearing on the said variance applications where all persons interested were afforded an opportunity to be heard and, at the close of the public hearing, the BZA, as substantially reflected in the minutes, moved to deny the said applications based upon all the files, reports and testimony as presented at the public hearing and as set forth in BZA Resolution No. 14-348038 as follows:

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

This property is located in the RT1 zoning district, a zoning classification that allows both single family dwellings and duplexes. The applicant recently constructed a second dwelling unit in the basement of this single family home without prior approval and is requesting variances in order to legalize the use of the property as a duplex. However, the property does not meet the minimum lot size of 6,000 feet, the 9 foot side yard setback and the 50 foot width required for a duplex. Therefore, this request cannot be accomplished without the requested variances.

According to the applicant, the purpose of this conversion is to improve the livability and safety of the

home in order to accommodate his aging mother who often visits from abroad.

Under the Duplex and Triplex Conversion Guidelines for Zoning Cases adopted by the BZA in 2009, it is stated that:

For proposed conversions of existing single-family structures to duplexes, staff will recommend denial unless, in addition to the required findings for variances contained in § 61.601 of the Zoning Code, the following guidelines are also met:

a. Lot size of at least 5,000 square feet with a lot width or front footage of 40 feet.

The property meets the minimum lot size of 5,000 square feet and 40 feet or lot frontage. This guideline is met.

b. Gross living area, after completion of the duplex conversion, of at least 1,500 square feet. No unit shall be smaller than 500 square feet.

There is about 2,342 square feet of gross living area and there are no units smaller than 500 square feet. This guideline is met.

c. Three off-street parking spaces (non-stacked) are preferred; two spaces are the required minimum. A site plan showing improved (durable, permanent, dustless surface) parking spaces must be provided.

Off-street parking is provided in the existing two-car detached garage and one paved surface parking space adjacent to the garage. This guideline is met**.**

d. All remodeling work for the duplex is on the inside of the structure unless the plans for exterior changes are approved by the Board of Zoning Appeals as part of the variance.

An egress window was recently on the back of the building for the lower level without first obtaining the required permit. There is a separate entrance to the lower level that appears to be relatively new. This guideline is not met.

e. For the purpose of protecting the welfare and safety of the occupants of any structure that has been converted into a duplex without the necessary permits, a code compliance inspection shall be conducted and the necessary permits obtained to bring the entire structure into conformance with building and fire code standards; or the property owner must, as a condition of the approval, make the necessary improvements to obtain the necessary permits and bring the entire structure into building and fire code compliance within the time specified in the resolution.

The remodeling was done without a permit and no code compliance inspection has been conducted. This guideline is not met.

f. Where economic hardship is claimed as one reason for the variance request, an economic feasibility analysis shall be conducted. Applicant should supply city staff with the necessary information.

Economic hardship has not been claimed as a reason for this request. This guideline does not apply.

This request does not meet guidelines "d" and "e" for the conversion of single family dwellings into duplexes; it is not in harmony with the general purposes and intent of the code. Finding 1 is not met.

2. The variance is consistent with the comprehensive plan.

The proposed second dwelling would accommodate the property owner's aging parent to provide convenient access for her care. Strategy 2.17 of the Comprehensive Plan calls for exploring, via a zoning study, the potential for accessory units in existing neighborhoods as a solution for the changing demographics, allowing the elderly to age in place while providing more affordable housing opportunities for singles and couples. The applicant's request to allow an additional dwelling unit in order to care for his ailing mother is consistent with Strategy 2.17 of the Comprehensive Plan. 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.

It is unclear why it would be impractical or unreasonable for the applicant's mother to share the single family dwelling with the applicant. The health and privacy issues alone do not constitute practical difficulties to meet this finding. This finding is not met.

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

There is nothing unique about the property to justify the requested variance. This finding is not met.

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

A duplex is a permitted use in this zoning district, the requested variances if granted, will not change the zoning classification of the property. This finding is met.

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

The conversion to a duplex does not change the appearance of the building from the street and does not change the character of the surrounding area. This finding is met."

WHEREAS, on December 17, 2014 and pursuant to Leg. Code § 61.702(a), Appellant duly filed with the City Clerk, under BZA File No.14-354976, an appeal from the BZA's December 8, 2015 determination and requested a public hearing before the City Council for the purpose of considering the actions taken by the BZA in this matter; and

WHEREAS, on January 7, 2015, the City Council, pursuant to Leg. Code § 61.702(b), duly conducted a public hearing on Appellant's appeal where all interested parties were afforded an opportunity to be heard; and

WHEREAS, the City Council, having concluded and closed the said public hearing, and having considered the variance application, the staff report, the minutes, the resolution of the BZA, and considering all the testimony received during the said public hearing, moved to lay the matter over to January 21, 2015 for the purpose of allowing City staff and the Appellant an opportunity to meet and discuss an alternative housing arrangement

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that would meet the specific familial needs of the Appellant's family before taking final action on the Appellant's appeal; and

WHEREAS, on January 21, 2015, the matter was again taken up by the City Council where it was reported that Appellant and City staff have been working to resolve the housing arrangement of Appellant's family short of needing variances and, with that information, the moved to deny the requested variances; Now, Therefore,

BE IT RESOLVED, that the Council of the City of Saint Paul does hereby uphold the decision of the BZA in this matter, based upon the following findings:

1. The Council finds that Appellant has failed to meet its burden of demonstrating any error in facts, findings, or decision of the BZA deny Appellant's variance requests. Accordingly, the Council adopts as its own, the findings and conclusions of the BZA, as set forth in BZA Resolution No. 14-348038, as its own.

AND, BE IT FURTHER RESOLVED, that the appeal of Ramiro D. Maya be and is hereby denied for the reasons noted above; and

BE IT FINALLY RESOLVED, that the City Clerk shall immediately mail a copy of this resolution to Ramiro D. Maya, the Zoning Administrator, the Planning Commission and the BZA.

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