

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

14-0040R

AS AMENDED

RESOLUTION REVERSING THE DECISION OF THE PLANNING COMMISSION TO DENY THE APPLICATION FOR A VARIANCE BY CHRIS AND LAURA JACOBSON FROM THE SHORELAND SETBACK OF SECTION 50-18.1 OF THE DULUTH CITY CODE.

CITY PROPOSAL:

RESOLVED, that the city council finds as follows:

(a) Chris and Laura Jacobson's property is located at 2401 Hutchinson Road and the proposed structure is within the 150 foot shoreland setback from the ordinary high water level;

(b) On November 5, 2013, the applicant applied for a variance that would allow them to construct a detached accessory structure of 20 feet by 12 feet, to be set back 100 feet from the ordinary high water level. The planning commission, at its December 10, 2013, meeting, considered the request and voted to table it to allow the applicant to provide more information. At its December 17, 2013, meeting, the commission voted to deny the request. The basis for the commission's decision was its conclusion that:

(1) Section 50-37.9.C. of the City Code prohibits the granting of a variance that does not demonstrate a practical difficulty which is unique to the property. The shoreland structure setback of 150 feet limits placement of structures on approximately 50 percent of the lot. The lot does not have wetland, slope, bedrock or other topographical conditions that present a practical difficulty;

(2) The property owner currently enjoys reasonable use of their property with a single family home and a two car detached accessory garage;

(3) The requested variance is not necessary for the preservation and enjoyment of a substantial property right;

(c) The applicant was provided written notice of the commission's action on December 18, 2013, and filed an appeal of the commission's decision to the city council on December 23, 2013, pursuant to Section 50-37.1.0.4. of the City Code;

(d) The city council heard the appeal on January 13, 2014, and based on the facts presented determined a practical difficulty exists as there is no reasonable place for the shed structure other than the back yard because of the 150 foot setback.

RESOLVED FURTHER, that the decision of the planning commission to deny the application for variance is reversed with the following conditions:

(a) Proposed shed is to have a setback of at least 110 feet from Merrit Creek;

(b) Water garden is to be created as per recommendations of South St. Louis County Soil and Water Conservation District.

CCREQ/PLNG CF:cs 1/3/2014

STATEMENT OF PURPOSE: This resolution reverses the decision of the planning commission to deny the application by Chris and Laura Jacobson to construct a detached accessory structure within the 150 foot shoreland setback from the ordinary high water level, approving a 110 foot setback from ordinary high water mark and construction of a water garden, as required by Section 50-18.1 of the City Code with conditions. (*Resolution affirming the planning commission decision is 14-0039R.*)