



Legislation Details (With Text)

File #: 17-0462R **Name:**
Type: Resolution **Status:** Passed
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On agenda: 7/10/2017 **Final action:** 7/10/2017
Title: RESOLUTION REVERSING THE DECISION OF THE PLANNING COMMISSION TO DENY A VARIANCE FROM ENCROACHING INTO THE REAR YARD SET BACK TO CONSTRUCT A SCREEN PORCH AND DECK BY JAMES MOHN AND HEATHER MUSTER.

Sponsors:

Indexes:

Code sections:

Attachments: 1. Attachment 1, 2. Attachment 2, 3. Attachment 3, 4. Attachment 4, 5. Attachment 5

Date	Ver.	Action By	Action	Result
7/10/2017	1	City Council	adopted as amended	

RESOLUTION REVERSING THE DECISION OF THE PLANNING COMMISSION TO DENY A VARIANCE FROM ENCROACHING INTO THE REAR YARD SET BACK TO CONSTRUCT A SCREEN PORCH AND DECK BY JAMES MOHN AND HEATHER MUSTER.

CITY PROPOSAL:

RESOLVED that the city council finds as follows:

(a) On April 11, 2017, James Mohn and Heather Muster applied for a variance to the required 25-foot rear yard setback to construct a screen porch and deck on their property located at 3421 East 1st Street.

(b) The public hearing was noticed as required by the unified development chapter. Thirty-two public notice letters were mailed by the city to property owners with 350 feet of the subject area on March 27, 2017, and a public notice sign was posted by the applicant on March 28, 2017.

(c) The planning commission considered the request at its April 11, 2017 meeting, and voted to table the application for further evaluation by staff and applicant. At their May 9, 2017 the planning commission meeting removed the application from its tabled status and voted to deny the variance request. The basis for the commission's decision was staff's recommendation that:

(1) The standard for variance has not been met and, therefore, staff recommended the planning commission deny the requested variance because there aren't practical difficulties or hardship caused by adhering to the normal setbacks for the property. There is reasonable space to construct a screen porch and deck outside the setback and that the need for the variance is caused by the applicant's desire to add on to the home in a particular manner and is not caused by the shape of the lot or its inherent topography.

(2) Staff also finds that, should the planning commission find reason to grant the variance, neither the essential character of the area nor the purpose and intent of the UDC or Comprehensive Plan will be compromised by the variance. Additionally, if the planning commission decides to grant the variance, staff recommends that the variance be limited to the project shown on

Sheet S2.0 prepared by cf design ltd dated 12/9/2015.

(3) Cheryl Fosdick, agent for applicants James Mohn and Heather Muster filed an appeal of the commission's decision to the city council on May 30, 2017, pursuant to Section 50-37.10 (4) of the City Code;

(4) The city council heard the appeal to the granting of the variance at its July 10, 2017 meeting.

RESOLVED FURTHER, that the decision of the planning commission to deny the application for the 4 ½ foot variance is reversed on the following grounds: Original siting of older house related to topography of site and location of creek possesses a practical difficulty.

STATEMENT OF PURPOSE: The resolution reverses the decision of the planning commission to deny a variance allowing the applicant to encroach into the rear yard setback to construct a screen porch and deck.

Variance Petition Received: May 30, 2017
Action Deadline: July 4, 2017

Petitioner:
Cheryl Fosdick
230 East Superior Street
Duluth, MN 55802

PL 17-036