



Legislation Text

File #: RES 13-866, **Version:** 1

Memorializing the City Council's decision to grant the appeal of Stephen L. Prokop of a BZA decision denying a variance request to legalize three paved parking spaces at 2275 Benson Avenue.

WHEREAS, Stephen L. Prokop, in Board of Zoning Appeals ("BZA") File No. 13-162377, made application for a variance from the strict provisions of Leg. Code § 63.501(b)(2) regulating parking, in order to legalize one "existing" and two "recently paved" parking spaces located in the front yard of residential property commonly known as 2275 Benson Avenue and legally described as Palisade Addition Tosaint Pau Lots 26 And Lot 27 Blk 3. [PIN No. 222823220025]; and

WHEREAS, on April 1, 2013, the BZA conducted a public hearing on the said application in accordance with Leg. Code § 61.601 and, based upon the staff report and all evidence presented at the hearing, as substantially reflected in the minutes, the BZA duly moved to grant the request necessary to legalize the one "existing" parking space while denying the request to legalize the two "recently paved" parking spaces based upon the following findings as set forth in BZA Resolution No. 13-162377 as follows:

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

This finding could be met. This variance request is in keeping with the following Guidelines for Variance Requests to Allow Parking Within a Required Yard adopted on February 6, 2012 by the Board of Zoning Appeals in that:

1. If the parking space is already there, the parking space has been in existence and used continuously for the past ten (10) years.

The single-car parking space adjoining the driveway on the east side has been in existence and continuously used for over 10 years meeting this guideline. However, the two additional parking spaces were recently constructed. Provided that the original parking space only is allowed to remain, this guideline could be met.

2. The applicant can demonstrate hardship in that there is no feasible alternative location for the parking space. For the purpose of this condition hardship shall include: a disability by a resident of the property that qualifies for a State Handicap Parking Permit, topography that makes rear yard parking impossible, the lack of alley access to the property, or insufficient lot size to provide off-street parking in a non-required yard.

The lack of alley meets this requirement but additional circumstances such as the existing mature tree and the applicant's flower garden on the east side of the house make it difficult to construct parking elsewhere on the property.

3. The applicant submits a petition signed by 2/3 of the property owners within 100 feet of the property along either side of the subject property and from property across the street stating that they have no objection to the parking.

The applicant has submitted a petition signed by five out of the five property owners within 100 feet of his property along either side of his property and from one property owner across the street stating that they have

no objections to the parking variance request.

4. The parking space is paved or the applicant agrees to pave the space within 120 days.

All three parking spaces are paved with concrete blocks.

2. The variance is consistent with the comprehensive plan.

This finding is met. According to the applicant, there is a dire need for additional off-street parking. The existing one-car garage and the original single stall parking space adjoining the driveway on the east side do not meet his family's parking need due to the number of drivers in the household. Consequently, he expanded the original parking stall eastward with decorative concrete blocks to create two additional parking spaces to accommodate parking for three vehicles. Providing off-street parking to reduce congestion in the public streets is consistent with the Comprehensive Plan.

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 finding could be met. The plight of applicant is due to a number of reasons: The existing retaining wall in front of the parking spaces would have to be excavated in order to construct a parking space in the side or rear yard. According to the applicant, the roots of the existing Siberian Elm and mature Maple trees on the east side of the house could be negatively impacted by the constant weight of vehicles compacting the topsoil. The vegetable and flower garden on the east side of the house would be negatively affected and there no room for a driveway to a parking space in the rear yard on the west side of the house.

However, the original single-stall parking and the availability of on-street parking could meet the parking need for this single family dwelling; therefore, there is no practical difficulty to justify the construction of two additional parking spaces in the front yard. Provided the single-stall parking adjacent to the driveway is allowed to remain, this finding could be met.

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

This finding could be met. The applicant has difficulties to meet the parking code requirement, but there is an alternative to front yard parking due to the availability of on-street parking. Although one parking space has been in existence for a long period of time and was not created by the applicant, the two additional spaces to the east were constructed by the applicant, a circumstance created by the landowner.

Provided that the original single-stall parking only is allowed to remain, this finding could be met.

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

This condition is met. The proposed variance if granted would not change or alter the zoning classification of the property.

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

This finding is not met. Approving all three parking spaces would result in a 40 foot wide driveway at the curb; it could change the character of this block. This condition could be met by approving one parking space only.

WHEREAS, on April 11, 2013, in BZA File No. 13-173361, Mr. Prokop, pursuant to Leg. Code § 61.702(a), duly filed with the City Clerk an appeal from the BZA determination to deny the requested variance to legalize the two "recently paved" parking spaces and requested a hearing before the City Council for the purpose of considering the BZA's decision on this point; and

WHEREAS, on May 1, 2013, pursuant to Leg. Code § 61.702(b) an upon notice to affected parties, a public hearing was duly conducted by the City Council where all interested parties were given an opportunity to be heard; and

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

RESOLVE, that the Council of the City of Saint Paul does hereby reverse the decision of the BZA in this matter, based upon the following findings of the City Council:

The Council finds that the BZA erred with respect to its findings no's 1, 3, 4, and 6. The lot's topography, landscaping, and the lack of alley access leave the front yard as the only reasonable site on which to park. It is also reasonable to have more than a single parking space on a lot of this size rather than rely on on-street parking. Using the lot's front yard for parking purposes has taken place for a considerable period of time. Expanding this permitted use by adding two additional parking places is reasonable provided the applicant works with the City by obtaining approval of a proper site plan for these off-street parking pads.

FURTHER RESOLVED, that the appeal of Stephen L. Prokop be and is hereby granted and, be it

FINALLY RESOLVED, that the City Clerk shall mail a copy of this resolution to Stephen L. Prokop, the Zoning Administrator, the Planning Commission and the BZA.