



## Legislation Text

**File #:** RES 20-105, **Version:** 1

Memorializing the City Council's decision to deny the appeal by Daniel Carlson and Barbara Pilling from a decision of the BZA to approve height and lot-coverage variances in order to construct a new garage at 1780 Goodrich.

WHEREAS, on September 5, 2019, Dan Bustos ("Applicant"), applied to the Board of Zoning Appeals ("BZA") under BZA File No. 19-0081671 for variances from the strict application of certain requirements of the Zoning Code pertaining to accessory structures for the purpose of constructing a two-story, three-stall garage, on the applicant's R3 zoned property which is commonly known as 1780 Goodrich Avenue and legally described as Macalester Park E 61 5/10 Ft of Lot W BLK 11, [PIN No. 042823430014]; and

WHEREAS, the Applicant requested two variances. The first request was for a 1 ft. 4 in. height variance calculated as follows: Leg. Code § 63.501(e) limits the height of accessory structures to 15 ft. Applicant's proposed garage would be 16 ft. 4 in. which required a variance of 1 ft. 4. The second request was for a 240-sq. ft. lot-coverage variance calculated as follows: Leg. Code § 63.501(f) limits accessory structure lot coverage to 1000 sq. ft. Presently located on Applicant's property is a 120-sq. ft. shed which Applicant intends to keep. Applicant's proposed garage would be 1,240 sq. ft. The combined lot coverage for these accessory structures would cover 1,240 sq. ft. which required a variance of 240 sq. ft.; and

WHEREAS, on October 7, 2019, the BZA, pursuant to Leg. Code § 61.601, duly conducted a public hearing on Applicant's requested variances where all people interested were afforded an opportunity to be heard; and

WHEREAS, at the conclusion of the said public hearing, and based upon all the files and testimony offered at the hearing offered for or against the Applicant's variance requests, including the report of BZA staff dated September 30, 2019 which had recommended denial of the Applicant's variance requests, the BZA, after discussing the application and all the records in the matter, moved to grant the variances requested by the Applicant on a 5 to 1 vote, based upon the following findings as set forth below and in BZA Resolution No. 19-081671, which is incorporated herein by reference:

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

The applicant is proposing to construct a two-story, 1,120 square foot detached garage with a workshop. The proposed garage height is 16'-4" to the midpoint of the gable roof. There is an existing 120 square foot shed that would remain. According to the applicant, two of the garage stalls would be used to park vehicles while the third garage stall would be used as space for a hobby and creative arts space.

The proposed garage combined with the existing shed is less than 35% of the rear yard, however, it exceeds 1,000 square feet, resulting in the requested variance.

The intent of the Section 60.103 of the zoning code is to promote the aesthetics and economic viability of the community. The structure would serve as an amenity to the property and would be relative in size to the large, single-family parcel. Provided that the garage complements the existing house, and is not used for commercial purposes or as a home occupation, this request is in harmony with the general purposes and intent of the zoning code to provide parking in order to lessen congestion in the public streets. This

finding is met.

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

One goal of the city's Comprehensive Plan is to encourage property owners to reinvest in their properties by maintaining its vitality and preserving the neighborhood (Housing Strategy 2.1). 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 proposed garage is a reasonable use of the property due to the difficulties related to the impracticality of the house basement or attic to create a viable storage space for the applicant's delicate art equipment. This finding is met.

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

The lack of options to improve the applicant's home as an alternative to the proposed garage is a circumstance unique to the property not created by the applicant. This finding is met.

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

Accessory structures are allowed in all zoning districts. This finding is met.

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

There is a garage with a similar height located on the lot behind this property. Provided the proposed garage is not used as a home occupation or for commercial purposes, this request will not alter the character of the surrounding area. This finding is met.

WHEREAS, in granting the Applicant's requested variances, the BZA, pursuant to Leg. Code § 61.107, also imposed a condition on its approval "that the garage is not used as a home occupation or for commercial purposes;" and

WHEREAS, on October 15, 2019, Daniel Carlson and Barbara Pilling ("Appellants"), pursuant to Leg. Code § 61.702(a), duly filed an appeal from the BZA's October 7, 2019 decision granting the Applicant's variances and requested a public hearing before the City Council for the purpose of reviewing the BZA's decision; and

WHEREAS, on November 6, 2019, the Council of the City of Saint Paul duly conducted a public hearing on the Appellants' appeal where the Appellants 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 Appellants' appeal information, the record before the BZA, the report and recommendation of BZA staff dated September 30, 2019 recommending denial of the variances and BZA Resolution No. 19-081671 under which the variances were granted, as substantially reflected in the record and minutes, the Council, after discussing the merits of the matter, continued the matter to its November 13,

2019 meeting to make its decision; and

WHEREAS, on November 13, 2019, the Council took up the matter of Appellants' appeal whereupon it was duly moved on a unanimous vote to deny the said appeal based upon the Council's finding that the Appellants have failed to meet their burden of demonstrating any error in the BZA's facts, findings, or procedures when it granted the Applicant's variances; and

BE IT FURTHER RESOLVED, because Appellants failed to meet their burden of showing any errors on the part of the BZA, the Council hereby denies the Appellant's appeal; and,

BE IT FURTHER RESOLVED, that the Council hereby adopts as its own in support of this decision, the facts and findings of the BZA as set forth in BZA Resolution no. 19-081671 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.