



## Legislation Details (With Text)

<b>File #:</b>	17-0617R	<b>Name:</b>	
<b>Type:</b>	Resolution	<b>Status:</b>	Failed
<b>File created:</b>	8/18/2017	<b>In control:</b>	Planning and Economic Development
<b>On agenda:</b>	8/28/2017	<b>Final action:</b>	8/28/2017
<b>Title:</b>	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		
<b>Sponsors:</b>	Keith Hamre		
<b>Indexes:</b>			
<b>Code sections:</b>			

**Attachments:** 1. Attachment 1 - PL 17-082 Staff Report and Attachments, 2. Attachment 2 - Planning Commission 07-11-17 signed minutes

Date	Ver.	Action By	Action	Result
8/28/2017	1	City Council	vetoed	Fail

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 May 25, 2017, 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 17-082 (see staff report in Attachment 1), at its July 11, 2017 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 8-0 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 minimum lot frontage requirements on public rights of way in RR-1 zones, such requirements are to ensure safe and efficient provision of city services and limitation of development in areas lacking adequate current or future infrastructure to support increased public or private use; and

2. The request is inconsistent 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

3. The applicant has not established practical difficulty because:

i. The plight of the landowner is not due to topographic or geographic conditions unique to the property, and that applicant's predecessors bear responsibility for the present need for the variance; and

ii. Current or future street access or improvement is possible, but is costly given the nature and location of the proposed use; and

iii. The difficulty is more economic than practical in nature, which, standing alone, does not constitute practical difficulty; and

4. Previous parcel subdivisions within the larger tract created the need for the requested variance; and
  5. The facts reflect that the lack of street frontage (and resulting limitations related to future development) have been historically contemplated and understood by the applicant and predecessors-in-interest; and
  6. The request is not in harmony with the general purposes or intent of the City's zoning code or comprehensive plan for all the reasons previously stated; 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 on July 13, 2017, pursuant to Section 50-37.10 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 28, 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 dwelling on a parcel of land with no street frontage.

The City Council will need to construct findings to support this decision.

Variance Petition Received: July 13, 2017  
Action Deadline: September 22, 2017