



## Legislation Text

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**File #:** RES 22-1193, **Version:** 1

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Memorializing the City Council's decision to uphold in part and deny in part a decision of the Board of Zoning Appeals denying variances to construct a new entryway and porch at 664 Blair Avenue.

WHEREAS, Muna Ali ("Applicant"), in BZA File No. 22-034676, duly applied to the Board of Zoning Appeals ("BZA") for variances from the strict application of Leg. Code §§ 63.105 and 63.106 to construct an enclosed front entry porch addition with stairs that projected into the required front setback area for a property zoned R4 and commonly known as 664 Blair Avenue [PIN: 352923110122] and legally described as Syndicate No. 3 Addition Lot 12 Blk 1; and

WHEREAS, Applicant requested the following variances: (1) Enclosed entrances may project up to 20 sq. ft. into a required front rear yard; Applicant proposed a 68 sq. ft. enclosed entrance for a variance of 48 sq. ft. (2) The entrance may project up to 6 ft. into a required front yard; Applicant's proposed porch stairs projected an additional 8.3 ft. into the required front yard for a variance of 8.3 sq. ft.; and

WHEREAS, on March 21, 2022, the BZA, in accordance with Leg. Code § 61.303, conducted a public hearing on the said variances and, at the conclusion of the hearing and based upon all the testimony and the report and recommendation of BZA staff dated March 15, 2022, duly moved to deny the requested variances based upon the following findings of fact as set forth in BZA Resolution No. 22-034676 and, in particular Finding No.4, as 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 add an enclosed entry addition onto the front of this home. Attached vestibules, enclosed entrances and greenhouses may project up to twenty (20) square feet into a required front or rear yard; a 68 square foot enclosed entrance is proposed, for a variance of 48 square feet. The applicant is proposing to also add front-facing stairs onto the existing 6 foot deep open covered porch. An open, covered porch may project up to six (6) feet into a required front yard and the proposed stairs project an additional 8.3' into the front setback, for a variance of 8.3' from that requirement.

The proposed entryway is intended to function as a mudroom to support the home daycare services provided at this residence. According to the applicant, it will provide a location to place outdoor toys, coats, boots, and strollers. Given the location of the proposed enclosed entry, the applicant is proposing to re-route the stairs straight towards the sidewalk to allow access to the open-covered porch. Provided that the proposed entry complements the existing house, this request would be consistent with the purpose and intent of Section 60.103 of the Zoning Code to:

- a) Promote and protect the public health and safety, the aesthetics and economic viability of the community.
- b) To conserve and improve property values.

This finding is met for both of the requested variances.

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

The proposed addition would be designed to complement the existing house and will match the addition that was just constructed. It would be an improvement to the property, which is consistent with Policy H-2 of the 2040 Comprehensive Plan to "address housing deficiencies and encourage reinvestment in residential properties. . ."

This finding is met for both of the requested variances.

*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 required front yard setback is 15', which is the existing setback of the house, leaving no room for any addition to the front of the house without a variance. This is a reasonable request given the lack of available front yard space to construct a usable enclosed front entry. With the front entry occupying the space where the stairs were formerly planned, it is reasonable to also grant a variance for the stairway.

This finding is met for both of the requested variances.

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

The homeowner constructed the new addition directly up to the 15' required front yard setback. They did so without accounting for the enclosed entry. It is unclear why the applicant did not plan for this circumstance when originally designing this addition. This variance is self-created, as the owner had plenty of space prior to the construction of this addition to place a front enclosed entry that would meet the code.

This finding is not met for both requested variances.

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

A family day care (no more than 10 children) and a group family day care (no more than 14 children) are permitted in the R4 zoning district. This enclosed entry and the revised location of the steps would not permit a use that is not allowed in the zoning district.

This finding is met for both of the requested variances.

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

There are properties on the block with both enclosed entries and porches and stairs leading directly towards the sidewalk. This request will not alter the character of the neighborhood.

This finding is met."

AND, WHEREAS, on March 31, 2022, the Applicant, under BZA File No. 22-041008 and pursuant to Leg. Code § 61.702(a), duly filed an appeal from the BZA's March 21, 2022, determination and requested a hearing before the City Council for the purpose of considering the said action of the BZA which was assigned City Council File No. ABZA 22-1; and

WHEREAS, on April 27, 2022, and pursuant to Leg. Code § 61.702(b), the City Council, with notice to affected parties, duly conducted a public hearing where all interested parties were given an opportunity to be heard and upon the close of testimony and the public hearing, the Council duly moved to lay the matter over to May 4, 2022, for its further deliberation: and

WHEREAS, on May 4, 2022, the Council again laid over deliberation on the matter to May 11, 2022; and

WHEREAS, on May 11, 2022, the Council took up the matter and upon further deliberation and, having considered the hearing testimony and having considered the variance application, the report of staff and the record, minutes and resolution of the BZA, the Council DOES HEREBY

RESOLVE, to uphold in part and reverse in part the BZA's March 21, 2022, decision in this matter based upon the following findings of the City Council; and

1. *Uphold the BZA's decision and deny the Applicant's appeal: porch stairs.* The Council finds that the BZA did not err in any fact, finding or procedure when it denied the variance request for the porch stairs to project an additional 8.3 ft. into the required front setback area: a porch is already permitted to encroach up to 6 ft. into a required front yard. There is no zoning requirement that a porch like the one proposed by the Applicant have stairs. The Council notes that no other home in the immediate area has steps that lead off an elevated porch and into a required front yard. The fact that adjacent properties have "ramps" that encroach into a required front yard is inconsequential because access ramps for medical purpose are exempt under the zoning code. Finally, this entry is not the primary entrance into the home. That entrance is made via a larger entry way. Not only is there a lack of unique circumstances for the encroachment of these steps into the front yard setback area, the Council further finds that the design and location of the proposed steps also does not meet Finding No. 6 as the design and location of the proposed steps would alter the essential character of the neighborhood.

2. *Grant the Applicant's appeal and reverse the BZA's decision: front entryway.* In contrast, the Council finds that the BZA err when it denied the variance request to permit 48 additional sq. ft. for an enclosed entry way in the required front yard. The BZA denied this variance finding that the Applicant could have planned better when the building was first remodeled and, as a result there was nothing unique about this property that was not of the Applicant's making that required a variance for an entry space that was larger than that permitted under the code. However, the BZA's hearing record established that this entryway is the only entry into the home. The hearing record also shows that upon entry into this split-level home, there is a small landing with two sets of steps, one leading to the upstairs portion of the home and one leading to the downstairs. Having additional space in the form of an enclosed entryway that is larger than the permitted square footage, especially into a split-level home, is not an unreasonable request especially given Minnesota's harsh weather conditions. That this is the only entry point into the home is also a unique circumstance, even if the circumstance was created by the Applicant's initial remodel design. The scope of the requested variance is therefore not unreasonable in comparison to the scale of the house especially when the BZA found that the application met all the other findings for this requested variance.

AND, BE IT FINALLY RESOLVED, the City Clerk shall mail a copy of this resolution to the Applicant Muna Ali, the Zoning Administrator, the Planning Administrator and to the BZA.