



## Legislation Text

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**File #:** 16-0096R, **Version:** 1

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RESOLUTION REVERSING THE PLANNING COMMISSION'S DECISION TO DENY BILL BROWNELL AND PAT BROWNELL STERNER A VARIANCE FROM THE RESIDENTIAL-TRADITIONAL (R-1) SIDE YARD SETBACK REQUIREMENT AT 3427 LAKE AVENUE SOUTH.

### CITY PROPOSAL:

RESOLVED, that the city council finds as follows:

(a) On December 15, 2015, Mike Medlin, on behalf of Bill Brownell and Pat Brownell Sterner, submitted an application for a variance from the side yard setback standard in the Residential-Traditional (R-1) zone district;

(b) The side yard setback requirement for all properties zoned R-1 is six feet. Single family homes, and proposed additions to existing homes, must be at least six feet from the side lot property line;

(c) The property at 3427 Lake Avenue South is approximately 80 feet wide by 100 feet long, and the home was originally built in 1908. In December 2011 the property owner received from the Planning Commission a variance to add a 22' by 24' two story addition, increasing the home's total square footage to 2,330 square feet. The variance requested was to build the two story addition seven feet from the rear lot line when the R-1 rear yard setback requirement is 25 feet;

(d) This subsequent variance application is proposing to add a 12.8' by 10' kitchen addition to the ground floor of the single family home. There will also be a minor addition to the second floor, converting an existing office into a fifth bedroom. The single family home is two feet from the side property line; four feet of the proposed 12 foot addition will be within the side yard setback, necessitating the need for a variance;

(e) The planning commission considered the application at its January 12, 2016, regular meeting. Following the closing of the public hearing, the planning commission voted 6-0 to deny the variance request. The denial was based on the fact that the variance application did not meet the general criteria for variances Section 50-37.9.C, it did not demonstrate that the strict application of the requirements of the city's zoning code would result in practical difficulties to the property owner, it did not demonstrate that special circumstances or conditions exist on the property that warrant the variance, and it did not demonstrate that the relief requested with the variance was necessary for the continuing preservation and enjoyment of a substantial property right. The planning commission noted during the deliberation that a smaller or modified kitchen could be reasonably constructed without the need for a variance. In reaching its decision, the planning commission reviewed comments from the public and the applicant, information from city staff, and applicable regulations from the Unified Development Chapter;

(f) On January 21, 2016, the city received an appeal from Patricia Brownell Sterner requesting the city council reverse the planning commission's decision to deny the variance;

(g) The city council heard the appeal at its February 8, 2016 meeting;

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

[The applicant needs to make the kitchen handicapped accessible for her elderly, handicapped brother, which constitutes a practical difficulty within the existing setback requirements. The accessibility issue was not previously articulated to or considered by the planning commission.]

STATEMENT OF PURPOSE: The resolution reverses the planning commission's decision to deny Bill Brownell and Patricia Brownell Sterner a variance from the R-1 side yard setback.

City Council Appeal Received: January 21, 2016

Complete Variance Application Received: December 15, 2015

Action Deadline for Variance Application: April 13, 2016