

TO: CITY OF SAINT PAUL BOARD OF ZONING APPEALS  
FROM: HALL LANE BLUFF HOMEOWNERS  
DATE: June 19, 2017  
RE: Opposition to Application for Zoning Variance

This letter is being written on behalf Christine Herkenratt, Kathryn Engdahl and Gordon Schwarz. We are the three homeowners living in historical home sites situated between Hall Lane and the Mississippi River Bluff on Saint Paul's West Side – 13 Hall Lane, 19 Hall Lane, and 11 Hall Lane, respectively. We respectfully submit to you our opposition to the granting of the applied-for variance. We have serious concerns that we ask you to consider carefully as you decide whether to approve this variance application.

**Procedural requirements have not been met.**

State law requires that a public hearing shall be held before any variance is approved or denied, and notice of such hearings must be at least 10 days before the hearing. Minn. Stat. §394.26, Subds. 1a and 2. The Public Hearing Notice was dated and mailed May 26<sup>th</sup> (the Friday before Memorial Day weekend), notifying property owners of a hearing June 5<sup>th</sup>. This provided notice of six calendar days (4 workdays, due to the intervening Memorial Day) – clearly a violation of the statute.

I was advised that the applicant decided to postpone the hearing two weeks in order to “submit additional information.” I asked whether the homeowners would be properly notified of the new hearing date and was told that “we don't have to.” Thus, those homeowners who received the defective notice and who erroneously believed that they had missed the June 5<sup>th</sup> hearing, would have no opportunity to be heard.

Further, the Notice was never sent to the homeowner at 13 Hall Lane, who is directly adjacent to the subject property. Query whether the Metropolitan Council of Environmental Services (which I believe owns the lift station at about 352 Wabasha, at the bottom of the bluff directly below 17 Hall Lane) has received any notice either. If there was, indeed a failure to notify the MCES, there would appear to be an additional violation of the statutory procedural requirement.

In a June 15<sup>th</sup> email to Mr. Benner, our District 3 Planning Council (West Side Citizens Organization) President Krysten Ryba-Tures pointed out further procedural deficiencies in notification that raise significant issues of due process.

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Finally, another irregularity is the failure to identify the owner of this property. The Applicant Andrew Zelinskas identifies his property interest as “Owner” – yet he is not the owner according to the Zoning Code definition (holder of fee simple title), §60.216. The title to this property is held by Anthony Starr, a Roseville resident who is a self-professed “flipper” of property for his own financial gain. Mr. Zelinskas’ interest is merely conditional on being able to build. The application cover sheet sent out with the Notice fails to identify anywhere the actual owner, Mr. Starr.

It is at this point that the history of this Hall Lane Bluff land must be understood. For many, many years, the lots between Hall Lane and the bluff have contained three homes: 11 Hall Lane, 13 Hall Lane and 19 Hall Lane. For many, many years, two of the three houses (13 Hall Lane and 19 Hall Lane) historically have green space to the north of their property – land containing trees and gardens (see Exh. A). For many, many years there have been no “vacant lots.” This longstanding history represents the “essential character of the surrounding area.” It wasn’t until Anthony Starr bought 13 Hall Lane, flipped the house, and then quickly severed its historical side yard for his own personal profit, that the landscaped side yard became a “vacant lot.” Now, as a result of his action, you are being asked to cram two structures into a very small space – creating risks to public safety in several respects that will be discussed below. This is not within the historical or essential character of the surrounding area.

### **Concerns for Neighborhood Safety**

Procedural flaws and lack of transparency aside, those of us who live on the bluff and whose only access to our homes is by Hall Lane have sincere and deeply felt public safety concerns in two areas: (1) the fragility of the bluff – which has suffered three significant collapses in recent years (the most recent this spring); and (2) the impact on traffic congestion and safety of a garage opening directly onto Hall Lane with no driveway and a mere 4-

foot apron – creating a hazardous bottleneck on this 20-foot-wide alley called Hall Lane. Many of our neighbors share these concerns.

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**The Findings in the Staff Report are not supported by the law or facts.**

The existing structures on the Hall Lane bluff lie within the River Corridor Overlay District, which was established after they were built. As the Staff Report acknowledges in “B. Site and Area Conditions,” 17 Hall Lane “is located within the River Corridor Overlay District and must comply with all standards and conditions.” The River Corridor designation signals the need for extra care in evaluating any proposed variance therein. With all due respect, the Staff Report is seriously deficient in this regard.

**D. FINDINGS:**

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

The Staff Report cites only the RT1 zoning language and fails to mention the “general purposes and intent of the zoning code.” According to §60.103 (Intent and purpose):

- The very first purpose is “**(a) To promote and to protect the public health, safety, morals, aesthetics, economic viability and general welfare of the community.**” Through the unspeakable tragedy in spring 2013 in which a bluff collapse took the lives of two school children, Saint Paul came to grips with the imperative of taking care to prevent further such tragedy. Three collapses involving Yoerg’s bluff (the name of the bluff bordering Hall Lane) took out the historic green stairs, a bakery on Wabasha, and this spring brought a collapse that extended across the sidewalk and into Wabasha Street. Clearly, this bluff’s stability is in question – and bears serious evaluation before adding more stress in the form of excavation, utility digging, building placement, interference with large tree root systems, and changes in water distribution.
- **(g) To lessen congestion in the public streets by providing for off-street parking of motor vehicles and for off-street loading and unloading of commercial**

**vehicles.** Hall Lane is 20 feet wide. It would qualify as an alley according to the Zoning Code (§60.202), except that the 3 houses on the bluff rely on Hall Lane as our sole means of access. The 20-foot width means that there is barely enough clearance for trucks and utility work (see Exhs. B, C and D), not to mention emergency vehicles. That is one reason each of the established homes has provided off-street parking in addition to garages to avert congestion by parking off the street (see Exhs. E and F). Commercial vehicles have space to pull off Hall Lane when servicing any of the three existing homes. The variance for 17 Hall Lane allows no such accommodation for commercial or even non-commercial vehicles. This problem will become severely exacerbated in the winter, when there already is limited space for the snow to be deposited so as not to obstruct traffic.

- **(h) To provide for safe and efficient circulation of all modes of transportation, including transit, pedestrian and bicycle traffic.** The addition and placement of a garage so close to the lane, with vehicles entering directly onto the lane, not to mention the inevitable addition of parking directly on the lane – will undermine the safe and efficient circulation of other vehicular, pedestrian and bicycle traffic.
- **(i) To encourage a compatible mix of land uses, at densities that support transit, that reflect the scale, character and urban design of Saint Paul’s existing traditional neighborhoods.** None of the homes on Hall Lane are as closely situated to neighboring buildings as would the proposed structures be.
- **(n) To prevent the overcrowding of land and undue congestion of population.** Just as noted in the Applicant’s comments – the lot is extremely small and narrow. Placing structures as proposed will cause overcrowding of land and – on the 20-foot wide road – undue congestion of traffic.

The Staff Report also fails to mention the “Intent and purpose” of the RC-4 Overlay District (§68.101), which provides:

- **(1) To protect and preserve the Mississippi River Corridor as a unique and valuable resource for the**

**benefit of the health, safety and welfare of the citizens of the city and the state;**

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- **(2) To prevent and mitigate irreversible damage to the Mississippi River Corridor;**
- **(3) To protect and preserve the Mississippi River Corridor as an essential element in the federal, state, regional and local recreation, transportation, sewer and water systems;**
- **(4) To maintain the river corridor's value and utility for residential, commercial, industrial and public purposes;**
- **(5) To protect and preserve the Saint Paul River Corridor's biological and ecological functions;**
- **(6) To preserve and enhance the Saint Paul Mississippi River Corridor's aesthetic, cultural, scientific and historic functions.**

While the Staff Report's reference to the Code is severely limited here, the factual narrative is misleading. "There are four lots that front Hall Lane, three of which are developed with garages in front of the houses." The facts do not mention that two of the three lots have garages either facing north or south, with driveways ranging in length from 50 feet (19 Hall Lane) to 20 feet (13 Hall Lane); the only one of the garages directly facing Hall Lane is set back 17 feet – all starkly in contrast to the proposed variance. The three existing houses all provide substantial parking for additional off-street vehicles. The proposed variance has no such provision.

The Staff Report asserts that the applicant will be "preserving the bluff area." Presumably this refers only to lines on a drawing of the bluff line and the 40-foot setback. However, in reality, "preserving the bluff" is a much more complex and challenging matter. Certainly, this is a matter requiring closer scrutiny and study than simply lines on a plat drawing.

The requested variance may threaten the bluff as a vital component of the Mississippi River Corridor, and with it the health, safety and welfare of Saint Paul citizens. Not only will it not prevent or mitigate irreversible damage – but well may cause it.

The facts suggest that the variance is not in harmony with the general purposes and intent of the St. Paul Zoning Code and the Mississippi River Corridor Overlay District zoning code.

2. The variance is consistent with the comprehensive plan.

The pertinent Comprehensive Plan referenced in the Staff Report is the Land Use Plan, not Housing. The cited provision (LU 3.4) stresses compatibility with the surrounding neighborhood's character and prevailing pattern of development.

This has been discussed: the pattern of development for the homes on Hall Lane is that each allows ample space in addition to the garages to provide for vehicles parking off street. Singular among ALL of the lots on both sides of Hall Lane – the proposed variance will NOT provide such parking and by necessity will create a bottleneck on this 20-foot wide street, traffic congestion and safety hazards. This is not consistent with the comprehensive plan.

3. The applicant has established there 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.

There is no doubt that there are practical difficulties in building on a lot that is too small to build on in light of the safety issues of bluff instability and traffic bottlenecking on a 20-foot wide lane.

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

In the first place, the landowner is Anthony Starr, not Andrew Zalinskas. Mr. Starr turned a historic side yard into a "vacant lot" for his own personal profit (not out of interest in bluff preservation or concern for traffic congestion). He directly created a lot too small to build on in a way that would be compatible with the surrounding neighborhood and safe for the public.

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

The Staff Report speaks only to the RT1 zoning district, ignoring the RC4 Overlay zoning district. For reasons already discussed, there is significant likelihood that the proposed construction could cause irreparable harm to the fragile bluff, and thus would not be allowed in accordance with the RC4 intent and purpose.

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

The Staff Report characterizes the surrounding area simply as having “garages located in the front yard.” This characterization is perfunctory and one-dimensional. The essential character of the surrounding area is that of “garages PLUS” – that is, garages plus sizeable driveways and parking provision in addition to the garages. As clearly illustrated in Exhibits E and F, the three houses have additional gravel parking areas – a 50-foot driveway at 19 Hall Lane, a 20-foot driveway at 13 Hall Lane, and at 11 Hall Lane, a 17-foot driveway and parking alongside the garage. Due to the narrow width of Hall Lane and its lack of curbing, sidewalk and shoulder, this extra accommodation within the lots on the bluff property is part of the essential character of the surrounding area.

The Board of Zoning Appeals is required to discharge your duties and exercise your powers to fulfill the objectives of the zoning code, to secure public safety and substantial justice done. §61.203(a). We hope that you take seriously your responsibilities to secure public safety and consider the equities of this landowner’s conduct.

Through this process of neighbors talking with each other, sharing our genuine concerns about the degrading integrity of the River Bluff and about traffic congestion and threats to safety – a vision has begun to emerge: We believe that the best use of the land would be for us collectively to purchase the land and create a community garden – to share the vista of the river valley with the community and to offer a place of peace and contemplation.

We respectfully request that the Board of Zoning Appeals deny the variance application. We thank you for your consideration.

Respectfully yours,

The Hall Lane Bluff Homeowners



Christine Herkenratt,  
13 Hall Lane



Kathryn Engdahl  
19 Hall Lane



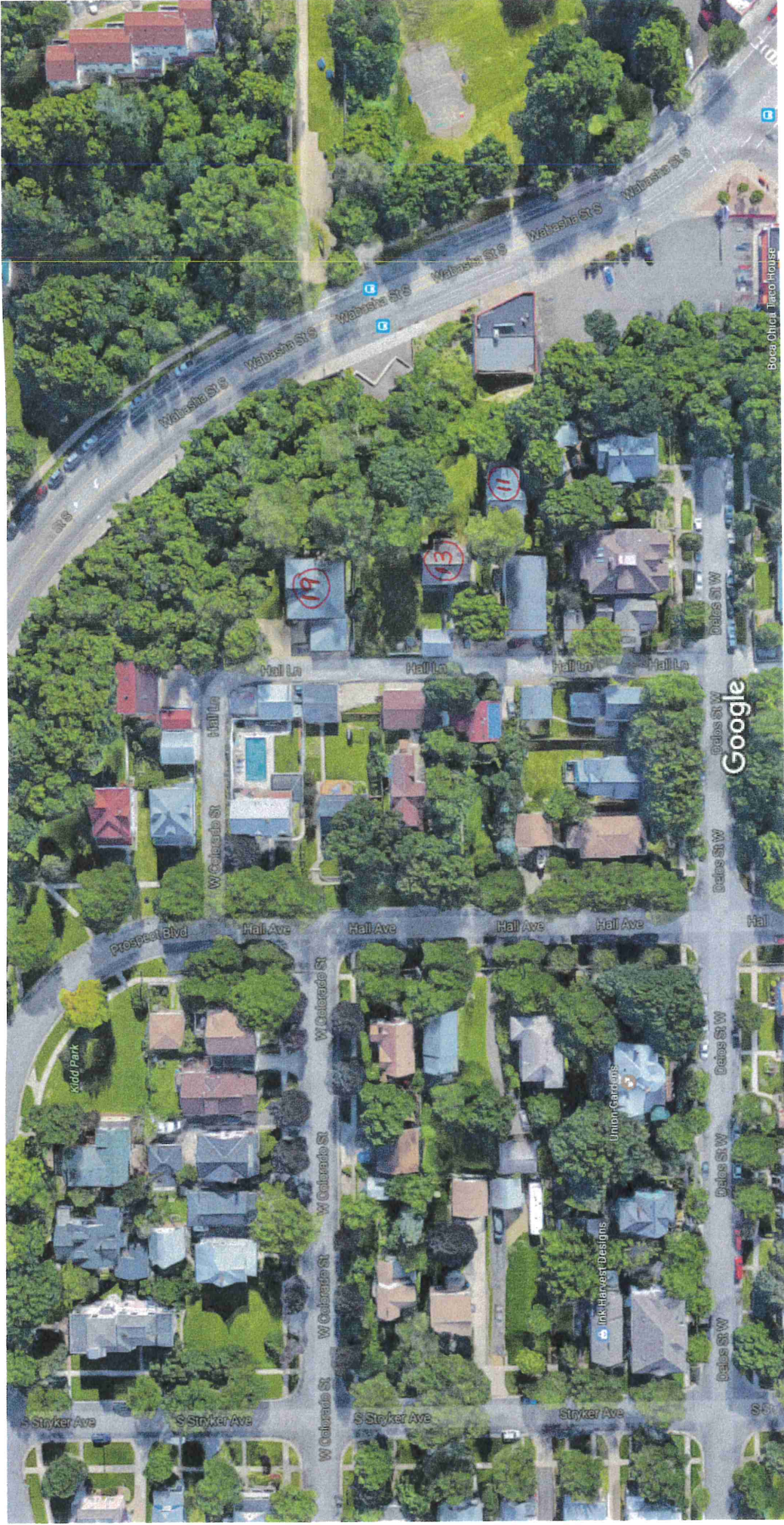
Gordon Schwarz  
11 Hall Lane



Variance Application #17-040587  
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EXHIBIT A: Satellite photo of Hall Lane





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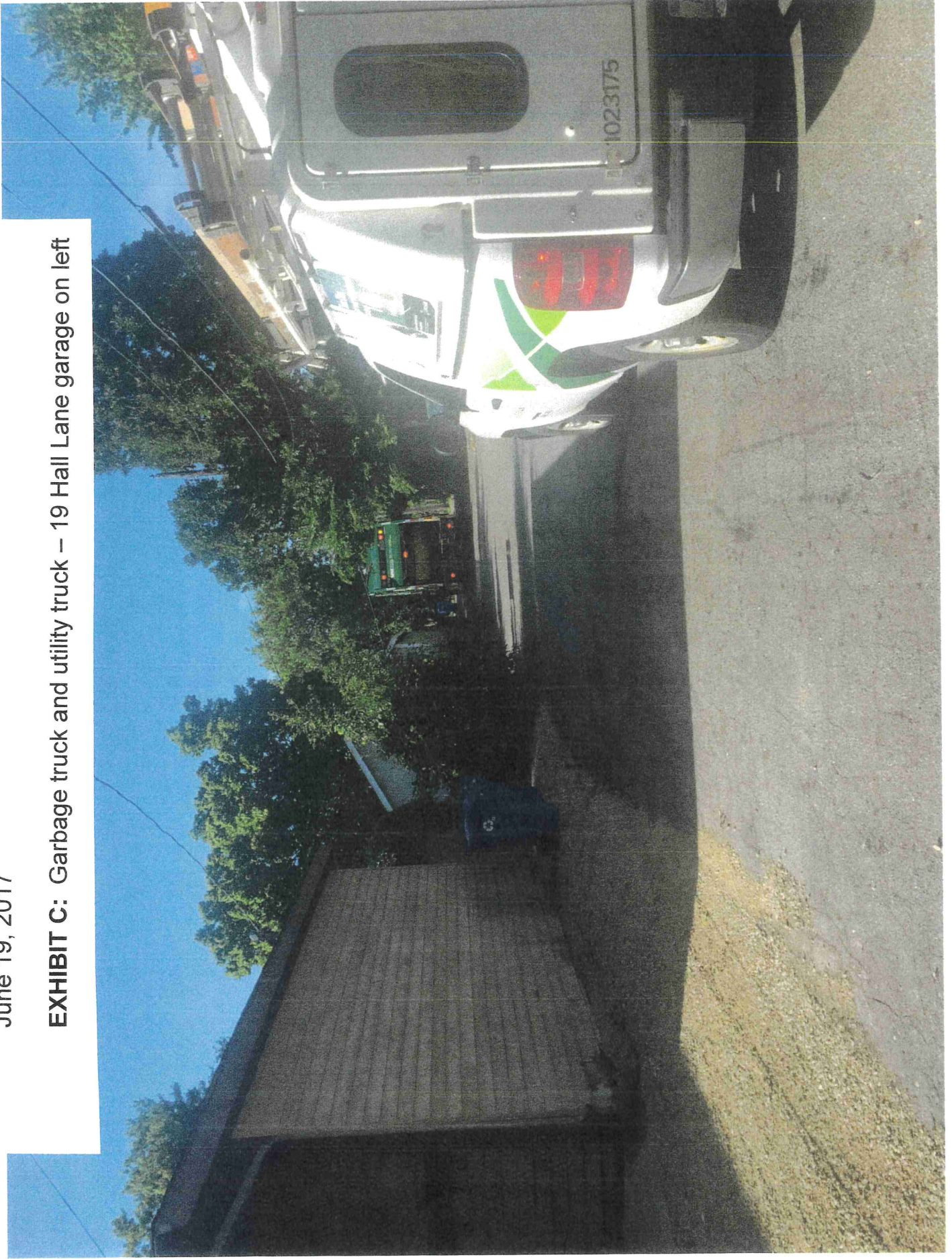
**EXHIBIT B:** Garbage truck – 13 Hall Lane garage on left





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**EXHIBIT C:** Garbage truck and utility truck -- 19 Hall Lane garage on left





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**EXHIBIT D:** Utility truck – 19 Hall Lane driveway on right





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Google Maps 18 Hall Ln

**EXHIBIT E: Driveway at 19 Hall Lane**

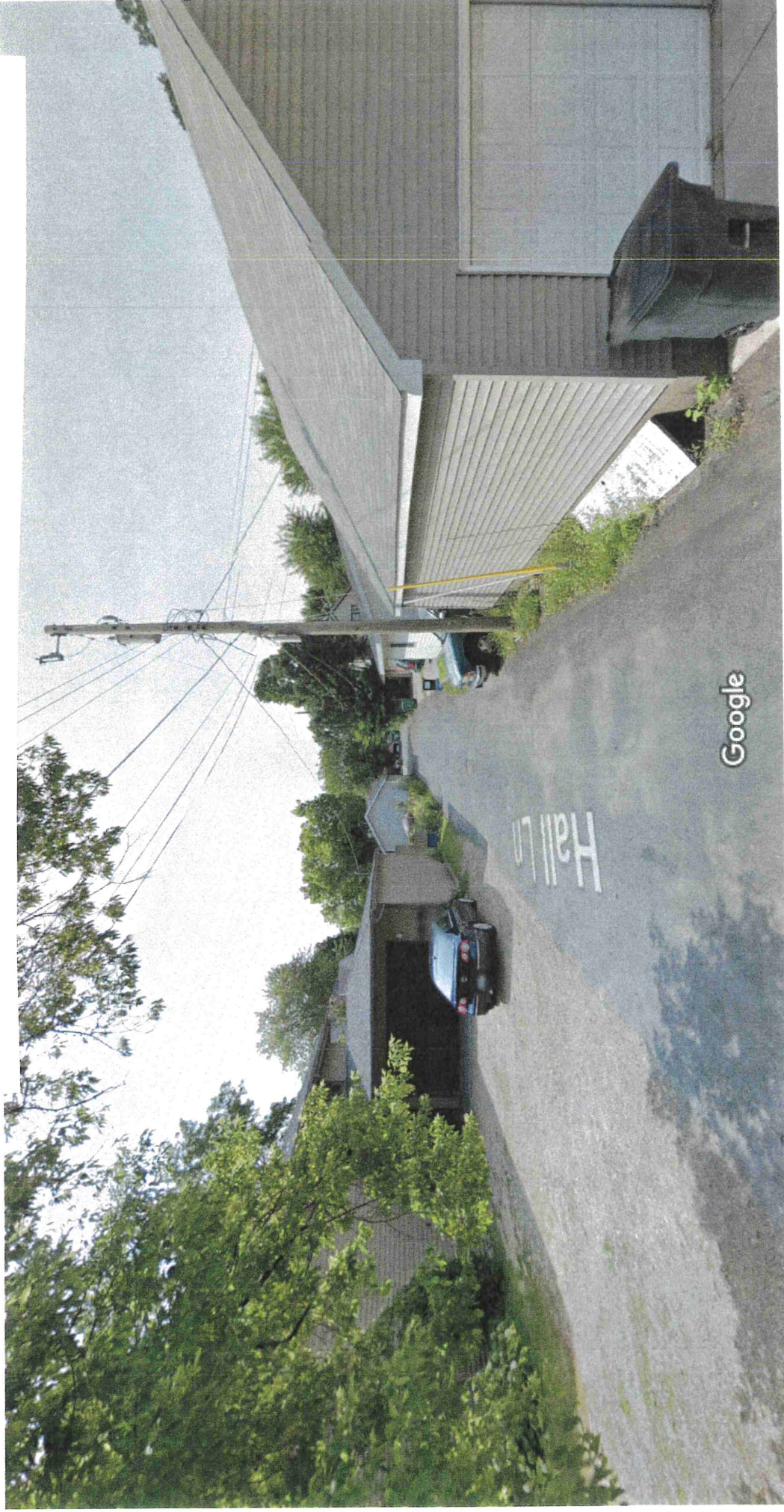


Image capture: Aug 2014 © 2017 C

St Paul, Minnesota  
Street View - Aug 2014



6/19/2017



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**EXHIBIT F: Driveway at 13 Hall Lane & additional offstreet parking  
at 11 Hall Lane (in addition to the 17 foot driveway)**



Image capture: Aug 2014 © 2017 C

St Paul, Minnesota  
Street View - Aug 2014