



Legislation Text

File #: 18-0612R, **Version:** 1

RESOLUTION REVERSING THE DECISION OF THE PLANNING COMMISSION TO DENY A VARIANCE TO REDUCE THE REQUIRED MINIMUM LOT FRONTAGE FROM 250 FT TO 0 FT TO CONSTRUCT A DWELLING IN THE RR-1 ZONE DISTRICT BY EDWARD BARBO JR. AND CANDACE BARBO.

CITY PROPOSAL:

RESOLVED that the city council finds as follows:

(a) On June 22, 2018 Edward Barbo Jr. and Candace Barbo applied for a variance to the required 250-foot minimum lot frontage requirement to construct a dwelling on their property located at 10013 West Skyline Parkway; and

(b) The planning commission considered the request as outlined in file number PL 18-086 (see staff report in Attachment 1), at its July 10, 2018 meeting (see minutes in Attachment 2) after holding a public hearing on the matter, such hearing having been noticed as required by Chapter 50 of the Duluth Legislative Code, and voted 6-2 to deny the variance based on the following findings:

1. The applicant has not established practical difficulty. The variance request is more economic than practical in nature, which, standing alone, does not constitute practical difficulty.

2. The plight of the landowner is not due to topographic or geographic conditions unique to the property, and the applicant's predecessors created the plight related to the request for the variance.

3. Denial of the variance does not eliminate reasonable use of the property.

4. The request is not in harmony with the purposes and intent of the zoning code that relate to the encouragement of planned and orderly development within the city, as reflected by the minimum lot frontage requirements on public rights of way in RR-1 zones. It is not consistent with the comprehensive plan (Preservation future land use), which calls for low-intensity private or public uses subject to sufficient use and design controls (such as, e.g., minimum lot frontage requirements); and

(c) Greg Gilbert, agent for applicants Edward Barbo Jr. and Candace Barbo, filed an appeal of the planning commission's decision to the city council, pursuant to Section 50-37.1.O of the Duluth Legislative Code, on the grounds that the planning commission failed to properly apply the ordinance to the application for variance; and

(d) The city council heard the appeal to the denial of the variance at its August 27, 2018 meeting.

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

STATEMENT OF PURPOSE: The resolution reverses the decision of the planning commission to deny a variance allowing the construction of a dwelling on a parcel of land with no street frontage.

The applicant purchased the 5-acre parcel lacking street frontage after it was subdivided from a larger parcel. The subject property is one of the most remote areas of the city. The property is at the end of a 1,700-foot

(0.32 mile) private driveway; from the property to Boundary Avenue is 2.6 miles. No municipal utilities are provided or planned to be provided in this area.

The applicants obtained a building permit in 1991 to erect a 30 foot by 45 foot horse pole barn. The 1991 building permit made clear that an improved street was required to allow a house to be constructed on the parcel which was acknowledged in a letter by Mr. Barbo. Applicant had previously applied for variance on May 25, 2017, which was heard by the planning commission on July 11, 2017. Following the planning commission's denial of the variance, the applicants appeal to the city council, which reversed the planning commission's denial on August 28, 2017 (resolution 17-0616R).

The city council, at the time of adoption of this resolution, must construct findings to support this decision.

Petitioner:
Edward Barbo Jr. & Candace Barbo
4202 N. 100th Ave. W.
Duluth, MN 55810

PL 18-086