



Legislation Text

File #: 18-0611R, **Version:** 1

RESOLUTION AFFIRMING 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 June 22, 2018 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 18-086 (see staff report in Attachment 1), at its July 10, 2018 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 6-2 to deny the variance based on the following findings:

1. The applicant has not established practical difficulty. The variance request is more economic than practical in nature, which, standing alone, does not constitute practical difficulty.
2. The plight of the landowner is not due to topographic or geographic conditions unique to the property, and the applicant's predecessors created the plight related to the request for the variance.
3. Denial of the variance does not eliminate reasonable use of the property.
4. The request is not in harmony with the purposes and intent of the zoning code that relate to the encouragement of planned and orderly development within the city, as reflected by the minimum lot frontage requirements on public rights of way in RR-1 zones. It is not consistent 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

(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, pursuant to Section 50-37.1.O 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 27, 2018 meeting.

RESOLVED FURTHER, that the decision of the planning commission to deny the application for the variance is affirmed based on the findings listed above.

STATEMENT OF PURPOSE: The resolution affirms the decision of the planning commission to deny a variance allowing the construction of a home on a parcel of land with no street frontage.

The applicant purchased the 5-acre parcel lacking street frontage after it was subdivided from a larger parcel. The subject property is one of the most remote areas of the city. The property is at the end of a 1,700-foot (0.32 mile) private driveway; from the property to Boundary Avenue is 2.6 miles. No municipal utilities are

provided or planned to be provided in this area.

The applicants obtained a building permit in 1991 to erect a 30 foot by 45 foot horse pole barn. The 1991 building permit made clear that an improved street was required to allow a house to be constructed on the parcel which was acknowledged in a letter by Mr. Barbo. Applicant had previously applied for variance on May 25, 2017, which was heard by the planning commission on July 11, 2017. Following the planning commission's denial of the variance, the applicants appeal to the city council, which affirmed the planning commission's denial on August 28, 2017 (resolution 17-0616R).

The applicant currently has legal access to the property via easement. If the applicant's request for a variance is granted, the applicant plans to petition the city council for establishment of a cartway pursuant to Minn. Stat. §§ 435.37 and 164.07 in the location of the existing easements.

The circumstances causing the need for the variance are neither unique to the property nor beyond the landowners' control. They were created when the parcel was severed by a predecessor-in-interest from a larger parcel that had frontage on Gogebic Street.

The property has been put to a reasonable use (a horse barn), given the lack of street access. The applicant is proposing to use the property in a manner that is a permitted use in the RR-1 zone district, but is nevertheless inconsistent with orderly development principles supported by minimum lot frontage requirements in the code.

Minimum lot frontage requirements are established to promote the orderly development of the city. Together, with other zoning tools, they direct development to places where streets can be extended as development occurs. These streets maintain the health, safety, and welfare of the community by limiting development to those areas where the government can efficiently and safely provide sanitation, public safety, and other services. Without street access, the City cannot safely provide public services to the proposed development site.

Granting the variance could result in additional landowners in the area requesting similar variances and cartway extensions. There are 40 acres of privately-owned RR-1-zoned land north of Gogebic Street and west of 100th Ave. W.

Petitioner:
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PL 18-086