Legislation Details (With Text)

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Title:	Memorializing the City Council's decision to deny the appeal of Jean Schroepfer from a decision of the Board of Zoning Appeals denying a request for variances to convert a single-family home at 1185 Dayton Avenue into a two-family home.		
Sponsors:	Dai Thao		
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Date	Ver.	Action By	Action	Result
12/1/2018	1	Mayor's Office	Signed	
11/28/2018	1	City Council	Adopted	Pass

Memorializing the City Council's decision to deny the appeal of Jean Schroepfer from a decision of the Board of Zoning Appeals denying a request for variances to convert a single-family home at 1185 Dayton Avenue into a two-family home.

WHEREAS, on June 1, 2018, Ms. Jean Schroepfer (“Applicant”), residing at 271 Summit Avenue, Saint Paul, duly applied to the Board of Zoning Appeals (“BZA”) under BZA File No. 18-073086, for variances from the strict application of the Zoning Code for the purpose of converting an existing single-family home into a two-family home located within an RT1 zoning district at property commonly known as 1185 Dayton Avenue [PIN No. 032823110050] and legally described as Lot 23, Block 2 Anna E. Ramsey addition to the City of Saint Paul, Ramsey County, Minnesota; and

WHEREAS, to lawfully convert Applicant’s single-family property into a two-family property, two variances were required: (1) Lot-width: 50-feet required; 39.6-feet existing, 10.4-feet variance requested. (2) Side-yard setback: 9-feet required; 3.8 feet side-yard setback on the lot’s west side existing, 5.2-foot variance requested; and

WHEREAS, on July 2, 2018, the BZA, in accordance with Legislative Code § 61.601, duly conducted a public hearing on Applicant’s variance requests where any person present was afforded an opportunity to be heard; and

WHEREAS, following the presentation of the BZA’s staff report and recommendation, the Applicant did not appear. However, there were persons in attendance in opposition and the BZA duly received testimony from those persons; and

WHEREAS, upon closing the public hearing and the following the BZA's discussion of the application, the BZA staff report and recommendation to deny, and all the hearing testimony duly received, the BZA moved to deny the Applicant's variance requests on a 5-0 roll call vote; and

WHEREAS, on July 16, 2018, DSI staff informed the BZA that due to miscommunications between DSI staff and the Applicant regarding the hearing date, the Applicant as out of town on July 2, 2018 and therefore unable to appear at the hearing. The BZA then moved to reopen the public hearing based upon the miscommunication regarding the hearing date provided to the Applicant. With the public hearing reopened, the Applicant appeared and addressed the BZA with arguments why the staff recommendation to deny was in error and why the Applicant should be granted the requested variances; and

WHEREAS, after the Applicant's testimony, the BZA closed the public hearing and, once again, considered the application with the benefit of the Applicants testimony. Having discussed all the testimony, the BZA, on a roll call vote, once again moved to deny the Applicant's requested variances this time on a 6-0 vote based upon the following findings as set forth in BZA Resolution No. 18-073086 which is incorporated herein by reference and restated below:

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

The applicant is proposing to convert an existing single-family dwelling into a duplex. The construction will take place solely on the interior of the structure and the footprint of the building will not be expanded. There is an existing detached, three-car garage located in the rear of the property that is accessed from the alley.

In 2009, the Board of Zoning Appeals denied a variance request of the minimum lot width requirement in order to allow the conversion of this structure into a duplex. The homeowner also obtained a building permit the same year to raise the roof of the structure and created a larger second floor for additional living space.

The proposed first floor would have two bedrooms, a den, kitchen, and an accessible bathroom. The second floor would consist of three bedrooms, bathroom, and a kitchen in a space that is currently being used as a laundry room.

The zoning code requires a minimum lot width of 50' and a side setback of 9' for a duplex. The existing lot width is 39.6' in the front and the west side of the structure is set back 3.8', resulting in the requested variances.

The RT1 two-family residential district provides for an environment of predominately low density one- and two-family dwellings along with civic and institutional uses and public services and utilities that serve the residents in the district. The district recognizes the existence of older residential areas of the city where larger houses have been or can be converted from single-family to two-family residences in order to extend the economic life

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of these structures and allow the owners to justify the expenditures for repairs and modernization.

The proposal is in harmony with Sec. 60.103 of the zoning code which allows for the improvement of properties in order to conserve property values. This finding is met for all requested variances.

2. *The variance is consistent with the comprehensive plan.*

Strategy 2 found in the Housing Chapter of the Comprehensive Plan encourages established city neighborhoods that are supported through the effective provision of infrastructure and services, and that the older housing stock is reinvigorated so that neighborhoods remain desirable places to live. This finding is met for all 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.*

The purpose of requiring a larger lot width and greater side setbacks for a duplex is to allow for more greenspace and to provide adequate light and air access to the property. However, under this application, the additional unit would be constructed within the house, maintaining the existing footprint of the building, and not encroaching further into the setback area.

Given that there is no additional land available, it is difficult to create new housing that is suitable for the zoning district. However, this building was constructed as a single-family dwelling and operated that way for many years. The applicant has not demonstrated how the use of the property as a single-family is unreasonable and impractical. This finding is not met.

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

This structure was built as a single-family dwelling and has operated as such for several years. The conversion of this structure into a duplex is a circumstance that 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.*

This property is zoned RT1, one- and two-family residential district. The use of the property as a duplex is allowed. This finding is met for all requested variances.

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

This neighborhood has several multi-family structures and the use of the property as a duplex will not alter the essential character of the neighborhood. This finding is met."

AND, WHEREAS, on July 26, 2018, the Applicant, pursuant to Leg. Code § 61.702(a), duly filed with the City Clerk an appeal from the determination made by the BZA under BZA File No. 18-092770 and requested a hearing before the City Council for the purpose of considering the actions taken by the BZA; and

WHEREAS, on September 5, 2018, pursuant to Legislative Code § 61.702(b) and upon notice to affected parties, the City Council duly conducted a public hearing on the said appeal where all interested persons were given an opportunity to be heard; and

WHEREAS, the City Council, having heard the statements made and having considered the variance application, the report of staff, the record, minutes, and resolution of the BZA and all the evidence presented before it during the public hearing; DOES HEREBY

RESOLVE, that the Council of the City of Saint Paul hereby upholds the decision of the BZA in this matter as the Council finds that the Appellant has failed to meet its burden to demonstrate that the BZA erred in its facts or findings made and adopted in this matter denying Applicant's variance request to convert a single-family home to a duplex; AND, BE IT

FURTHER RESOLVED, based upon the Council's finding above that Applicant failed to show any error on the part of the BZA, the Council hereby denies the applicant's appeal and adopts as its own in support of this decision the BZA's facts and finding set forth above and in BZA Resolution No. 18-073086, especially findings 3 and 4; AND, BE IT

FINALLY RESOLVED, that the City Clerk shall immediately mail a copy of this resolution to the Applicant, the Zoning Administrator, the Building Official, the Planning Commission and the BZA.

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