



## Legislation Details (With Text)

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**Title:** Memorializing the decision of the Council to grant the Summit Hill Association's appeal from a decision of the Board of Zoning Appeals granting variances to construct a multi-family dwelling at 1174 Grand Avenue.

**Sponsors:** Russ Stark

**Indexes:**

**Code sections:**

**Attachments:**

Date	Ver.	Action By	Action	Result
1/7/2016	1	Mayor's Office	Signed	
1/6/2016	1	City Council	Adopted	Pass

Memorializing the decision of the Council to grant the Summit Hill Association's appeal from a decision of the Board of Zoning Appeals granting variances to construct a multi-family dwelling at 1174 Grand Avenue.

WHEREAS, Ryan Burke, d/b/a Bleuant Designs LLC ("Applicant"), applied to the Board of Zoning and Appeals ("BZA") under BZA File No. 15-163947 seeking variances from the strict application of the Zoning Code's dimensional standards for residential districts under Leg. Code § 66.231 and the Code's lot coverage standard under Leg. Code § 66.232 for that property commonly known as 1174 Grand Avenue and legally described as Manson And Simonton's Addition W ½ Of Lot 3 And All of Lot 4 Blk 3 [PIN No. 032823410039]; and

WHEREAS, at the Applicant's request, the subject property had recently been rezoned from "BC" community business to "RM2" multiple family and the Applicant now sought the said variances for the purpose of constructing an eight-unit, multi-family residential structure with enclosed parking on the subject property; and

WHEREAS, the Applicant, in order to construct the proposed structure as designed, requested four variances: (1) front yard setback: 23.4 feet required, 22 feet proposed for a variance of 1.4 feet; (2) rear yard setback: 25 feet required, 19 feet proposed for a variance of 6 feet; (3) side yard setback: 9 feet required, 7.5 feet proposed for a variance of 1.5 feet along the east- as well as the west-side property lines; (4) lot coverage ("building footprint"): 35% maximum permitted [here 3,339 sq. ft.] and 51.4% [4,905 sq. ft.] proposed for a variance of 16.4% [1,566 sq. ft.]; and

WHEREAS, on October 12, 2015 and pursuant to Leg. Code § 61.601, the BZA duly conducted a public hearing on the said variance applications where all interested parties were given an opportunity to be heard and, at the close of the public hearing, the BZA, based upon all the files and records, including the BZA staff report and all the testimony, duly approved each variance requested by the Applicant, based upon the following findings which were set forth in BZA Resolution No. 15-163947 as follows and adopted herein by reference:

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

The buildings currently on this site consist of a duplex constructed in 1886 and a three-car detached garage in the rear yard with surface parking accessed from the alley. This property is located in the Hill State Historic District and in 2015, it was evaluated and determined to be a non-contributing property. The applicant is proposing to remove the building and the garage and develop the parcel into a new, three-story eight-unit building (the first and second floors have 2 two-bedroom units and a one-bedroom unit each and the third floor has 2 two-three bedroom units) with underground parking for eight vehicles and three surface parking spaces.

The zoning code requires a 23.4 foot setback from the front property line for this block, a 25 foot setback from the rear property line, a 9 foot setback from the side property lines and limits the footprint of the building to a maximum of 35% of the lot.

The proposed building would be set back 22 feet from the front property line, 19 feet from the rear property line, 7.5 feet from the side property lines and would occupy 51.4 % of the lot, which cannot be accomplished without the requested variances.

Among purposes of these dimensional standards and lot coverage requirements are to ensure that buildings are constructed in a manner that provides regularity in pattern and spacing, to not create overly dense sites, and to not overly burden adjacent properties with impacts created by the new development. The proposed building is generally consistent with the size, the form and the setbacks of the immediate multi-family buildings to the east and to the west. The spacing provided would allow adequate light and air access to property, meeting a purpose of intent of the zoning code. The proposed lot coverage is comparable to that of the immediate buildings to the east and to the west and allows underground parking to be provided. This finding is met.

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

The proposed site development would provide housing opportunities. It is consistent with Policy 1.2 of the Housing Chapter of the Comprehensive Plan, which states: “Encourage the development of attached single-family and neighborhood-sensitive multi-family infill housing at appropriate locations as identified in the Land Use Plan and small area plans to increase housing choice.” Strategy 3.4 states: [Infill housing 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 infill house proposed would fit into the neighborhood character. Although this project is seeking variances from the RM2 requirements, the density conforms to the zoning standards and the increase in density and parking is being addressed on site. 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 size of the parcel makes it challenging to construct a multiple-family building comparable in scale, spacing and bulk to the existing adjacent apartment buildings to the east and to west of the site that are also zoned RM2. The requested variances are needed to permit a reasonable use of this property to allow a development consistent with existing spacing between buildings, the pattern of the block and the comparable in scale, spacing and bulk to the existing multiple-family buildings in the immediate area while meeting the current

parking requirements. It also allows underground parking, which the existing buildings do not provide. This finding is met.

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

Due to the size of this parcel, developing any type of multifamily housing comparable in scale, spacing and bulk to the existing multiple-family buildings in the immediate area while meeting the current parking requirements would be rendered impractical by the strict application of the provisions of the zoning code. 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.*

A multiple-family dwelling is a use allowed in the RM2 multiple-family zoning district and with the proposed eight units, this building meets the lot area requirement per unit. This finding is met.

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

The proposed building would be similar in scale and massing to buildings immediately to the east and to the west; it will not change the character of the area. This finding is met.”

AND WHEREAS, on October 22, 2015, the Summit Hill Association (“SHA”), pursuant to Leg. Code § 61.702 (a), duly filed an appeal from the determination made in this matter under BZA File No.15-172899 and requested a hearing before the City Council for the purpose of considering the actions taken by the BZA; and

WHEREAS, on November 18, 2015, the City Council, pursuant to Leg. Code § 61.702(b), upon notice to all affected parties, duly conducted a public hearing on the matter where all interested parties were given an opportunity to be heard; and

WHEREAS, the City Council, having heard the statements made and having considered the variance application, the report of staff, and all the records and minutes in this matter including BZA resolution no. 15-163947; does hereby

RESOLVE, the Council of the City of Saint Paul hereby reverses the decision of the BZA in this matter, based upon the following findings of the Council:

The Council finds that the BZA’s decision in this matter was in error with respect to Finding’s No. 1, 2, 3, 4, and 6 for the following reasons. Although an eight-unit, multi-family residential structure is a permitted use in RM2 zoning districts, the Council finds that the variances requested are the result of the Applicant’s own building design and are not due to any circumstances unique to the Applicant’s property [Finding No. 4]. The size and scale of Applicant’s building, based on the number and extent of the variances requested, demonstrate that the building would alter the essential character of the surrounding area [Finding No. 6]. Located to either side of Applicant’s property are multi-family structures on lots similar in size to the Applicant’s lot. The viability of these multi-family use structures indicate that there are no practical difficulties in putting Applicant’s property to a reasonable multi-family use by using a design comparable in scale, spacing, and bulk with that of the

existing multi-family buildings [Finding No. 3]. Based on any combination of the lot coverage or set back variances requested by the Applicant, the scale of the Applicant's proposed structure does not compare to that of the multi-family structures immediately to the east and west of Applicant's property: the Applicant's proposed building is bigger yet provides only 8 housing units as compared to the immediate multi-family structures which provide - from west to east - 18, 19, 14 and 15 housing units. A bigger building requiring several dimensional variances to provide fewer housing units is not in harmony with the general purpose and intent of either the Zoning Code [Finding No. 1] or with the Comprehensive Plan's goal that the design of infill housing fit within an existing neighborhood's context so that it is compatible with the prevailing pattern of that neighborhood's prevailing pattern of development [Finding No. 2]. Multi-family housing can be developed on the property in keeping with the scale, spacing, and bulk of the existing multiple-family buildings located on either side of the Applicant's property.

AND, BE IT FURTHER RESOLVED, based upon the Council's findings above, that the appeal of SHA is hereby granted; and, be it

FINALLY RESOLVED, That the City Clerk shall immediately mail a copy of this adopted resolution to Applicant Ryan Burke, to Appellant SHA, and to the Zoning Administrator, the Planning Commission and the BZA.