CITY OF SAINT PAUL **Deadline for Action:** December 26, 2019
BOARD OF ZONING APPEALS RESOLUTION
ZONING FILE NUMBER: 19-097169
DATE: December 2, 2019

WHEREAS, Chue Vang has applied for a variance from the strict application of the provisions of 63.501 and 63.316 of the Saint Paul Legislative Code pertaining to the off-street parking and paving requirements in order to legalize a parking pad in the front yard created by expanding the existing driveway without prior city approval. The zoning code states that off-street parking spaces shall not be located in a front yard; the applicant is requesting a variance from this requirement. 2) The zoning code states that driveways that access a public street in front yards may be up to four (4) feet wider than the garage door within 30 feet of the garage. The width of the garage door is 16', which allows a driveway width of 20'. However, this driveway is 30' wide, resulting in a variance request of 10'. This property is located in the R2 zoning district at 35 Winthrop St N PIN: 022822130009; and

WHEREAS, the Saint Paul Board of Zoning Appeals conducted a public hearing on December 16, 2019 pursuant to said application in accordance with the requirements of Section 61.601 of the Legislative Code; and

WHEREAS, the Saint Paul Board of Zoning Appeals based upon evidence presented at the public hearing, as substantially reflected in the minutes, made the following findings of fact:

FINDINGS:

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

> This property was inspected by the Department of Safety and Inspections (DSI) staff in response to a complaint on October 10, 2019 regarding the installation of a new parking pad in the front yard. Staff noticed that the existing driveway was widened to accommodate an additional parking space in front yard.
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> The homeowner was issued a letter informing him that parking spaces are prohibited in the front yard and was provided options to comply with included: 1) Remove the parking pad, 2) Appeal the order, or 3) Request a variance.
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> The zoning code also states that driveways that access a public street in front yards may be up to four (4) feet wider than the garage door within 30 feet of the garage. The width of the garage door is 16', which allows a driveway width of 20'. However, this driveway is 30' wide. The applicant is requesting variances of the parking location and driveway width of 10'.

The applicant's proposal to legalize an existing parking pad in the front yard meets the intent of Sec. 60.103 of the zoning code 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. This finding is met.

2. The variance is consistent with the comprehensive plan.

Provided the expanded portion of the driveway is paved with an approved surface material according to Sec. 63.316 of the zoning code and a landscaping feature is provided between the sidewalk to the house and the new parking area, this request is consistent with the Comprehensive Plan to promote the aesthetics of the community. 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.

The applicant states that their property is located in front of an uncontrolled intersection and that drivers tend to speed up during winter time to avoid getting stuck going up the sloping street. During my inspection, I noticed that other properties had cars parked on the street in front of their houses. While there is no yield or stop sign at the intersection in front of this property, the property is not located on an arterial street, so the applicant, like his neighbors, can use the street to park excess cars that cannot fit on their property.

Although the property has no alley access and the building spans almost the entire width of the parcel, thereby preventing access to the rear yard, on-street parking is available; there is no practical difficulty to justify paving almost half the front yard for parking. This finding is not met.

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

The lack of an alley and impracticality of accessing the rear yard are circumstances unique to the property not created by the landowner. This finding is met.

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

Parking is a permitted in all zoning districts. This finding is met.

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

No other properties in the surrounding area have parking in front yards. This will alter the essential character of the neighborhood. This finding is not met.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Board of Zoning Appeals that the request to waive the provisions of Section 63.501 and 63.316 of the Saint Paul Legislative Code pertaining to the off-street parking and paving requirements in order to legalize a recently paved parking pad in the front yard without prior city approval on the property located at 35 Winthrop St. N; and legally described as South Battle Creek Heights Lot 8 Blk 1; in accordance with the application for variance and the site plan on file with the Zoning Administrator
IS HEREBY DENIED.

MOVED BY: BOGEN
SECONDED BY: MADDOX
IN FAVOR: 5
AGAINST: 2

MAILED: December 17, 2019

File #: 19-097169
Resolution

TIME LIMIT: **No decision of the zoning or planning administrator, planning commission, board of zoning appeals or city council approving a site plan, permit, variance, or other zoning approval shall be valid for a period longer than two (2) years, unless a building permit is obtained within such period and the erection or alteration of a building is proceeding under the terms of the decision, or the use is established within such period by actual operation pursuant to the applicable conditions and requirements of the approval, unless the zoning or planning administrator grants an extension not to exceed one (1) year.**

APPEAL: **Decisions of the Board of Zoning Appeals are final subject to appeal to the City Council within 10 days by anyone affected by the decision. Building permits shall not be issued after an appeal has been filed. If permits have been issued before an appeal has been filed, then the permits are suspended and construction shall cease until the City Council has made a final determination of the appeal.**

CERTIFICATION: I, the undersigned Secretary to the Board of Zoning Appeals for the City of Saint Paul, Minnesota, do hereby certify that I have compared the foregoing copy with the original record in my office; and find the same to be a true and correct copy of said original and of the whole thereof, as based on approved minutes of the Saint Paul Board of Zoning Appeals meeting held on December 16, 2019 and on record in the Department of Safety and Inspections, 375 Jackson Street, Saint Paul, Minnesota.

SAINT PAUL BOARD OF ZONING APPEALS

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Maxine Linston
Secretary to the Board