

**BOARD OF ZONING APPEALS STAFF REPORT**  
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**TYPE OF APPLICATION:** Major Variance **FILE #17-040587**  
**APPLICANT:** Andrew Zelinkas  
**HEARING DATE:** July 17, 2017  
**LOCATION:** 17 HALL LANE  
**LEGAL DESCRIPTION:** Auditors Subdivision No 36 Ex S 3.25 Ft; Lot 14 Blk 3  
**PLANNING DISTRICT:** 3  
**PRESENT ZONING:** RT1: RC-4  
**ZONING CODE REFERENCE:** 66.231  
**REPORT DATE:** June 9, 2017 **BY: Jerome Benner II**  
**DEADLINE FOR ACTION:** July 13, 2017 **DATE RECEIVED:** July 13, 2017

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A. **PURPOSE:** The applicant is proposing to construct a new single family dwelling and detached garage on a vacant lot with no alley access. 1) The proposed garage will be located in a required front yard; the zoning code states that garages must not be established in a required yard except a rear yard; the applicant is requesting a variance of this condition.

B. **SITE AND AREA CONDITIONS:** This is a 47' x 150' vacant lot with no alley access in the rear of the property. This property is located in the River Corridor Overlay District and must comply with all standards and conditions.

Surrounding Land Use: This area consists of low density, one- and two-family dwellings.

C. **ZONING CODE CITATIONS:**

**Section 63.501(b) Accessory Buildings and Uses.** Accessory buildings, structures or uses shall not be erected in or established in a required yard except a rear yard.

D. **FINDINGS:**

1. *The variance is in harmony with the general purposes and intent of the zoning code.*

The intent of the RT1, two-family residential zoning district is to provide primarily low density housing along with civic and institutional uses and public services that serve the residents of the district.

The applicant is proposing to construct a single-family house on a vacant lot with a detached garage located in the front yard. Hall Lane functions as an alley for the dwellings that front Hall Avenue to the west and Delos St. W. to the south. There are four lots that front Hall Lane, three of which are developed with garages in front of the houses, and the fourth is this vacant lot. As a result of this street configuration, the garages on Hall Lane are built at, or very near the front property line, and the street gives the appearance of an alley. The buildable area for structures on Hall Lane are significantly limited because of the proximity to the top of the bluff line to the east; the zoning code requires that no structure be built within 40' of a bluff line.

The proposed single-family dwelling would be setback 36' from the front property line and 50' from the bluff line which would not encroach on the bluff set back area. The 440-square foot garage is proposed to be setback 4' from the front property line with the garage door facing west. The garage on the north side of this property is located 7' feet away from the property line and the garage just to the south is set back 2' from the property line.

By preserving the bluff area and constructing a single-family house on a vacant lot, the applicant has demonstrated that his proposal is within the general purposes and intent of the zoning code. This finding is met.

2. *The variance is consistent with the comprehensive plan.*

The creation of new dwellings on vacant lots is consistent with the goals of the Housing Chapter of the Comprehensive Plan Strategy 3.4 which states: dwellings should meet “design standards so that infill housing fits within the context of existing neighborhoods and is compatible with the prevailing pattern of development.” The placement of the garage and house on this lot is consistent with the other homes on this block. This finding is met.

3. *The applicant has established that there are practical difficulties in complying with the provision, that the property owner proposes to use the property in a reasonable manner not permitted by the provision. Economic considerations alone do not constitute practical difficulties.*

Given that there is a bluff area to the east of the property on Hall Lane, the amount of buildable area on this lot is significantly reduced. The zoning code requires that any properties along the top of the bluff must be setback 40' landward. This lot is 150' in length, however, given that 30' of the property is in the bluff and the applicant is required to have a setback of 40' from the top of the bluff, the applicant is essentially limited to developing only 80' into the lot without requesting a variance of the bluff provision. The required front setback for this property is 38'; the applicant is proposing a 42' front setback for the house to be compliance, however, if the applicant where to construct a garage behind in the house it would require a variance for developing into the bluff area.

Since Hall Lane functions as an alley for the properties to the west on Hall Avenue, garages in the front yard are the only logical location to place accessory structures on Hall Lane. The applicant did consider designing a house with a tuck under garage but felt that it would not be in keeping with the character of the neighborhood. The applicant has demonstrated that there are practical difficulties in complying with the provisions of the code. This finding is met for both variances.

4. *The plight of the landowner is due to circumstances unique to the property not created by the landowner.*

The bluff area to the east of the proposed house significantly reduces the amount of buildable area on this property; this is a circumstance unique to the property not created by the landowner. This finding is met for both variances.

5. *The variance will not permit any use that is not allowed in the zoning district where the affected land is located.*

A single-family dwelling with an accessory structure are permitted uses in the RT1, two-family residential district. This finding is met for both variances.

6. *The variance will not alter the essential character of the surrounding area.*

The other houses facing Hall Lane have garages located in the front yard and other lots on this block have garages facing Hall Lane. The proposed garage will not alter the character of the area. This finding is met for both variances.

- F. **DISTRICT COUNCIL RECOMMENDATION:** As of the date of this report, District 3, the West Side Community Organization has not provided a recommendation.
- G. **CORRESPONDENCE:** One letter of support and one letter of opposition has been received for the variances requested.
- H. **STAFF RECOMMENDATION:** Based on findings 1 through 6, staff recommends approval of the variances requested.