

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

12-0569R

RESOLUTION AFFIRMING THE DECISION OF THE PLANNING COMMISSION TO DENY THE APPLICATION FOR A VARIANCE FROM THE FRONT AND SIDE YARD SETBACKS OF SECTION 50-14.5 OF THE DULUTH CITY CODE (LYNN AND DAN MCGINTY).

BY COUNCILOR STAUBER:

RESOLVED, that the city council finds as follows:

(a) Lynn and Dan McGinty's property is located at 1920 Minnesota Avenue and is zoned Residential-Traditional (R-1);

(b) On September 4, 2012, Lynn and Dan McGinty applied for a variance that would allow them to construct a one-car garage to be set back 22'3" from the front lot line and 3'1.5" from the side lot line, Section 50-14.5 of the Duluth City Code, 1959, as amended (Table 50-14.5-1), requires a minimum front yard setback of 25', and a minimum side yard setback of 6';

(c) A public hearing was held by the planning commission at its October 9, 2012 meeting. At this meeting, the commission voted to deny the request. The basis for the commission's decision was its conclusion that:

(1) Section 50-37.9.C of the City Code prohibits the granting of a variance that does not demonstrate a practical difficulty which is unique to the property and not caused by the landowner as required by Section 50-14.5 of the City Code;

(2) The applicants did not establish practical difficulty because a driveway could be placed in the side yard, allowing a garage to be constructed in the rear of the property, thus eliminating the need for any variance.

(d) Lynn and Dan McGinty were provided written notice of the commission's action on October 10, 2012;

(e) Lynn and Dan McGinty filed an appeal of the commission's decision to the city council on October 19, 2012, and pursuant to Section 50-37.1.0(4) of the City Code;

(f) The city council heard the appeal at its November 8, 2012 meeting of the planning and economic development committee, and the matter was considered

at the November 13, 2012 council meeting.

RESOLVED FURTHER, that the decision of the planning commission to deny the application for a variance is affirmed on the following grounds:

(a) The property located at 1920 Minnesota Avenue is a single-family home and has a reasonable use of the property in an R-1 district;

(b) The following sections of the City Code are applicable to construction within an R-1 district and are relevant to this matter:

(1) Section 50-37.9.C prohibits variances unless "the strict application of the requirements of this Chapter would result in ... practical difficulties."

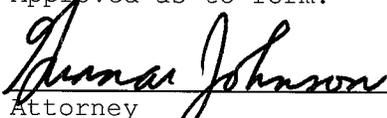
(c) Lynn and Dan McGinty seek a variance that would authorize the construction of a one-car garage that would be within the front and side yard setbacks as required by Section 50-14.5;

(d) The City Code requires an applicant for a variance to demonstrate the requirements for a variance provided in Section 50-37.9.C of the City Code;

(e) A garage could be placed in the rear of the property, outside the front and side yard setbacks;

(f) Accordingly, applicants have failed to show practical difficulty.

Approved as to form:



Attorney

PLNG/ATTY NL:cjk 11/2/2012

STATEMENT OF PURPOSE: This resolution affirms the decision of the planning commission to deny the application by Lynn and Dan McGinty to construct a one-car garage within the front and side yard setbacks as required by Section 50-14.5 of the City Code.

On October 9, 2012, the Duluth city planning commission held a public hearing on the proposal and voted 8 yeas, 1 nays, and 0 abstentions to deny the variance.