



## Legislation Text

---

**File #:** RES 16-1896, **Version:** 1

---

Memorializing City Council action taken September 21, 2016 denying an appeal of the Summit Hill Association of a decision of the Board of Zoning Appeals to grant variances at 210 Victoria Street South subject to the Council's modification of a condition imposed by the BZA pertaining to environmental review.

WHEREAS, on July 11, 2016, Chris Carlson ("Applicant"), in DSI Zoning File No. 16-058086, made application to the Board of Zoning Appeals ("BZA") for two variances from the strict application of the zoning code in order to add a two-car garage to the front of an existing house on property commonly known as 210 Victoria Street South and legally described as Nobles Rearrangement Of lots Lot 5 [PIN no. 022823430144]; and

WHEREAS, the subject property is located within an R4 single-family zoning district and, pursuant to Legislative Code § 63.501(b)(3), garages constructed in R4 districts must be set back from the front lot line at least as far as the building line of principal dwelling and, under the dimensional standards of Leg. Code § 66.231, front-yard setbacks are based upon the average setback along the block face. Given these requirements, the Applicant proposed a 16-foot setback for the garage for a variance of 14 feet; and

WHEREAS, on August 1, 2016, the BZA, with five members present, duly conducted a public hearing on the Applicant's requested variances where all interested persons were afforded an opportunity to be heard and, upon the close of public testimony, deliberated on the merits of the variances; and

WHEREAS, a motion to approve the variances was made and seconded following the close of deliberations with three voting for and two against granting the variances and, whereupon being unable to meet the minimum vote required to approve any decision of the BZA as required by Leg. Code § 61.203(b), the BZA duly moved to reconsider the matter on August 15, 2016; and

WHEREAS, on August 15, 2016, again with five member's present, the BZA reconsidered the matter there being no motion to reopen the public hearing. Staff reviewed the history of the matter whereupon a motion to approve the variances was made and seconded at which time, based upon the record before it, the BZA made findings to support the variances, added specific conditions to the variances and on a four to one vote, approved the variance with direction of staff to prepare a resolution to that effect for adoption; and

WHEREAS, on August 29, 2016, The BZA duly adopted BZA Resolution No. 16-058086, setting forth the reasons for approving the variance as follows:

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

This property is located in a National Register Historic District that is not in a locally designated district. However, under Minnesota Statute 116D.04, permits for any exterior work including the demolition, partial demolition of a building or structure on the property cannot be issued until Heritage Preservation staff has determined if the proposed work requires completion of an Environmental Assessment Worksheet (EAW).

Such determination has not been made at this moment.

This property has currently no off-street parking; a situation, which according to the applicant, has been a challenge especially during snow emergencies. In order to alleviate this parking situation, the applicant is proposing to construct a new, two-car flat roofed, 18' x 16' garage attached to the front of the existing house. The proposed garage would be located in front of the house, 16 feet from the front property line. The code requires that garages be set back from the front lot line at least as far as the house. Since the garage would be attached to the house, it becomes part of the house and must also conform to the minimum front setback required for the house, which is 30' for this block. Consequently, the proposed garage cannot be constructed without the requested variances.

The intent of the zoning code is to maintain a uniform streetscape and to promote and protect the aesthetics, economic viability and general welfare of the community. Although located in front of the house and only 16 feet away from the front property line, the proposed garage would be tucked into the hill and most of the exterior walls along the side and rear would be below ground. The project would result in the removal of a boulevard tree. Landscape plantings would be provided in the front yard to soften the visual impact of the garage.

Provided the garage is constructed as shown on the plans submitted with this application and provided it complies with recommendations that the Heritage Preservation Commission (HPC) staff may make as to the necessity to undertake an environmental review required under Minn. Stat. § 116B.04. Subd.2a(a), and decorative garage windows and side lights are installed; this request is in keeping with the intent of Leg. Code § 63.310 of the Zoning Code to

- a. Promote the aesthetics and economic viability of the community.
- b. To conserve and improve property values.
- c. To provide parking in order to lessen congestion in the public streets.

This finding is met for both variance requests.

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

A new garage would allow off-street parking to be provided on the property. The proposed flat roofed garage at a lower elevation and the design proposed will not detract from the appearance of the property. It will complement the existing house and will have a positive impact in the neighborhood. Provided no second story addition or rooftop deck is constructed on the garage, the requested variance is consistent with the Comprehensive Plan by allowing the existing property owner in an "established neighborhood" to reinvest in his property, maintain its vitality and preserve and promote the neighborhood (Strategy 2.1 of the Housing Plan). This finding is met for both variance requests.

*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 challenge in constructing a garage that meets the setback and location requirements is that the property has no alley access, there is insufficient space on either side for a driveway and there are significant grade changes from the front to the rear yard, making access to a garage from the street impractical. Consequently,

there is no other alternative but the proposed location. These are practical difficulties preventing the construction of a reasonable garage without the requested variances. This finding is met for both variance requests.

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

The lack of alley access and off-street parking are circumstances unique to the property not created by the landowner. This finding is met for both variance requests.

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

A garage is an accessory use permitted in all zoning district. The requested variances if granted will not change the zoning classification of the property. This finding is met for both variance requests.

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

The proposed flat roofed garage would be 9' tall to the highest point from the front of the proposed garage. It would not significantly alter the residential character of the area."

WHEREAS, on August 23, 2016 and pursuant to Leg. Code § 61.702(a), the Summit Hill Association (Appellant), under BZA File No.16-073565, duly filed an appeal from the BZA's determination and requested a public hearing before the City Council for the purpose of considering the actions taken by the BZA; and

WHEREAS, on September 21, 2016, the City Council, pursuant to Leg. Code § 61.702(b), duly conducted a public hearing on the matter where all interested parties were given an opportunity to be heard; and

WHEREAS, City Council, following the close of the public hearing and having heard all the testimony offered and having considered the variance application, the report of staff, the record, minutes and resolution of the BZA, does hereby

RESOLVE, that the Council of the City of Saint Paul upholds the decision of the BZA in this matter there being no showing by Appellant of error in the fact, procedure, or findings of the BZA and, accordingly, the Council hereby denies Appellant's appeal: and

BE IT FURTHER RESOLVED, that the Council hereby adopts as its own in support of this decision, the facts and findings of the BZA as set forth BZA Resolution No. 16-058086, dated August 15, 2016; and

BE IT FURTHER RESOLVED, that the Council also adopts the BZA's conditions imposed on the variance approval, as set forth in BZA Resolution No. 16-058086, subject to the following modification to condition no. 2, which, pursuant to Leg. Code § 61.704, the Council deems necessary:

1. Condition no. 2, which presently reads “[t]he garage complies with recommendations the HPC staff may make as to the necessity to undertake environmental review,” is hereby stricken in its entirety and that the following new language shall replace the above stricken language as follows so that condition no. 2 shall read: “2) No building permits may be issued for the garage building project until such time as an environmental review, as required under law, is completed.”

AND, BE IT FINALLY RESOLVED, that the City Clerk shall immediately mail a copy of this resolution to the Applicant Chris Carson, to Appellant Summit Hill Association, to the Zoning Administrator, the Planning Commission, the BZA and to the City’s Building Official.