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Title: Memorializing City Council action taken August 3, 2016 denying the appeal of Patrick Lindmark of a decision of the Board of Zoning Appeals denying a rear yard setback variance at 975 Lincoln Avenue.

Sponsors: Rebecca Noecker

Indexes:

Code sections:

Attachments:

Date	Ver.	Action By	Action	Result
9/16/2016	1	Mayor's Office	Signed	

Memorializing City Council action taken August 3, 2016 denying the appeal of Patrick Lindmark of a decision of the Board of Zoning Appeals denying a rear yard setback variance at 975 Lincoln Avenue.

WHEREAS, on June 13, 2016, Patrick Lindmark, on behalf of the owners of that real property commonly known as 975 Lincoln Avenue and legally described as Summit Park Addition Tost Pa Lot 15 Blk 26 [PIN No. 022823310095], made application to the Board of Zoning Appeals ("BZA") in BZA File No. 16-047716 for a variance from the strict application of Leg. Code § 66.231 which regulates rear-yard setbacks for the purpose of building and connecting an enclosed "breezeway" between the owner's dwelling and a new garage to be constructed at the rear of the owners property. Under the zoning code, if the dwelling and the garage were connected via the breezeway, the garage and becomes part of the dwelling and is, therefore, subject to rear-yard setback requirements. The subject property is zoned RT1 "two-family" which requires a 25-foot rear-yard setback. The owners proposed a 4.5 feet rear-yard setback for a variance of 20.5 feet; and

WHEREAS, on July 6, 2016, the BZA duly conducted a public hearing where all persons interested were afforded an opportunity to be heard; and

WHEREAS, at the close of the hearing and following deliberations on the matter, the BZA, based upon all the reports, records, and testimony presented to it at the public hearing, as substantially reflected in the BZA's minutes, duly moved to deny the requested variance based upon the following findings of fact, as set forth in BZA Resolution No. 16-047716, which is incorporated herein by reference:

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

The property currently has a three-car detached garage with alley access. The homeowner wants to remove the garage and construct a three-car garage addition connected to the rear of the house by a new enclosed breezeway. Once connected, the garage becomes part of the house and must meet the required 25 foot rear

yard setback for the house. The applicant is proposing a setback of 4.5 feet, hence, the requested rear yard setback variance.

The applicant states that the dilapidated condition of the existing garage and the topography of the adjoining parcels, which cause rain water accumulation in the homeowners' yard, necessitate a new garage connected to the house via a breezeway. He contends that the homeowners have a mobility issues that also necessitates an enclosed structure so that they can use the garage at all times and away from the elements such as snow and rain.

The applicant recognizes that among a purpose and intent of the zoning code is to promote the health and safety of the community and to ensure adequate light, air, privacy and convenience of access to property.

However, the purpose and intent of the zoning code in requiring setbacks is to also provide for yard area around structures, to ensure adequate privacy, natural light, air and sunlight access to buildings and to provide space for landscaping. Connecting the garage and the house with a breezeway would result in creating a building obstructing 107.5 feet of this 150 foot deep lot. This request is not in keeping the purpose and intent of the code. This finding is not met.

2. The variance is consistent with the comprehensive plan.

The requested variance is consistent with the Comprehensive Plan by allowing the existing property owner in an "established neighborhood" to reinvest in his property, maintain its vitality and preserve and promote the neighborhood (Strategy 2.1 of the Housing 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.

The house was constructed in 1923 with a detached garage. The applicant has not demonstrated that there are any difficulties making it impractical or unreasonable to construct a detached garage. This finding is not met.

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

The applicant contends that rain water from the adjoining parcel to the east, drains into this lot. However, city records also indicate that this lot slopes slightly from the front of the house towards the alley. The homeowners could regrade the rear yard in order to resolve this drainage issue. This could be a better

alternative than an attached garage. The requested variance is a result of the applicant's intent to connect both structures. It is not due to any practical difficulty. In this case, the plight of the landowner is self-created. 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.

An attached garage is permitted in this zoning district. The requested variance 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.

Although there are attached garages in the area as stated by the applicant, there is no house connected to a garage on the north side of Fairmount on this block. This request could alter the character of the surrounding area. This finding is not met.”

WHEREAS, on July 8, 2016, pursuant to Leg. Code § 61.702(a), Patrick Lindmark, on behalf of the property owners at 975 Lincoln Ave., Basil and Rhonda Gilliland, duly filed an appeal (File No.16-057947) from the determination made by the BZA, requesting a hearing to be held before the City Council for the purpose of considering the actions taken by the said Board; and

WHEREAS, on August 3, 2016, pursuant to Leg. Code § 61.702(b) the City Council duly conducted a public hearing on the said appeal where all interested parties were given an opportunity to be heard; and

WHEREAS, The City Council, upon closing the public hearing having heard all the testimony offered and having considered the variance application, the report of staff, the record, minutes and BZA resolution No. 16-047716, does hereby

RESOLVE, that the Council of the City of Saint Paul finds no error by the BZA in denying the requested and, in particular, Appellant has not established that there are practical difficulties with complying with the setback requirement; and, be it

FURTHER RESOLVED, that the appeal of Patrick Lindmark is hereby denied and that the Council, in addition to the reasons noted above, also adopts as its own in support of this decision, the findings of the BZA as set forth in BZA Resolution No. 16-047716; and

BE IT FINALLY RESOLVED, that the City Clerk shall immediately mail a copy of this resolution to Patrick Lindmark, Basil and Rhonda Gilliland, the Zoning and Planning Administrators, the Planning Commission and the BZA.