



## Legislation Text

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**File #:** RES 18-1383, **Version:** 1

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Memorializing the City Council's action denying an appeal of a decision by the Board of Zoning Appeals approving variance requests to construct a 6-unit, multi-family development at 617 Laurel Avenue.

WHEREAS, on March 5, 2018, Alan Hupp, on behalf of Hupp Holdings LLC ("Applicant"), applied to the Board of Zoning Appeals ("BZA") under DSI-Zoning File No. 18-035099 for variances from the strict application of the zoning code for the purpose of constructing a six (6) unit housing development on a vacant lot in an RM2 zoning district and commonly known as 617 Laurel Avenue (PIN: 012823220296) and legally described as Woodland Park Addition to St The W 40 Ft Of Lot 12 BLK 6; and

WHEREAS, Applicant's six-unit housing proposal required three variances from the zoning code's dimensional standards for RM2 zoning districts and (1) Lot Area Overall: variance from the zoning code's general prohibition on constructing a new multi-family dwelling on a lot with less than 9,000 square feet. See, Table, Note(c), Leg Code § 66.231. (2) Lot Area/Housing Unit Minimum: zoning code requires 1500 square feet/unit; Applicant's proposed six-units require 9,000 square feet and Applicant's lot contains 7,180 square feet for a variance of 1,820 square feet. See, Table, Leg. Code § 66.231. (3) Side Yard Building Setback: zoning code requires 9 feet; Applicant proposed 3 feet for a variance of 6 feet. See, Table, Leg. Code § 66.231. (4) Off-Street Parking Setback from Side Yard: zoning code requires 9; Applicant proposed 1-foot setback for a variance of 8 feet on both the east and west sides of the parking lot. See, Table, Leg. Code § 66.231. See also, Leg. Code § 63.312; and

WHEREAS, on March 26, 2018, the BZA duly conducted a public hearing on Applicant's variance requests in accordance with Leg. Code § 61.601 where any person present was afforded an opportunity to be heard and, following testimony from the Applicant and a series of questions from the BZA regarding parking for the proposed development, the BZA moved to continue the public hearing in order for the Applicant to address questions raised by the BZA regarding parking; and

WHEREAS, on April 23, 2018, the BZA, with 5 members present, again conducted a public hearing on the Applicant's requested variances where all people present were afforded an opportunity to be heard and, upon the close of the public hearing and following discussion of the application, the report of staff and all the testimony duly received, a motion to approve the Applicant's variance requests, as recommended by the staff report, was made but failed for a lack of a second. Whereupon a motion to deny the Applicant's variance requests was duly made but failed for a lack of 4 votes (3-2) to approve as required under the zoning code. Whereupon the BZA duly moved to continue the matter to May 7, 2018 so that more members might be present to consider the matter; and

WHEREAS, on May 7, 2018, the BZA, again with 5 members present, took up the discussion of Applicant's variance requests and again a motion to deny the Applicant's variance requests was duly made but failed for a lack of 4 votes (3-2) to approve as required under the zoning code. Whereupon the BZA duly moved to continue the matter to May 21, 2018 so that more members might be present to consider the matter; and

WHEREAS, on May 21, 2018, the BZA, with 7 members present, again took up the discussion of Applicant's variance requests and upon the close of the discussion and based upon all the files and records in the matter, a motion to grant the Applicant's variance requests was duly made and approved on a 4-3 vote upon the following findings of fact as set forth in BZA Resolution No. 18-035099 which is also incorporated herein by

reference:

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

The applicant is proposing to construct a row house multi-family development and a surface parking area for six vehicles on the north side of the property. The development will be comprised of three-two bedrooms units and three-one-bedroom units, for a total of six.

In January of 2017, the applicant received variances in order to construct three three-bedroom units on this lot. While the number of units has increased to six, the bedroom configuration remains the same with a total of nine bedrooms for the development.

Two of the row houses will front Dale Street facing west, while the other will front Laurel Avenue facing south. The two-bedroom units would occupy the ground level and the lower level (basement). The ground level will consist of a kitchen, dining and living rooms, and a bathroom. The lower level of the units would have bedrooms and full bathrooms. The one-bedroom units will be on the second floor of the row houses and be accessed via a staircase from Dale Street.

The zoning code require 1,500 square feet of lot area per dwelling unit. A lot area of 9,000 square feet is required for six dwelling units, resulting in the variance request of 1,796 square feet. Additionally, this zoning district requires at least 9,000 square feet of lot area in order to create three or more dwelling units on a property. This lot is 7,204 square feet in area, resulting in the need of the requested variance.

Parking that is located on a corner lot must be set back from the street a distance equal to that of the principle building, in this case, the required side setbacks for the surface parking area is 9' and the applicant is proposing a setback of 1', for a variance request of 8'. Providing off-street parking is consistent with the city's goal to lessen congestion in the public streets as described in Sec. 60.103 of the zoning code.

The RM2, medium-density multi-family residential district is intended to provide for more extensive areas of multi-family residential developments and a variety of congregate living arrangements. The RM2 is intended to provide a balance of population concentration near major thoroughfares, transit, and related facilities. This property is within close proximity to transit and Dale Street is classified as County Rd. 53; a major thoroughfare that connects to I-94. The proposed development is in harmony with the zoning code and the intent of the RM2 zoning district. This finding is met for all requested variances.

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

This request would allow for an in-fill housing development on a vacant lot. The Housing Chapter of the Comprehensive Plan addresses the need for infill development and to create greater housing density choices. The type of development that is being proposed for this property aligns with the city's goal of providing medium-density housing along corridors located in high amenity areas. This property is just south of the Dale and Selby commercial node which has mixed-use developments on each corner ranging from a variety of retail, offices, and medium-high density apartments.

One of the strategies for promoting housing found in the Comprehensive Plan is Strategy 2.17 which also supports creativity in the construction of neighborhood infill housing. The plans submitted with the application show three market rate apartments along with three affordable, one-bedroom units, meeting the 60-80% of Average Median Income (AMI). The proposed development would be in keeping with the above referenced strategy and continue to create housing options in the city. This finding is met for all requested variances.

*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.*

This property is located in a RM2 zoning district where multi-family developments are allowed. There is a 17 unit-apartment building on the southwest corner of Dale and Laurel. Given the size of this lot, only a single-family dwelling or a duplex could be constructed on this property without variances. However, because this property is located near a commercial node with moderate to high levels of pedestrian and vehicular activity, and it fronts County Road 53 locally known as Dale Street, it would not be an ideal location for a lower-density residential development.

In January of 2017, the applicant was granted a side yard setback variance of 3 feet from the west property line for the three-unit row house development and a detached, three-stall garage. Given the greater number of units, the applicant is proposing a surface parking area of six spaces, one of which will be ADA accessible.

Generally, surface parking areas in a rear yard require a setback of 4'. However, the zoning code requires a setback equal to the distance of the side yard setback. In this case, a 9' setback is required. The purpose of the greater setback for a parking area on corner lot is to accommodate sight lines. Under this application, the alley would be used as access into the parking area, which should help reduce conflicts with vehicles traveling on Dale Street. Alternatively, vehicles could also travel east toward Kent Street to avoid higher traffic volumes on Dale.

The location of the property at a corner is a practical difficulty making it challenging to construct the proposed development and off-street parking without the requested variances. This finding is met for all requested variances.

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

This lot has been subdivided several times since 1968, which was the last time there were any structures on the property. These subsequent changes in the lot size and the lot split from March of 2002 are unique circumstances affecting any future developments other than a single-family dwelling or a duplex. This finding is met for all requested variances.

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

The proposed development is a permitted use in the RM2 zoning district. If granted, the requested variances will not change the zoning classification of this property. This finding is met for all requested variances.

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

There are several multi-family developments located within close proximity of the subject property, including a 17-unit apartment building located just west of this site. The proposed development with surface off-street parking will not alter the essential character of the surrounding area. This finding is met for all requested variances."

WHEREAS, on May 30, 2018, Joseph Rittman ("Appellant"), pursuant to Leg. Code § 61.702(a), duly filed an appeal under DSI Zoning File No. 18-071096 from the determination made by the BZA in this matter and requested a hearing before the City Council to consider the BZA's decision; and

WHEREAS, on June 20, 2018, the City Council, pursuant to Leg. Code § 61.702(b), duly conducted a public hearing where all interested people were given an opportunity to be heard and following the close of the public hearing, duly moved to lay over its decision on the appeal to June 27, 2018 to allow review of the record and testimony; and

WHEREAS, on June 27, 2018, the City Council took up the appeal for discussion and a decision and the Council, having heard the statements made and having considered the Applicant's variance application, the report of staff, the record made before the BZA, the facts and findings in BZA Resolution No. 18-035099 and

the testimony and submittals by the Appellant and those in opposition to the BZA's decision in this matter, DOES

RESOLVE, that the Council of the City of Saint Paul hereby upholds the decision of the BZA in this matter as the Council finds, based upon the record in this matter, that Appellant has failed to establish that the BZA erred in its procedures or in the facts and findings supporting its decision to grant the variances requested by Applicant as set forth in BZA Resolution No. 18-035099 and, accordingly, the Council hereby adopts as its own in support of this decision the facts and findings of BZA Resolution No. 18-035099; AND, BE IT

FURTHER RESOLVED, that based upon the foregoing, Appellant's appeal is hereby denied; AND, BE IT

FINALLY RESOLVED, the City Clerk shall mail a copy of this resolution to Appellant Joseph Rittman, Applicant Alan Hupp, the Zoning Administrator, the Planning Commission and the BZA.