



## Legislation Text

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**File #:** RES 22-289, **Version:** 1

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Memorializing the City Council's decision to grant an appeal by Thomas Schroeder from a decision of the BZA denying a rear-yard lot coverage variance requested for the purpose of building a new garage at 1446 Summit Avenue.

WHEREAS, on October 11, 2021, Thomas Schroeder ("Applicant"), in BZA File No: 21-310398, applied to the Board of Zoning Appeals ("BZA") for a variance from the regulation of the number and maximum rear-yard area coverage of accessory structures located in residential zoning districts under Leg. Code § 63.501(f) for the purpose of constructing a new garage on Applicant's property commonly known as 1446 Summit Ave [PIN No. 032823310084], legally described as Wann's Addition To St. Paul Subj To St Lots 12 And Lot 13 Blk 4, and located in an R2 residential zoning district; and

WHEREAS, the rear-yard area of Applicant's property contained two detached garages which totaled 908 square feet in area and Applicant proposed to demolish one of these garages and replacing it with a new garage which, upon its completion, would create 1,438 square feet of rear-yard area coverage by accessory structures which exceeded the 1000 square foot limitation on such coverage by 438 square feet and, consequently, Applicant requested a 438 square foot variance from Leg. Code § 63.501(f)'s lot coverage standard; and

WHEREAS, on November 1, 2021 the BZA, pursuant to Leg. Code § 61.303, conducted a public hearing on the Applicant's variance application which was conducted remotely via electronic means, due to the Covid-19 pandemic, in compliance with the Executive and Emergency Orders in effect at the time, as it had been previously deemed neither practical nor prudent to conduct "in-person" hearings and, accordingly, attending members of the BZA and BZA staff did so remotely while the Applicant and members of the public were afforded the opportunity to submit, no later than noon of the said hearing date, written testimony for the BZA's consideration and inclusion in the hearing record. Additionally, the opportunity to audibly monitor the BZA's hearing proceedings as well address the BZA and present verbal testimony via electronic means were also provided and all such testimony was duly recorded and retained for the hearing record; and

WHEREAS, at the close of the November 1, 2021 hearing and different from the recommendation of the BZA staff report dated October 25, 2021, the BZA, upon the records and testimony presented, on a 4-2 vote, denied the Applicant's variance request based upon the following findings which were stated and adopted into BZA Resolution No. 21-310398 as follows:

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

There are two existing garages in the rear yard at this property; a 318 square foot garage, which is contributing (to the historic district) that cannot be removed, and a two-stall, 590 square foot noncontributing garage. The applicant states that the existing garages are too small to meet their parking and personal storage needs. As a result, they are proposing to remove the existing two-stall garage and construct a new three-car detached garage with potential for a future accessory dwelling unit (ADU) on the second story. The applicant is proposing this larger new three-stall garage to accommodate their vehicles, trailer, and woodworking and home restoration hobby. The new garage

would not be easily visible from the street. The zoning code prohibits a Home Occupation in an accessory building or garage. Provided the garage is not used for commercial purposes or as a Home Occupation, this request aligns with Section 30.103 of the Zoning Code to conserve and improve property values. This finding is met.

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

The proposed garage will be more usable to the applicant than the existing garages. The plan entails keeping an existing contributing garage on the property. Granting this zoning variance would allow the applicant to construct a more functional garage and is consistent with policy LU-4 in the comprehensive plan which encourages flexible building design to ensure ongoing functionality and viability. 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.*

According to the applicant, the existing garage that is contributing to the historic district is not usable for storage of a vehicle, boat, or trailer due to the low clearance of the overhead door and the relatively short depth. Since the contributing 318 square foot garage is required to remain, it decreases the total potential size of a new garage that can be built on the property. The rear yard is relatively large and the proposed size of the accessory structure after completion of the project and the remaining garage would occupy less than the 35% maximum rear yard lot coverage allowed. In order to accommodate the interior stairway and provide needed depth for the applicant's pickup truck and personal belongings, a larger garage is needed. These conditions are practical difficulties in complying with the provision. This finding is met.

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

Although this property has a large rear yard area, this is not a circumstance unique to the property in and of itself that supports constructing a garage with a lot coverage footprint larger than that permitted under the code. The footprint of the proposed garage is a circumstance created by the landowner and is not a circumstance unique to the property. This finding is not met.

*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 building permitted in all zoning districts. This finding is met.

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

The proposed garage would be located to the rear of the lot near the alleyway. The proposal was reviewed and approved by HPC and there are similar structures near the alleyway. This structure would not alter the essential character of the surrounding area. This finding is met."

AND, WHEREAS, pursuant to Leg. Code § 61.702(a), the Applicant duly filed an appeal from the BZA's November 1, 2021 decision and requested a hearing before the Saint Paul City Council to consider the BZA's decision which was assigned ABZA 21-1; and

WHEREAS, on December 15, 2021, the Council of the City of Saint Paul duly conducted a public hearing on ABZA 21-1 in accordance with the requirements of Leg. Code § 61.702(b)61.303 as well as the Executive and Emergency Orders in effect at the time due to the Covid-19 pandemic such that the Council hearing was duly conducted remotely as it had been previously deemed neither practical nor prudent to conduct “in- person” hearings: accordingly, as provided by law, attending members of the Council and City staff did so remotely while the Applicant and members of the public were afforded the opportunity to submit, no later than noon of the day prior to the hearing date, written testimony for the Council’s consideration and inclusion in the hearing record, and, in addition, were also afforded the opportunity to audibly monitor the hearing proceedings; and

WHEREAS, at the conclusion of the December 15, 2021 public hearing, the Council closed the hearing but continued deliberation on the matter to December 22, 2021 to afford the Council the opportunity to more thoroughly review the record and the testimony presented to the Council; and

WHEREAS, on December 22, 2021, the Council again took up ABZA 21-1 and, based upon all the records, the BZA’s staff report, the BZA’s resolution and the testimony submitted to Council, the Council of the City of Saint Paul: DOES HEREBY

RESOLVE, to grant Applicant’s appeal as the Council finds that Applicant has demonstrated that the BZA finding No. 4 in BZA Resolution No. 21-313398 which considered the unique circumstances of Applicant’s property was in error for the following reasons: the large size of the Appellant’s lot is a unique circumstance not created by the Applicant and the large rear yard area of Applicant’s lot functions to mitigate the size of the proposed garage and the overall lot coverage; AND

BE IT FURTHER RESOLVED, that the Council, in support of its decision, hereby adopts as its own the reasons for approving Applicant’s variance request as set forth under Findings, 1, 2, 3,5 and 6 of Resolution No. 21-313398, and, pursuant to Leg. Code § 61.704, hereby amends Finding No. 4 of the said resolution to read as follows:

“This finding is met. The large size of the Appellant’s lot is a unique circumstance not created by the Applicant and the large rear yard area of Applicant’s lot functions to mitigate the size of the proposed garage and the overall lot coverage.”

AND, BE IT FURTHER RESOLVED, based upon the foregoing, that the Applicant’s requested variance, under BZA File No: 21-310398 as amended herein, is hereby granted for the reasons set forth above

AND, BE IT FINALLY RESOLVED, that a copy of this Memorialization Resolution, upon final adoption and approval, shall be provided by BZA staff to the Applicant, the Zoning and Planning Administrators and to the BZA.