



## Legislation Text

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**File #:** RES 17-1840, **Version:** 1

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Memorializing the Council's decision to deny the appeal of Kathryn Engdahl of a Board of Zoning Appeals decision to grant a variance to construct a garage at 17 Hall Avenue.

WHEREAS, on May 15, 2017, Andrew Zelinskas, in DSI-Zoning File No. 17-040587, duly applied to the Board of Zoning Appeals ("BZA") for a variance from the strict application of Legislative Code § 63.201(b) pertaining to accessory buildings in order to construct, in association with the construction of a new single-family home, a detached garage in the required front yard of a vacant lot with no alley access on property commonly known as 17 Hall Lane and legally described as Auditors Subdivision No 36 Ex S 3.25 Ft; Lot 14 Blk 3 (PIN No. 052822330064); and

WHEREAS, Leg Code § 63.201(b) requires garages to be located in a rear yard. Due to the topography of the said property and its lack of alley access, the applicant proposed to locate the new garage in the required front yard and requested a variance from Leg. Code § 63.201(b)'s requirements; and

WHEREAS, on July 17, 2017, the BZA, pursuant to Leg. Code § 61.601, duly conducted a public hearing on the said application where all persons present were afforded an opportunity to be heard and, upon the conclusion of the hearing and based upon all the files and testimony received during the hearing, the BZA, based upon all the evidence presented moved to approve the variance application, subject to a condition "that Site Plan Review staff use the minutes from this hearing to consider any potential structural concerns with establishing a single family dwelling and detached garage on this property" based upon the following findings of fact as set forth in BZA resolution No. 17-040587 which is incorporated herein by reference and set forth below as follows:

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

The intent of the RT1, two-family residential zoning district is to provide primarily low density housing along with civic and institutional uses and public services that serve the residents of the district.

The applicant is proposing to construct a single-family house on a vacant lot with a detached garage located in the front yard. Hall Lane functions as an alley for the dwellings that front Hall Avenue to the west and Delos Street West to the south. There are four lots that front Hall Lane, three of which are developed with garages in front of the houses, and the fourth is this vacant lot. As a result of this street configuration, the garages on Hall Lane are built at, or very near the front property line, and the street gives the appearance of an alley. The buildable area for structures on Hall Lane are significantly limited because of the proximity to the top of the bluff line to the east; the zoning code requires that no structure be built within 40' of a bluff line.

The proposed single-family dwelling would be setback 42' from the front property line and 50' from the bluff line which would not encroach on the bluff set back area. The 440-square foot garage is proposed to be setback 4' from the front property line with the garage door facing west. The garage on the north side of this property is located 7' feet away from the property line and the garage just to the south is set back 2' from the property line.

By preserving the bluff area and constructing a single-family house on a vacant lot, the applicant has demonstrated that his proposal is within the general purposes and intent of the zoning code. This finding is met.

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

The creation of new dwellings on vacant lots is consistent with the goals of the Housing Chapter of the Comprehensive Plan Strategy 3.4 which states: dwellings 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 placement of the garage and house on this lot is consistent with the other homes on this block. 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.*

Given that there is a bluff area to the east of the property on Hall Lane, the amount of buildable area on this lot is significantly reduced. The zoning code requires that any properties along the top of the bluff must be setback 40’ landward. This lot is 150’ in length, however, given that 30’ of the property is in the bluff and the applicant is required to have a setback of 40’ from the top of the bluff, the applicant is essentially limited to developing only 80’ into the lot without requesting a variance of the bluff provision. The required front setback for this property is 38’; the applicant is proposing a 42’ front setback for the house to be in compliance, however, if the applicant where to construct a garage behind in the house it would require a variance for developing into the bluff area.

Since Hall Lane functions as an alley for the properties to the west on Hall Avenue, garages in the front yard are the only logical location to place accessory structures on Hall Lane. The applicant did consider designing a house with a tuck under garage but felt that it would not be in keeping with the character of the neighborhood. The applicant has demonstrated that there are practical difficulties in complying with the provisions of the code. This finding is met.

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

The bluff area to the east of the proposed house significantly reduces the amount of buildable area on this property; this is a circumstance 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.*

A single-family dwelling with an accessory structure are permitted uses in the RT1, two-family residential district. This finding is met.

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

The other houses facing Hall Lane have garages located in the front yard and other lots on this block have garages facing Hall Lane. The proposed garage will not alter the character of the area. This finding is met.”

AND, WHEREAS, on July 27, 2017, Kathryn Engdahl, pursuant to Leg. Code § 61.702(a), in DSI-Zoning File No. 17-066080, duly filed with the City Clerk an appeal from the BZA’s determination and requested a hearing before the City Council for the purpose of considering the actions taken by the BZA; and

WHEREAS, on August 16, 2017, pursuant to Leg. Code § 61.702(b) and upon notice to affected parties, a public hearing was duly conducted on the said appeal by the City Council where all interested parties were given an opportunity to be heard; and

WHEREAS, having heard the statements made and having considered the variance application, the report of staff, the record, minutes and the findings of BZA Resolution No.17-040587, the City Council does hereby:

RESOLVE, that the Council of the City of Saint Paul hereby upholds the decision of the BZA in this matter having found, based upon the record and the hearing testimony that appellant Kathryn Engdahl has failed to demonstrate any error by the BZA with respect to the facts, findings or procedures in this matter. Accordingly, the appeal of Kathryn Engdahl be and is hereby denied; and

BE IT FURTHER RESOLVED, in upholding the BZA's decision in this matter, the Council hereby adopts as its own in this matter, the findings of the BZA as set forth in BZA Resolution No. 17-040587 as its own; and

BE IT FINALLY RESOLVED, the City Clerk shall immediately mail a copy of this resolution to the applicant Andrew Zelinkas, the appellant Kathryn Engdahl, the Zoning Administrator, the Planning Commission and the BZA.