



## Legislation Text

**File #:** 17-0461R, **Version:** 1

### RESOLUTION AFFIRMING 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 1<sup>st</sup> 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) 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;
  - (3) The city council heard the appeal to the granting of the variance at its June 26, 2017 meeting.

RESOLVED FURTHER, that the decision of the planning commission to deny the application for the variance is affirmed on the following grounds:

- (a) Request for the variance is not due to the exceptional topography of the property, including the presence of significant bedrock and steep elevation change, and
- (b) The relief is not necessary for the preservation and enjoyment of a substantial property right.

STATEMENT OF PURPOSE: The resolution affirms 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:  
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230 East Superior Street  
Duluth, MN 55802

PL 17-036