

**CITY OF MINNEAPOLIS
CITY COUNCIL
ZONING AND PLANNING COMMITTEE**

In Re: Appeal of Board of Adjustment's
denial of FAR variance for property
located at 2000 Fremont Avenue South

**FINDINGS OF FACT
AND
RECOMMENDATION**

The above-entitled matter came before the Standing Committee on Zoning and Planning of the Minneapolis City Council on Thursday, January 8, 2015, in Room 317, City Hall, 350 South Fifth Street, Minneapolis, MN 55415. On December 11, 2014, the Board of Adjustment denied a variance to increase the maximum floor area ratio (FAR) from 0.50 to 0.54 in order to construct a single-family home with an attached garage on the property located at 2000 Fremont Avenue South. Joel Fischer, the property owner, appealed the variance denial to the City Council pursuant to Minneapolis Code of Ordinances (MCO) § 525.180. Having held a public hearing on the appeal, the Committee now makes the following findings:

FINDINGS OF FACT

1. The lot area of this vacant, R2B-zoned subject property is 6,111 square feet. The appellant seeks to construct a single-family home with an attached garage totaling 3,304 square feet; thus, resulting in a FAR of 0.54. The maximum FAR for a single-family dwelling in the R2B zoning district is 0.5. MCO § 546.420(a). A variance is required, therefore, to construct the home as designed.
2. A variance may be granted when all of the following findings are met:
 - (1) Practical difficulties exist in complying with the ordinance because of circumstances unique to the property. The unique circumstances were not created by persons presently having an interest in the property and are not based on economic considerations alone.
 - (2) The property owner proposes to use the property in a reasonable manner that will be in keeping with the spirit and intent of the ordinance and the comprehensive plan.

(3) The proposed variance will not alter the essential character of the locality or be injurious to the use or enjoyment of other property in the vicinity. If granted, the proposed variance will not be detrimental to the health, safety, or welfare of the general public or of those utilizing the property or nearby properties.

3. Prior to October 1, 2014, applicants were allowed a deduction of 250 square feet for an attached garage in determining gross floor area for purposes of the FAR calculation. The zoning ordinance was amended to eliminate the deduction and include the entire floor area of attached garages in the gross floor area calculation. The proposed house would have a FAR of 0.49 under the previous regulation.
4. The appellant acquired the property in 2013. The proposed house was designed by an architect in reliance on the old regulation that included the attached garage deduction. However, the appellant did not apply to the City until after October 1, 2014.
5. The rising topography of the property coupled with the appellant's degenerative retinal disease and the application timing poses a practical difficulty. The natural grade of the property rises eight feet from the front lot line to the rear lot line. The appellant seeks to build a single-family home with an attached garage to minimize outdoor footing on the sloping grade from the garage to the home, particularly during the winter months.
6. The appellant's proposal is reasonable in light of these circumstances. Single-family homes are a permitted use in the R2B zoning district and are the predominant use on the block. Although separating the garage from the home would bring the proposal into compliance with the Zoning Code because the floor area of a detached garage is not included in the FAR calculation, it would not address the practical difficulty posed by the appellant's condition in relation to the change in natural grade.

7. The proposal is also in line with the spirit and intent of the ordinance and the Comprehensive Plan. In general, FAR regulations are designed to address building bulk. Because the floor area of a detached garage is not included in the FAR calculation, the appellant could build a home and garage that would have more overall bulk and lot coverage than his current proposal without the need for a variance. A single-family home on an R2B-zoned property is in full compliance with the Comprehensive Plan.
8. The appellant's proposal will not alter the essential character of the locality or be injurious to other property in the vicinity. Single-family homes are a permitted use in the R2B zoning district and are the predominant use on the block. Many homes in the area also have large half-stories located beneath steeply pitched roofs that contain a considerable amount of habitable space. Floor area under a half-story is not included in the City's FAR calculation; however, the actual gross floor area of these properties would likely be similar or exceed the appellant's proposal. In addition, the appellant sought to mitigate the perceived "length" of the house by designing the garage with a lower height than the home, incorporating a significant number of windows of varying size, and varying the exterior width throughout. Finally, there are apartment buildings of three and four stories on two of the adjacent corners. The appellant's proposal would provide a visual transition from those properties to the single-family homes on the rest of the block.
9. The Lowry Hill Neighborhood Organization voted to support the variance and the City also received correspondence from the adjacent neighbors expressing support.

Therefore, based on the foregoing Findings of Fact, the Committee makes the following recommendation:

RECOMMENDATION

1. That the full City Council grant the appeal and approve the FAR variance.
2. That these Findings of Fact and Recommendation be adopted by the City Council and made part of the official record.