



## Legislation Details (With Text)

**File #:** RES 19-2026 **Version:** 1

**Type:** Resolution **Status:** Passed

**In control:** City Council

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**Title:** Memorializing the City Council's decision denying the appeal of Seth Brand from decision of the Board of Zoning Appeals which had granted an off-street parking variance for property at 1886 Ford Parkway.

**Sponsors:** Chris Tolbert

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
12/9/2019	1	Mayor's Office	Signed	
12/4/2019	1	City Council	Adopted	Pass

Memorializing the City Council's decision denying the appeal of Seth Brand from decision of the Board of Zoning Appeals which had granted an off-street parking variance for property at 1886 Ford Parkway.

WHEREAS, 10K Architecture, on behalf of the operators of Highland Village Montessori School which is located in an RT1 zoning district and is commonly known as 1886 Ford Pkwy ("School") and legally described as Lane's Highland Park Ex E 26 Ft Lot 15 All Of Lot 16 And E 1 Ft Of Lot 17 Blk 11, duly applied to the Board of Zoning Appeals ("BZA"), under BZA File No. 19-062869 for a variance from the strict application of Legislative Code § 63.207 as it applies to the operation of a daycare facility which, based on the number of employees, is required to provided 12 off-street parking spaces. The School proposed site plan indicates 6 off-street parking spaces which requires a variance of 6 off-street parking spaces: and

WHEREAS, on July 29, 2019 the BZA duly conducted a public hearing on the said variance application in accordance with the requirements of Leg. Code § 61.601; and

WHEREAS, upon the close of the public hearing and the BZA's discussion of the requested variances, the BZA duly moved to lay the matter over for an additional two weeks in order to receive additional information regarding the variances; and

WHEREAS, on August 12, 2019, the said variance request was again taken up by the BZA and following a report from staff and following a discussion of the matter, the BZA based upon the evidence presented at the public hearing, as substantially reflected in the minutes, the report of staff dated July 22, 2019 and the August 12, 2019 updated information as provided by BZA staff duly moved to approve the requested off-street parking variance based upon the following findings of fact set forth in BZA Resolution No. 19-062869, which is also incorporated herein, as follows:

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

The applicant is proposing to demolish an existing duplex and a detached, two-car garage and construct a three-story daycare facility with a parking lot in the rear of the property. The off-street parking area would be accessed from the abutting alley.

The proposed daycare facility will have three age groups; infant, toddler, and preschool age children. Each age group is required to have a certain number of staff based on the number of children. The following ratios are required by the daycare facility and the approximate number of children in each group:

Infant (16) - 1:4 staff to child  
Toddler (28) - 1:7 staff to child  
Preschooler (40) - 1:10 staff to child

Based on the above ratios, each group will have four staffers for a total of 12. The zoning code requires 1 space per employee; the daycare facility will provide 6 off-street parking spaces in the rear of the property, resulting in the requested variance.

The RT1 two-family residential district is intended to provide for an environment of predominantly 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 proposed daycare facility fits within the context of the neighborhood and is in harmony with the general purposes and the above intent of the zoning code. This finding is met.

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

The Highland Park Small Area Plan, an addendum to the Comprehensive Plan, addresses the need to provide services that contribute to neighborhood self-sufficiency. This daycare facility is a service for residents within a reasonable proximity to their homes which lessens the burden on parents to find child care facilities outside of their neighborhoods. This proposal is consistent with 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.*

The footprint of the proposed building occupies roughly 35% of the lot area, leaving only a portion in the rear for off-street parking. The front and side yards will be used as play areas for the children. It is difficult to create additional parking on the site without compromising the facility's programming and outdoor play areas.

It was noted in the applicant's narrative that some of the daycare staffers commute to work via public transportation, walking, or by drop-off, which lessens the need to provide additional parking. Furthermore, this site is located on the Bus Rapid Transit (BRT) A Line and there is also ample on-street parking that is underutilized during the day care hours when the majority of residents on Ford Parkway are away at work. There is a sufficient amount of on-street parking and alternative modes of transportation in the area that allow for a reasonable variance request from the parking requirement. This finding is met.

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

This block has a mix of daycare facilities and residential dwellings on standard residential lots. Daycare facilities are an allowed use in this zoning district, and since these lots are more residential in nature and not necessarily conducive for off-street parking for businesses, this application presents a unique circumstance not created by the landowner. This finding is met.

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

A daycare facility is an allowed use in the RT1 one- and two-family residential zoning district. This finding is met.

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

There are a number of early childcare facilities on Ford Pkwy that do not have sufficient off-street parking. This request will not alter the character of the neighborhood. This finding is met.”

AND, WHEREAS, in approving the requested variance, the BZA also imposed the following conditions on the variance, based upon the recommendation of staff:

- (1) Rear parking spaces are for staff parking only. No child drop-off/pick-up or parental use of rear parking spaces allowed with the exception that a handicapped space may be used for handicapped child drop-off/pick-up only.
- (2) Snow must be removed from all rear parking spaces so that each parking space is always available at its full width during regular business hours. Snow may not be stored on any rear parking space at any time. Snow may not be plowed from any rear parking space and plowed onto any adjacent properties nor may snow be stored anywhere on the property.
- (3) Operator’s use of the existing day care at 1882 Ford Parkway shall be discontinued upon opening of the new day care at 1886 Ford Parkway.
- (4) Because the alley forms the zoning boundary between a less intensive R4 zoning district and a more intensive RT1 zoning district, the applicant/operator should discourage parents from using the alley for any purpose including child drop-off/pick-up.

WHEREAS, on August 21, 2019, Mr. Seth Brand (“Appellant”), pursuant to Leg. Code § 61.702(a), duly filed an appeal from the BZA’s August 12, 2019 decision and requested a public hearing before the City Council for the purpose reviewing the BZA’s decision in this matter; and

WHEREAS, on September 18, 2019, the Council of the City of Saint Paul duly conducted a public hearing on the Appellant’s appeal where the Appellant and all interested persons were afforded an opportunity to be heard; and

WHEREAS, upon the close of the public hearing and based upon all the evidence presented during the public hearing, including the Appellant’s appeal information, the record before the BZA, the report and recommendation of BZA staff dated July 22, 2019 and BZA Resolution No. 19-062869, as substantially reflected in the BZA’s record and minutes, the Council of the City of Saint Paul does

HEREBY RESOLVE, that the Appellant has failed to demonstrate any errors in the BZA facts, findings or procedures in this matter when it approved the off-street parking variance and the conditions imposed on the School by the BZA; AND

BE IT FURTHER RESOLVED, because the Appellant has failed to meet its burden of showing any errors on the part of the BZA, the Council hereby denies the appeal by the Appellant and, further, the Council also hereby adopts as its own in support of this decision the facts and findings of the BZA in this matter as set forth in BZA Resolution no. 19-062869; and

AND, BE IT FINALLY RESOLVED, that a copy of this resolution shall be immediately mailed to the Applicant and copies provided to the zoning administrator, the building official, the planning commission and the BZA.