



Legislation Text

File #: 17-0758R, **Version:** 1

RESOLUTION REVERSING THE DECISION OF THE PLANNING COMMISSION TO DENY A VARIANCE TO CONSTRUCT A STAIRWAY WITHIN THE FIFTY-FOOT GENERAL DEVELOPMENT WATERS SHORELAND SETBACK BY DAVID LARSEN.

CITY PROPOSAL:

RESOLVED that the city council finds as follows:

- a. On July 3, 2017, David Larsen applied for a variance to construct a stairway within the fifty-foot general development waters shoreland setback on their property located at 4814 London Road; and
- b. The planning commission considered the request as outlined in file number PL 17-103 (see staff report in Attachment 1), at its September 12, 2017 meeting 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 6-0 to deny the variance based on the following findings:
 1. The request is not in harmony with the purposes and intent of the zoning code related to the planned and orderly development within the city, as reflected by the shoreland setback requirements within general development waters, such requirements are met by having structures outside of the 50 foot shoreland buffer. This proposal is encroaching over halfway within the required setback; and
 2. The request is inconsistent with the comprehensive plan (shoreland setback), the proposed expansions of the property to improve safety and increase property values are not supported by the adopted criteria of the UDC for the approval of a shoreland variance; and
 3. The applicant has not established practical difficulty because:
 - i. The plight of the landowner is due to the convenience of accessing the lakeshore; with a lot size of 100 x 300 feet the applicant is not at risk of losing enjoyment of his property; and
 - ii. The property already has a large deck (approximately 14' x 18') that faces Lake Superior providing views and reasonable use of the lake in a manner that is comparable to nearby properties; direct access to Lake Superior is unusual and in some cases like this dangerous, due to physical characteristics of the lake; and
 - iii. Per Section 50-37.9.L in the UDC No variance shall be granted that compromises the general purposes or intent of Section 50-18.1.D. or results in adverse consequences to the environment. In this case, the applicant is proposing to build within 35 of the 50 feet that structures cannot be built within the general development waters of the shoreland setback area.
- c. The applicant, David Larsen, filed an appeal of the planning commission's decision to the city

council on July 13, 2017, pursuant to Section 50-37.10 of the Duluth Legislative Code, on the grounds that the proposed use is a reasonable use; and

- d. The city council heard the appeal to the denial of the variance at its October 23, 2017 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 stairway within the General Development Waters shoreland setback.

The city council findings to support this decision shall be added to the resolution as an amendment to the resolution.

Variance Petition Received: July 3, 2017
Action Deadline: October 31, 2017

Petitioner:
Dave Larsen
4814 London Road
Duluth, MN 55810

PL 17-103