



Legislation Text

File #: RES 13-1121, **Version:** 1

Memorializing the City Council's decision to deny Soua Xiong's appeal of the Board of Zoning Appeal's decision denying the variance application for property at 1108 Wilson Avenue.

WHEREAS, on May 8, 2013, Soua Xiong duly applied to the Board of Zoning Appeals (BZA) under BZA File No. 13-182715 for a variance from the strict application of Leg. Code § 63.501(b)(2) for property commonly known as 1108 Wilson Avenue, and legally described as H F Schwabes Addition Lots 3 And Lot 4 Blk 3, for the purpose of legalizing a paved off-street parking space installed within the property's front yard contrary to the provisions of the zoning code; and

WHEREAS, on June 10, 2013, pursuant to Leg. Code § 61.601, the BZA duly conducted a public hearing on the said application where all interested parties were afforded the opportunity to be heard; and

WHEREAS, upon closing the said public hearing, the BZA, based upon the files, reports and evidence presented during the public hearing, as substantially reflected in the BZA's minutes which are incorporated herein by reference, duly moved to deny the variance requested by Ms. Xiong based upon the following findings as set forth in BZA Resolution No. 13-182715; and

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

This variance request is keeping with the Guidelines for Variance Requests to Allow Parking Within a Required Yard adopted on February 6, 2012 by the Board of Zoning Appeals as follows:

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

The parking area in the front yard was recently paved and has not been in existence for 10 years; therefore, this condition is not met.

b. 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 surface of the alley is at a higher elevation than the grade of the property making access to the rear yard impractical for parking in addition to that in the garage and driveway. This topography of the lot meets the hardship condition even though additional parking is not required.

c. 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.

Although the applicant has submitted a petition signed by a number of property owners in the immediate area stating their support for the variance, the petition contains only 1/3 of the property owners within 100 feet along each side of his property. This condition is not met.

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

The parking space is paved.

Because this request does not meet conditions (a) and (c) of the guidelines for parking within a required yard, this finding is not met.

2. The variance is consistent with the comprehensive plan.

The applicant's request would allow occupants of the house to park on the property and free up street parking. This is consistent with a goal of the Comprehensive Plan to provide off-street parking in order to lessen congestion in the public streets; therefore, 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.

According to the applicant, his request is due to the following reasons: he has 5 family members who have vehicles and the existing single-car garage and driveway do not meet their parking needs, the narrow space between the garage and the house prevents the extension of the existing driveway to the rear yard in order to provide additional parking to the back of the house, the lack of alley access further makes it impossible to provide parking in the rear yard and finally, the presence of a fire hydrant at the end of the street which requires cars to be parked 10 feet away further reduces the option for on-street parking. The requested variance is reasonable and the above described difficulties are sufficient to meet this finding.

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

The circumstances related to the lack of alley access, the location of the property at the end of a dead-end street and the lack of sufficient space between the existing garage and the house for a driveway access to the rear yard are circumstances unique to the property. These circumstances were not created by the applicant; therefore, 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.

The requested variance if granted would not change the zoning classification of the property; therefore, this finding is met.

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

This would be the only property on the block with front yard parking. This request would change the character of the area; therefore, this finding is not met.

WHEREAS, on June 20, 2013, pursuant to Leg. Code § 61.702(a), Ms. Xiong duly filed with the City Clerk an appeal from the BZA's decision under BZA File No. No. 13-182715 [a](#) and requested a hearing before the City Council for the purpose of considering the BZA's actions; and

WHEREAS, on July 10, 2013, pursuant to Leg. Code § 61.702(b) and upon notice to affected parties, a public hearing on Ms. Xiong's appeal was duly conducted by the City Council where all interested parties were given an opportunity to be heard; and

WHEREAS, upon closing the public hearing, 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, does hereby;

RESOLVE, that the Council of the City of Saint Paul hereby upholds the decision of the BZA in this matter having found, based upon all the records that Ms. Xiong's appeal has failed to demonstrate any error, as required by Leg. Code § 61.702(a), on the part of the BZA in reaching its decision to deny her requested variance; and

BE IT FURTHER RESOLVED, that the appeal by Soua Xiong be and is hereby denied and that the Council adopts and incorporates as its own in support of this decision the findings set forth in BZA Resolution No. No. 13-182715; and

BE IT FINALLY RESOLVED, that the City Clerk shall immediately mail a copy of this resolution to Soua Xiong, the Zoning Administrator, the Planning Commission and the Board of Zoning Appeals.