

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

12-0570R

RESOLUTION REVERSING 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; and

(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 reversed on the following grounds:

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

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

(d) The narrowness of the existing side yard would cause practical difficulty for the applicant if used as a driveway and the presence of an elevated dune in the rear yard would cause a practical difficulty for locating the garage;

(e) The only reasonable location for a garage is at the proposed site within the front and side yard setbacks;

(f) Lynn and Dan McGinty have demonstrated the existence of a practical difficulty and have met the standards necessary to support a variance as provided in Section 50-37.9.C of the City Code;

RESOLVED FURTHER, that pursuant to the authority to grant variances as provided in Section 50-37.9, the application for a variance is granted subject to the following conditions:

(a) The garage is no closer to the front property line than 22'3" and to the side property line than 3'1.5";

(b) Applicants shall survey and stake the property lines throughout construction to ensure compliance with this variance;

(c) The authority to issue a building permit for the construction of a garage pursuant to this variance shall expire one year from the date of approval of this resolution.

Approved as to form:


Attorney

PLNG/ATTY WL:cjk 11/2/2012

STATEMENT OF PURPOSE: This resolution reverses 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.