Legislation Details (With Text)

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		In control:	City Council
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Title:	Memorializing City Council action taken on June 15, 2011, upholding the decision of the BZA in this matter granting the requested variances with modified conditions for the purposes of building a new single-family home at 472 Concord Street in Saint Paul.		
Sponsors:	Dave Thune		
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Date	Ver.	Action By	Action	Result
7/22/2011	2	Mayor's Office	Signed	
7/20/2011	2	City Council	Adopted	Pass

Memorializing City Council action taken on June 15, 2011, upholding the decision of the BZA in this matter granting the requested variances with modified conditions for the purposes of building a new single-family home at 472 Concord Street in Saint Paul.

WHEREAS, the Guadalupe Alternative Programs ("GAP") located at 381 Robie St. East, did under BZA File No. 11-130256 on April 15, 2011, make application for three variances from the strict provisions of Leg. Code §§ 66.231 and 66.232 for the purpose of building a new single- family home at 472 Concord Street [PIN No. 082822410017] and legally described as: Trowbridges Addition To the C Ex Nwly 21 Ft Lot 6 And All Of Lot 7; and

WHEREAS, The variances sought by the GAP are: (1) A maximum lot coverage of 35% is allowed, 45% is proposed for a variance of 10%; (2) A northwest side yard setback of 4 feet is required, 3 feet is proposed for a variance of 1 foot; and, (3) A minimum rear yard setback of 25 feet is required, 14.5 feet is proposed for a variance of 10.5 feet; in the R4 zoning district; and

WHEREAS, on May 16, 2011, the Board of Zoning Appeals ("BZA") duly conducted a public hearing pursuant Leg. Code § 61.601 where all persons interested were afforded an opportunity to be heard; and

WHEREAS, the BZA, despite the fact that GAP did not appear at the May 16, 2011 public hearing, and despite the fact that the staff report recommended denial of the requested variances, the BZA, duly moved, as substantially reflected in its hearing minutes which shall be incorporated herein by reference, to grant the variance applications subject to the following conditions: (1) that there is no excavating of the front yard and no retaining walls are installed in the front yard; and (2) that there is only one entry door in the front of the building facing Concord Street, based upon the following findings of facts stated in BZA Resolution No. 11-130256:

1. *The property in question cannot be put to a reasonable use under the strict provisions of the code.*

Finding 1, which states that the property cannot be put to a reasonable use under the strict provision of the

code is met. There is currently a one-story single family dwelling without a garage on this lot. The dwelling is currently listed as a Category 3 Vacant Building. The applicant was given until June 15, 2011 to complete the required repairs or the building may be demolished by the city. The applicant has instead decided to deconstruct the existing structure and will be replacing it with a new two-story single family dwelling with a walkout basement in the front and an attached garage in the back accessible from the alley. Building plans submitted by the applicant indicate that downspouts will be provided for the new building directing run-off away from the neighboring properties. The applicant proposes to cut into the 5 foot berm and build retaining walls on both sides of the lot in the front yard for the walkout basement.

The lot size, at 2,755 square feet is exceptionally small and the 10-foot wide alley is exceptionally narrow. An attached garage allows more space for access off of the alley. A house with an attached garage of 1,232 square feet is a reasonable size for this property that cannot be accomplished without lot coverage and rear yard setback variances. With a lot width of 29 feet, a minimum required width house of 22' cannot be built on this site without a side yard setback variance.

2. *The plight of the land owner is due to circumstances unique to this property and these circumstances were not created by the land owner.*

Finding 2, which states that the request for a variance is due to unique circumstances not created by the landowner is met. This is a buildable lot and has been a substandard sized since the house was built in 1894. In this case, the plight of the land owner is due to circumstances unique to the property and these were not created by the current property owner.

3. *The proposed variance is in keeping with the spirit and intent of the code, and is consistent with the health, safety, comfort, morals and welfare of the inhabitants of the City of St. Paul.*

Finding 3, which states that the variance is in keeping with the spirit and intent of the code and is consistent with the health and welfare of the inhabitants of the city is met. Constructing new housing units is consistent with the goals of the Comprehensive Plan. The proposed house is a single family dwelling and is consistent with the development of uses in the area. Provided gutters and downspouts are constructed to drain water away from adjoining properties as planned, the proposed variances are in keeping with the spirit and intent of the code and are consistent with the health, safety and comfort with the inhabitants of the City of St. Paul.

4. *The proposed variance will not impair an adequate supply of light and air to adjacent property, nor will it alter the essential character of the surrounding area or unreasonably diminish established property values within the surrounding area.*

Finding 4, which states that the variance will not impair the supply of light and air to adjacent property, nor will it alter the character of the neighborhood is met. The design submitted by the applicant shows the front yard excavated with retaining walls along the sides. There would be two front doors, one at the basement level and one at the first floor accessed by an exterior stairway. The basement level would also have a large window facing the front. There are no other buildings with a similar design in the neighborhood and all of the houses on the block have unexcavated front yards. The floor plan does not identify the use of the basement area and there does not appear to be a reason why both the basement and first floor levels need access directly to the front yard. The new house would be a positive addition to the area if designed in a way that matches other houses on this block. Provided the front yard is not excavated, there is only one door facing the street and no retaining walls are installed in the front, the proposed variances will not alter the character of the neighborhood.

5. *The variance, if granted, would not permit any use that is not permitted under the provisions of the code for the property in the district where the affected land is located, nor would it alter or change the zoning district classification of the property.*

Finding 5, which states that no variance may be granted that would allow any use that is prohibited in the zoning district in which the subject property is located is met. Single family homes are permitted in all residential zoning districts. The proposed variances, if granted, would not change or alter the zoning classification of the property.

6. *The request for variance is not based primarily on a desire to increase the value or income potential of the parcel of land.*

Finding 6, which states that the variances are not requested for financial gain is met. The applicant's primary desire is to build a single family dwelling on an existing lot and not to increase the value or income potential of the parcel of land.

WHEREAS, on May 27, 2011, pursuant to Leg. Code § 61.702(a), GAP, under BZA File No. 11-148768, duly filed with the City Clerk an appeal from the conditions imposed by the BZA on the variance approvals and requested a hearing before the City Council for the purpose of considering the actions taken by the BZA; and

WHEREAS, On June 15, 2011, pursuant to Leg. Code § 61.702(b) and upon notice to affected parties, the City Council duly conducted a public hearing where all interested parties were given an opportunity to be heard; and

WHEREAS, The City Council, having heard the statements made by the applicant and having considered the variance application, the report of staff, the record, minutes, and the resolution of the BZA, does hereby;

RESOLVE, That the Council of the City of Saint Paul upholds the decision of the BZA in this matter to grant the requested variances and, accordingly, adopts the findings of the BZA, as set forth in BZA Resolution No. 11-130256 as its own and

BE IT FURTHER RESOLVED, that the Council, pursuant to Leg. Code § 61.702 and acting as the BZA, hereby modifies Condition No. 1 imposed by the BZA so as to permit GAP to excavate the front yard area and to erect retaining walls in the front yard area provided that the home is constructed with only one entry way into the home from the required front yard area based upon the representation of GAP at the public hearing; and

BE IT FURTHER RESOLVED, That the appeal of Guadalupe Alternative Programs be and is hereby denied subject to the modification of the variance conditions noted in the preceding paragraph; and, be it

FINALLY RESOLVED, That the City Clerk shall mail a copy of this resolution to Guadalupe Alternative Programs, the Zoning Administrator, the Planning Commission and the BZA.

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