



Legislation Details (With Text)

File #: RES 16-1102 **Version:** 1

Type: Resolution **Status:** Passed

In control: City Council

Final action: 7/6/2016

Title: Memorializing the City Council's decision of May 25, 2016 granting the appeal of Gary Findell and Jim Erchul to a decision of Board of Zoning Appeals (BZA) denying requested variances needed to construct a new single family dwelling with a two-car attached garage at 427 Mount Ida Street.

Sponsors: Amy Brendmoen

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
7/8/2016	1	Mayor's Office	Signed	
7/6/2016	1	City Council	Adopted	Pass

Memorializing the City Council's decision of May 25, 2016 granting the appeal of Gary Findell and Jim Erchul to a decision of Board of Zoning Appeals (BZA) denying requested variances needed to construct a new single family dwelling with a two-car attached garage at 427 Mount Ida Street.

WHEREAS, on March 14, 2016, in DSI Zoning File No. 16-021085, Gary Findell and Jim Erchul, on behalf of Dayton's Bluff Neighborhood Housing Services (the "Applicant's"), applied for variances from the strict application of the provisions of Legislative Code §§ 63.110 and 63.501 in order to construct a new two-story, single-family dwelling on property commonly known as 427 Mount Ida Street [PIN No. 322922220018] and legally described as Swanstroms Re L10 11 B8 Warren Lot 5; and

WHEREAS, the Applicants sought variances from Leg. Code § 63.110(a)'s design standards which require the primary entrance to single-family dwellings to be located within the front third of the structures, be off of a front porch, foyer, courtyard or similar architectural feature, and be set back at least 8 feet from the side lot line. Applicants proposed to locate the primary entrance at the middle of the dwelling's west side façade, beyond its front third. The Applicants proposed entrance also lacked architectural features and was only setback 5 feet from the side lot line. Leg. Code § 63.501 limits the width of a garage door facing a public street to not more than 60% of the width of the dwelling. Applicants proposed dwelling was 22-feet wide and featured a tuck-under garage. The width of the garage door was 14 feet or 64% of the dwelling's width thus requiring a variance of 4 %; and

WHEREAS, on April 11, 2016 the Board of Zoning Appeals ("BZA"), pursuant to Leg. Code § 61.601, duly conducted a public hearing pursuant on the said variance application where all persons interested were afforded the opportunity to be heard and, at the close of the public portion of the hearing, and following a lengthy discussion on the merits of the Applicant's proposed building plans, the BZA, based upon all the records, reports, and evidence presented at the public hearing, as substantially reflected in the minutes, moved to deny the Applicant's variance requests based upon findings No.s 1-4, as set forth in BZA Resolution No. 16-021085, as follows:

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

There was a duplex previously located on this parcel but it was removed in 1994 and the lot has remained vacant since then. The applicants intend to purchase the parcel and construct a new single family dwelling with a two-car attached garage accessed from the street.

The zoning code requires a single family dwelling to have a primary entrance within the front third of the house; be off of a front porch, foyer, courtyard or similar architectural feature and be set back at least 8 feet from the side lot line. The plans submitted with this revised application show two doors (one door, which is flush with the front of the garage door and one door on the west side of the house). None of these doors meet the standards for an entry door. The front door is a service door to the garage. The door on the west side would be located in the middle of the west side facade, beyond the front third of the house, would not have any architectural elements distinguishing the door and would be setback 5 feet from the side lot line, all requiring an entryway variance.

The zoning code also specifies that a garage cannot exceed 60% of the width of the house. The house is 22 feet wide, the proposed first floor attached two-car garage would be 14 feet wide which is 64% of the width of the house, requiring a garage width variance of 4%.

A purpose of the design guidelines regarding the primary entrance is to maintain the neighborhood character and quality of life. The proposed house with the primary entrance located about half way down the side does not meet the intent of the zoning code. Similarly, the purpose of limiting the width of the garage to no more than 60% the width of the house is to prevent a garage from overpowering the principal structure. This lot is only 32 feet wide and a 14 foot wide garage door would certainly overpower the house; it does not meet the intent of the design requirement. This finding is not met for both requested variances.

2. The variance is consistent with the comprehensive plan.

The Housing Chapter of the Comprehensive Plan Strategy 3.4 encourages the creation of housing units on infill lots in order to provide housing choice and housing opportunity. However, the Comprehensive Plan also states: Infill housing should meet “... design standards so that infill housing fits within the context of existing neighborhoods and is compatible with the prevailing pattern of development.” This would be the only house on the block without a primary entrance within the front third of the building and a garage door that occupies a significant portion of the width of the house. This finding is not met for both requested variances.

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.

This 32 foot wide lot can accommodate a single family dwelling with a one-car attached garage and a front entrance that meets the design standards without a variance. The applicant has not demonstrated that this request is due to any practical difficulty making it impractical or unreasonable to construct a building that meets all design standards. This finding is not met for both requested variances.

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

Although this lot is narrower than a typical 40-foot city lot, there are no unique circumstances that prevent the construction of a building that meets the design standards without the requested variances. This finding is not met for both requested variances.

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

The requested variances if granted would not change the zoning classification of the property. This finding is met for both requested variances.

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

Although the proposed building would not have a front entry that goes directly into the house and would not have a garage door width that meets the zoning requirements, it would not alter the character of the area. This finding is met for both requested variances.”

WHEREAS, on April 20, 2016, Dayton’s Bluff Neighborhood Housing Services (“DBNHS”), pursuant to Leg. Code § 61.702(a), duly filed an appeal from the determination made by the BZA under DSI-Zoning File No. 16-035023 and requested a hearing before the City Council for the purpose of considering the April 11, 2016 decision of the BZA; and

WHEREAS, on May 18, 2016, the City Council, pursuant to Leg. Code § 61.702(b) an upon notice to affected parties, duly conducted a public hearing on the DBNHS appeal where all interested parties were given an opportunity to be heard and, following the close of the public portion of the hearing and upon a discussion of the merits of the matter, the Council duly moved to lay further consideration of the matter over to May 25, 2016 and directed staff to draft findings supporting the appeal of DBNHS based upon the records and testimony presented and considered by the Council; and

WHEREAS, on May 25, 2016, the City Council reopened its deliberations on the matter and, having heard the statements made at the May 18, 2016 public hearing and having considered the variance application, the report of staff, the records and minutes of the BZA and its Resolution No. 16-021085, the Council does

HEREBY RESOLVE, to reverse the BZA’s decision in this matter, based upon the following findings:

The BZA erred with respect to Finding No. 1. The requested variances can be in harmony with the general purpose and intent of the zoning code provided conditions are imposed on the design of the new home.

Leg. Code § 63.110(a)’s design standards relate only to the exterior location and design elements of “primary entrances.” Provided that the garage service door is designed to appear to be the “primary entrance” to the home, the service door becomes the functional equivalent of the desired primary entrance when viewed from the exterior of the home. This satisfies the requirement that the primary entrance is located in the front third of the home when viewed from the street. This design equivalency can be achieved by the imposition of conditions on the variance. Given the undersized character of this buildable lot, designing the garage service door to appear as the primary entrance into the home brings the requested variance into harmony with the

general purpose and intent of the zoning code.

The council also finds that the BZA erred with respect to finding No.2. The Council finds that the requested variance can be consistent with the Comprehensive Plan's goals. The Plan calls for in-fill housing to meet design standards that fit within the context of existing neighborhoods and are compatible with the prevailing pattern of development. The pattern of development on this particular block is a mix of older and brand new homes. The council finds that the overall design of the home proposed by DBNHS will not be out of character with the prevailing pattern of development on this block.

With respect to finding No.3, the Council finds that the facts and the zoning code's own requirements demonstrate that there are practical difficulties in complying with the design standards to build a single-family home on this particular lot. The City's own code requires single-family homes constructed in RT1 districts to use the dimensional standards applicable in R4 districts. In R4 districts, the minimum lot width is 40-feet while the maximum width of the subject lot is only 32-feet. The width of the subject lot alone constitutes a practical difficulty and BZA Finding No. 4 demonstrates that this lot width was not created by DBNHS. The width of the proposed single-family home will be 22 feet which meets the minimum building width requirement under the code yet allows the home to meet the minimum side-yard setback requirement of 4 feet under R4. DBNHS's design also meets the R4 side yard setback which allows for green space between the homes in the neighborhood. Finally, there is no alley access to the rear yard to construct a detached garage. Garages are a desirable amenity given Minnesota's harsh climate. But constructing a garage in the rear yard accessible from the alley is impossible on this lot and wedging a driveway between the proposed house and the property line to afford access to the rear yard defeats the benefits of a landscaped side yard.

The code's requirement that constructing a permitted single-family home must be made in compliance with the R4 dimensional standards, the undersized nature of this otherwise buildable lot of record and the lack of alley access, while meeting the side-yard setback requirements taken together establishes that there are practical difficulties in complying with the building entrance design standards under Leg. Code § 63.110.

With respect to finding No. 4, the Council finds that the plight of the landowner is due to circumstances unique to the property, not created by the owner for the following reasons. The applicant wants to build a single-family home on the subject lot which is zoned RT1. Single-family homes are a permitted use in an RT1 district. In addition, the subject lot is also a "lot of record." The zoning code specifically provides that single-family homes may be built on all lots of record even on those lots that don't meet the dimensional standards of the zoning district. The undersized nature of this buildable "lot of record" was not created by the applicant and the zoning code uniquely provides that an otherwise unbuildable lot can be developed provided it is a lot of record. These facts and the code's own provisions demonstrate circumstances that are unique to the property in questions not created by DBNHS.

The same facts likewise demonstrate that the BZA findings No.s 1, 2, 3, and 4, as they relate to the request to vary the "60% garage-door-width" standard under Leg. Code § 63.501(1) are also in error. A garage is a permitted use in all residential zoning districts and a garage is a highly desirable amenity given Minnesota's harsh climate. Whether a garage is one- or two-car in size is a matter of preference that is reasonably debatable. The Council simply notes that the prevailing trend in the City is to construct two-car garages. Accordingly, DBNHS's request to construct a two-car garage on this lot is not unreasonable. The underlying reasons for granting the primary entrance variance above are also equally applicable to the requested variance from the 60% rule for garage door size and the Council hereby adopts its reasoning for findings No.s 1, 2, 3, and 4 set forth above for this variance as well. Provided that DBNHS installs a 14-foot garage door, which brings the application closer to compliance with the 60% rule, granting this relatively minimal variance is in keeping with the Comprehensive Plan's goal of infilling vacant residential lots with quality built, affordable

new homes.

Based upon these revised findings, the Council grants DBNHS' request for variances, as set forth under DSI-Zoning File No. 16-021085, subject to the following conditions which the Council imposes pursuant to its authority under Leg. Code § 61.704:

1. The door installed in the location of the garage service door depicted in the submitted building plan be either a commercially available or custom made "entry way" door as that term is commonly understood. The door shall contain design elements typically associated with entry way doors and include at a minimum either "side lights" or glazed light panels on the door itself. One or two "entry way" lights of a design compatible with the appearance of the entryway door shall be installed above or to the side(s) of the door.
2. To reinforce the appearance of this entryway as the "primary" entrance to the principal structure, additional windows shall be installed along the "left side" elevation depicted on the plans submitted with the variance application. At a minimum, one window shall be installed in the garage area depicted in the plans and one window shall be installed in the laundry/mechanical room depicted in the plans. These windows shall, at a minimum, be of the same type and size shown on the first floor of "right side" elevation depicted on the plans submitted with the variance application.

AND, BE IT FURTHER RESOLVED, for the reasons stated above, that the appeal of Dayton's Bluff Neighborhood Housing Services, is hereby granted subject to the conditions noted; and, be it

FINALLY RESOLVED, That the City Clerk shall immediately mail a copy of this resolution to Dayton's Bluff Neighborhood Housing Services, to the Applicant's Gary Findell and Jim Erchul, to the Zoning Administrator, the Planning Commission and to the BZA.