



## Legislation Text

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**File #:** RES 23-343, **Version:** 1

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Memorializing the City Council's decision to deny an appeal from a decision of the Board of Zoning Appeals to deny a 10-foot lot-width variance for the purpose of splitting property commonly known as 1841 Lincoln Avenue into two lots.

WHEREAS, on August 15, 2022, Amy and Kurt Atkinson (hereinafter "Appellants"), filed an application with the Board of Zoning Appeals ( hereinafter, "BZA") under BZA File No. 22-086120, for a variance from the strict application of Leg. Code § 66.231 pertaining to R3 zoning district lot-width minimum standards for property commonly known as 1841 Lincoln Avenue legally and legally described as Lots 6 and 7, Block 4, Kenna's Subdivision of Lot 53, Block 4, Rosedale Park, [PIN: 042823310097], (hereinafter, the "Property"); and

WHEREAS, on September 6, 2022, the BZA pursuant to Leg. Code § 61.203(c), having sent written notice on August 25, 2023 to property owners within 350 feet of the Property, duly conducted a public hearing on Appellants variance application at which the BZA received a report and recommendation from BZA staff and where all persons interested were given an opportunity to submit testimony regarding the said variance but, during the course of the hearing, the BZA lost quorum and, as a result, the BZA could take no action on the variance application and therefore opted to have the public hearing open remain open and to continue the matter to the BZA's October 3, 2022 meeting; and

WHEREAS, October 3, 2022, the BZA again considered the Appellants variance request and, after hearing additional testimony from the Appellants and receiving additional public comment, the BZA closed the hearing and, following considerable deliberation, duly moved to deny the said variance application based upon the record, the public hearing evidence and the BZA staff report, based upon the following findings of fact as set forth in BZA Resolution No. 22-086120 as follows:

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

The site currently consists of a single parcel that is 80' wide and 150' deep. The survey provided by the applicant labels the site as parcel "A" and "B". Parcel "A" is proposed to be 40 by 150 feet and would retain the existing home and detached garage. Parcel "B" is the proposed new lot that would eventually be the site of a future single-family dwelling, although staff have not seen plans for the exact structure.

The subdivision would result in two nonconforming parcels that would not comply with the lot width requirement of 50' in the R3 zoning district. The applicant is requesting a variance of the lot width requirement for both proposed new parcels.

The R3 one-family residential zoning district is intended to "provide for an environment of predominantly low-density, one-family dwellings." This request would allow creation of an infill lot that could be developed for a single-family dwelling. This request is consistent with the purpose and intent of Zoning Code Sec. 60.103 to provide for housing choice. This finding is met for both requested variances.

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

The requested variance to allow a new lot to be created where a single-family dwelling can be constructed in the future aligns with Policy H-46 in the Comprehensive Plan by supporting the development of new housing. This finding is met for both 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 applicants are currently able to enjoy this parcel with the 80' lot width. The parcel is suitable for the existing single-family dwelling and conforms to the lot width and size requirements. The applicant is creating their own difficulty by proposing to split the parcel in half, creating two lots of nonconforming width. This finding is not met for both requested variances.

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

The property owners are proposing to split this parcel and are creating the need for the variances. Their plight is due to their request to split the parcel, not due to a circumstance unique to the property. 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 single-family lot is permitted in this zoning district. No unallowed uses will be permitted under this application. This finding is met for both requested variances.

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

The request to create a new lot suitable for a new single-family dwelling will not alter the essential character of the surrounding area, given that 6 of the 12 lots on the north side of this block currently do not meet the 50' lot width requirement. This finding is met for both requested variances.”

WHEREAS, on October 13, 2022, Appellants pursuant to Leg. Code § 61.702(a), duly filed an appeal from the BZA's October 3, 2022, determination in this matter under Zoning Appeal Application File No. 22-106148) and requested a hearing before the City Council for the purpose of considering the actions taken by the BZA; and

WHEREAS, The City Council appeal was assigned Council File No. ABZA 22-4, and the matter was set for hearing on November 16, 2022; and

WHEREAS, on October 21, 2022, City staff sent notice of the November 16, 2022, City Council public hearing

to property owners within 350 feet of the Property; and

WHEREAS, on November 16, 2022, and pursuant to Leg. Code § 61.702(b), a public hearing was duly conducted by the City Council where all interested parties were given an opportunity to be heard and, following public testimony the City Council moved to lay any deliberation on the matter over to December 7, 2022, and invited the public to submit additional written comments for the record prior to the December 7, 2022, meeting; and

WHEREAS, via an e-mail dated December 6, 2022, the Appellants submitted additional written comments to the City Council; and

WHEREAS, on December 7, 2022, the Council took up deliberations on the matter and, having heard the statements made and, having considered the application, the reports, the statements made before the BZA and the BZA's minutes and staff report a motion to grant the appeal was duly made and voted upon but failed on a 3-4 vote whereupon a motion was made to deny the appeal which, following discussion by the Council, was approved; NOW THEREFORE,

BE IT RESOLVED that the Council of the City of Saint Paul, having considered the Appellants application, and all the reports, records and minutes in this matter including the BZA staff report, hereby upholds the BZA's decision to deny the Appellant's zoning variance application there being no showing buy the Appellants that the BZA erred in any fact finding or procedure in this matter; and

BE IT FURTHER RESOLVED that the Council, in support of its decision, hereby adopts as its own and hereby incorporates by reference, the BZA's findings in this matter as set forth in BZA Resolution No. 22-086120; and

BE IT FURTHER RESOLVED that the Council denies Appellants appeal based upon the Council's adopted findings; and

BE IT FINALLY RESOLVED that a copy of this Memorialization Resolution shall be provided to the Appellants, the Zoning Administrator, and the BZA.