



## Legislation Text

**File #:** 24-0534R, **Version:** 1

RESOLUTION AFFIRMING THE PLANNING COMMISSION'S DECISION TO DENY A VARIANCE FROM A SIDE YARD SETBACK FOR A GARAGE AT 1231 W 4TH STREET.

### CITY PROPOSAL:

RESOLVED, that the city council finds and concludes as follows:

- (a) That on March 4, 2024 Katherine Mueller and Kevin Farnum submitted an application (PL24-021) for a variance request from side yard setbacks at 1231 W 4<sup>th</sup> Street with final information constituting a complete application being submitted on April 16, 2024; and
- (b) A sufficient petition was filed with the city requesting the variance; and
- (c) Pursuant to Section 50-37.9 of the Duluth City Code, as amended, such petition was duly referred to the city planning commission and such commission gave due notice of public hearing and did consider the same in a public hearing at a May 14, 2024 regular meeting; and
- (d) After considering public testimony and information from the applicant, documented in Attachment A, the planning commission, at the May 14, 2024 meeting, denied the variance request with a vote of 5 yeas, 2 nays and 0 abstentions to deny the variance; and
- (e) The planning commission's findings and conclusions in support of its denial are set out in the May 15, 2024 action letter, documented in Attachment B; and
- (f) That May 24, 2024, the city received notice of appeal from Katherine Mueller, a copy of which is attached as Attachment C, requesting the city council reverse the planning commission's denial; and
- (g) That the city council heard the appeal at its July 15, 2024 meeting; and
- (h) That the city council finds that the record supports the planning commission's findings, as set out in the planning commission's May 15, 2024 action letter, which the city council hereby adopts in full; and
- (i) That city council finds that the application is a request for a variance to reduce the 15 feet side yard setback for location of a detached garage to 3.9 feet; and
- (j) That city council finds that applicant has demonstrated that there is a band of bedrock along the rear portion of the property; and
- (k) That the city council finds that the band of bedrock does not impact the buildable area of the property, as depicted in Attachment D; and
- (l) That the city council finds that applicant has demonstrated the difference of solar output of a solar energy system placed on the roof of a detached garage with a 3.9 feet side yard setback and a solar energy system placed on the roof of a garage with a 15 feet side yard setback would result in a reduced solar output of 232 kWh annually; and
- (m) That the city council finds that this reduced output of a solar energy system is negligible; and
- (n) That the city council finds that applicant has not demonstrated a lack of access to direct sunlight of a solar energy system placed elsewhere in the buildable area of the property; and
- (o) That the city council finds that the location of a detached garage compliant with all applicable provisions of Chapter 50 of the city code does not result in inadequate access to direct sunlight for solar energy systems; and
- (p) That the city council concludes for the same reasons as those set out in the planning commissioner's May 15, 2024 action letter, that the applicant has not demonstrated practical difficulties because the variance requested is not due to the exceptional narrowness, shallowness, or shape of the applicant's property and that the circumstances are not peculiar to this property as a number of properties in the vicinity have similar topography, solar access and grade.

FURTHER RESOLVED, that the decision of the planning commission to deny the variance from a side yard

setback for a garage at 1231 W 4th Street is affirmed.

STATEMENT OF PURPOSE: This resolution affirms the denial by the planning commission of a variance to side yard setbacks for a garage at 1231 W 4th Street. Appellant Katherine Mueller filed an appeal on May 24, 2024. The applicant's letter admits to the planning commission's findings of fact and conclusions but requests the city council reverse the planning commission's decision due to an alleged practical difficulty related to inadequate access to direct sunlight.

The existing single-family home was built in 1896 and is located 3.3 feet from the side property line. The applicant is seeking a variance to reduce the 15' side yard setback to build a detached garage. The applicant is proposing to construct a 24'x32' garage set 3.9' off the side property line that fronts 13th Ave W.

Planning commission held a public hearing on May 14, 2024 on the request. At the May 14, 2024 regular meeting, the commission voted 5 yeas to 2 nays to deny the variance request.

Complete application received: April 16, 2024

City Council Appeal received: May 24, 2024

City Council action deadline under Minn. Stat. § 15.99: August 14, 2024