

From: Dan Bustos [mailto:danbustos@hotmail.com]
Sent: Friday, November 1, 2019 9:34 AM
To: Graybar, Matthew (CI-StPaul) <Matthew.Graybar@ci.stpaul.mn.us>
Cc: julie bustos
Subject: Bustos comments RE: File# 19-093472 public hearing notice - city council appeal

Dear Matt,

First of all, thank you very much for your help and the help of the Department in navigating the minor variance request path.

I would like to submit the following thoughts for review by the City Council regarding the appeal to the approval of my requested garage variances in file 19-081671. You mentioned you were sending another packet of information to City Council today and we would appreciate if this email and its attachments are included in that packet. Can you please confirm back with me that they have been included?

As our variance application shows we intend to improve our property by adding a garage to our large .32-acre (61' x 225') lot. Early on in our garage journey, our architect prepared a photo showing the scale of the approved garage in context of our yard to sense check our plans (see attached photo "Garage - Match Photo.pdf").

In addition to creating space to park our two vehicles off street which the city clearly supports, we are trying to do something else that St. Paul is encouraging: my family and I intend to use the garage to create art and continue to be part of the local art community as we have been since I enrolled in the College of Visual Arts on Summit Avenue in 1996.

We looked at other options for places to create art including using our basement. We found that we are unable to do this. The reasons include the following difficulties:

1. There is insufficient headroom both in the basement and in the U-shaped basement stairwell that impedes our ability to work on larger scale projects because, in addition to the height and width limitations of home doorways, it is impossible to get larger scale art supplies into the space and the finished work out of the space.
2. We use some delicate equipment that is sensitive to dust and needs to be protected from other parts of the artistic development process that can generate dust. To segregate the fabrication that produces dust from this equipment, the third stall of the garage will be walled off from the rest of the garage. The sensitive equipment will be stored in the upper art studio level of the garage.

These reasons have been deemed by the Board of Zoning Appeals to be both practical difficulties and plight unique to the property not created by us in accordance with the requirements of the Code.

We have worked hard to comply with these requirements and the BZA agrees that we have met them.

- We have done research on area garages by walking around the neighborhood and taking note of other single-family dwellings with three car and/or two story garages (see the locations pinned in map "Comp Garage Photos Map.pdf" and associated photos of the pinned garages in "Comp Garage Photos.pdf"). Please note this is a sampling rather than a complete inventory.

- We reached out in person to directly affected neighbors with our plans along with an invitation for discussion.
- We met with the Macalester-Groveland Community Council to take them through our plans. They visited our property where we showed them how the garage would be situated. We discussed our intent to use the expanded space to create art. They reacted with excitement about our plans. We then presented our plan at the Council's public hearing. They recommended approval of our variance request with a vote of 8-0 with one abstention.
- We presented our plan to Saint Paul's Board of Zoning Appeals at their public hearing on October 7, 2019. The BZA agrees that our variance request is in accordance with the Code and recommended approval of our variance request with a vote of 5-1.

In summary, we believe we have demonstrated care and diligence in our pursuit of this property improvement. We meet the zoning requirements with the requested minor variances as evidenced by the clear, concise rationale in the Board of Zoning Appeals' approval.

After carefully reviewing the arguments made by the appellant we do not believe a compelling case has been made to overturn the Board of Zoning Appeals' findings and approval.

The appellant states multiple times that they do not object to a garage being built yet their arguments do not reasonably explain how the footprint and height variances affect them in a material way beyond what a conforming garage would.

We are also providing an annotated version of the appeal submission. We have been advised that more detail and context may be beneficial to your decision making. Please see that additional detail in the attached "Addendum to Appeal - Dan Bustos Annotation.pdf."

Thank you for your time and consideration. We respectfully request that the Council vote to uphold the recommendation of the Macalester-Groveland Community Council to approve the variances and Saint Paul Board of Zoning Appeals' approval of the requested variances.

Respectfully,
Dan Bustos





Amherst - 151 Amherst.jpg



Amherst - 200 Amherst.jpg



Cambridge - 99 Cambridge.jpg



Cambridge - 123 Cambridge.jpg



Cambridge - 161 Cambridge.jpg



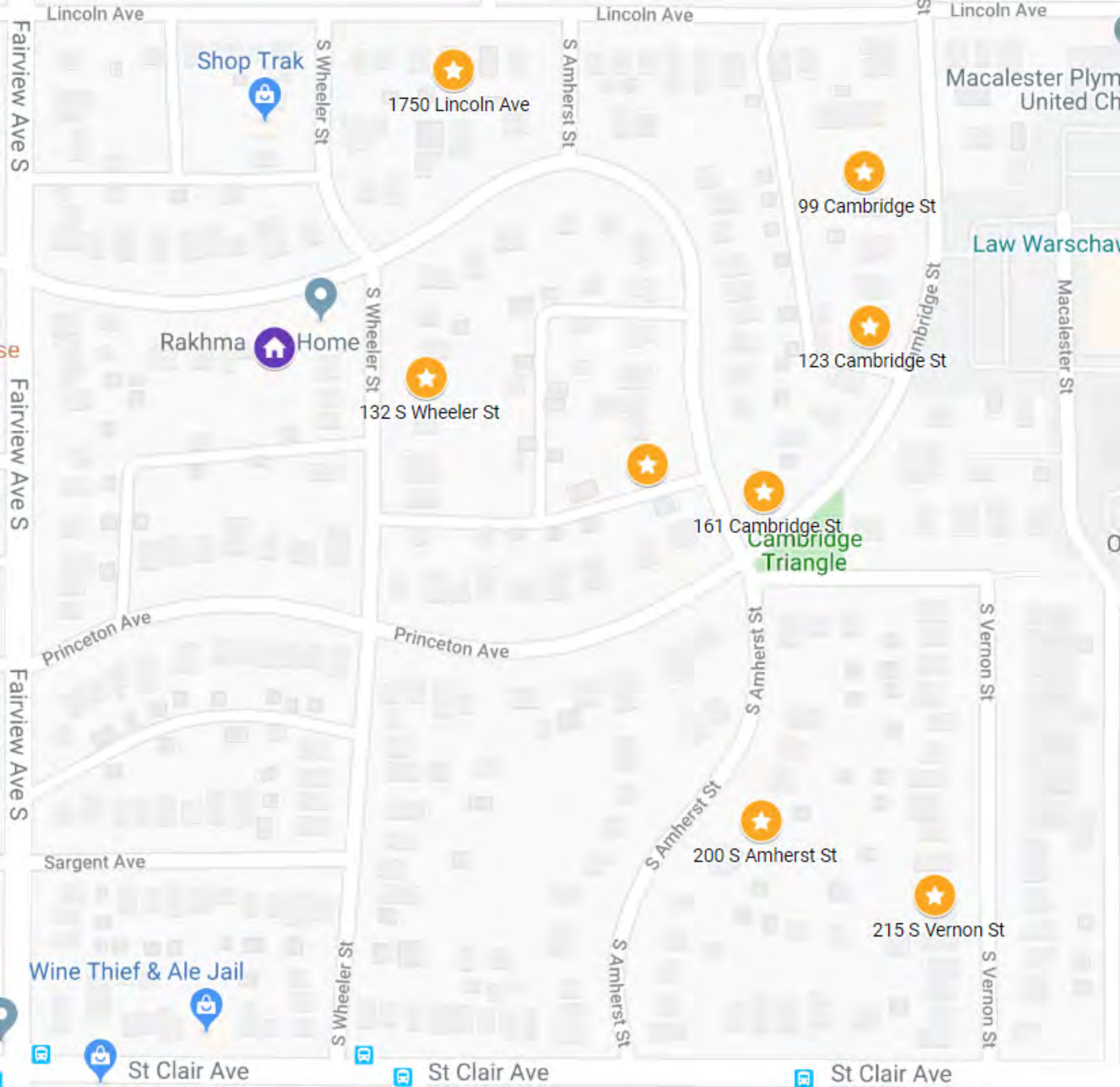
Lincoln - 1750 Lincoln.JPG



Vernon - 215 Vernon.jpg



Wheeler - 132 Wheeler.jpg



Shop Trak

1750 Lincoln Ave

99 Cambridge St

Rakhma Home

132 S Wheeler St

123 Cambridge St

161 Cambridge St
Cambridge Triangle

Princeton Ave

200 S Amherst St

215 S Vernon St

Wine Thief & Ale Jail

St Clair Ave

St Clair Ave

St Clair Ave



Addendum to Appeal: Dan Bustos Annotation

[[BUSTOS: The appeal is listed below and we have inserted our detailed commentary inline below.]]

October 12, 2019

City Council
City of Saint Paul
15 Kellogg Blvd, 310 City Hall
Saint Paul, MN 55102

Re: Addendum to Zoning Appeal Application Zoning
File Number: 19-081671

Dear City Council Members,

My wife and I are appealing the variance for height and area approved by the Board of Zoning and Appeals for our neighbor, Dan Bustos' property at 1780 Goodrich Avenue, referenced by zoning file # 19-081671. Our main objections to the approval are below, followed by a line by line disputation of the BZA findings.

- Due to clerical problems at the Department of Safety and Inspections, our objections to the proposed variance were never heard at the BZA public hearing dated Monday, October 7th, 2019, 3:00pm.

[[BUSTOS: While we have no control over the clerical processes at the City, we regret that this opposition was not heard. Please note, there were no other objections submitted nor were there any public objections voiced at the Board of Zoning Appeals public meeting. The parties objecting chose not to attend this hearing where their objections could have been discussed.]]

- We believe the project to be Out of Scale for our neighborhood.

[[BUSTOS: The Housing and Land Use Committee of the Macalester-Groveland Community Council recommended approval of the requested variances and we have demonstrated to the satisfaction of the Board of Zoning Appeals that the variances are in accordance with the Code.]]

- There are more objections to the variance by neighborhood homeowners than was evidenced at the BZA hearing. (See supporters on last page)

[[BUSTOS: We confirmed with the Department of Safety and Inspections that the sole objection filed for the BZA hearing was from the appellant. No one else had filed an objection.

In addition, there were no objections to our variance requests voiced at either the Macalester-Groveland Community Council or the Board of Zoning Appeals public meetings.]]

Addendum to Appeal: Dan Bustos Annotation

Our desire, and our neighbors' desires, are that the applicant conform to existing building code.

FINDINGS

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

We disagree with the Dept of Safety and Inspections and the Board of Zoning Appeals findings. Our position is that the project is out of scale to the neighborhood. The proposed garage has more square footage than our home.

[[BUSTOS: With all due respect, the appellant seems to be under the impression that the variances being requested are more extreme than they really are. For the garage specifically, we have asked for an additional 16" height over code of 15 feet and an additional 120 sq. ft. over code of 1,000 sq. ft. In terms of our plans, this means the garage will be 4' 3" wider than a conforming garage with the same depth. See attached photo "Garage - Match Photo.pdf" that our architect prepared to show the scale of the approved garage in context of our yard.

I also want to clarify that the garage itself will not rival the actual dimensions of any surrounding homes, including the appellant's which is the smallest in the vicinity and nearly half the square footage of most nearby homes.]]

There are no three car garages on our alley way. The only two-story structure, across the alley, is a 110 year-old garage, with a 288sq.ft footprint, that was most probably "grand fathered in" prior to current code being established.

[[BUSTOS: The garage across the alley is indeed old and quite tall (see attached photo "Backyard.pdf").

As mentioned in our email response to the appeal, we have worked hard to comply with zoning requirements. Related to the specific point the appellant is making here, we have done research on area garages by walking around the neighborhood and taking note of other single-family dwellings with three car and/or two story garages (see the locations pinned in map "Comp Garage Photos Map.pdf" and associated photos of the pinned garages in "Comp Garage Photos.pdf").]]

We the neighbors have rights that should be protected by the zoning code. We ask that the project be limited to the current zoning code limitations of height and area.

[[BUSTOS: The city's zoning laws define the regulations for us all. Unlike most laws or ordinances, zoning is unique in that it attempts to apply a uniform set of regulations to properties that can be very different in terms of topography, access and existing uses or buildings. The Board of Zoning Appeals' approval of our variances indicates that the variances are in accordance with the requirements of the city's zoning laws, including the finding that the variances are in harmony with the general purposes and intent of the zoning code.]]

Addendum to Appeal: Dan Bustos Annotation

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

We do not have enough information about the comprehensive plan to comment on this point.

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 the provision. Economic considerations alone do not constitute practical difficulties.*

We agree with the Dept of Safety and Inspections and disagree with the Board of Zoning Appeals. We do not object to a garage for this property. We object to the proposed size, meant to accommodate art endeavors, that could occur in a remodeled basement.

[[BUSTOS: We looked at other options for places to create art including using our remodeled attic as well as using our basement. What we found is that we are unable to do this. The reasons include the following difficulties:

- a. **There is insufficient headroom both in the basement and in the U-shaped basement stairwell that impedes our ability to work on larger scale projects because, in addition to the height and width limitations of home doorways, it is impossible to get larger scale art supplies into the space and the finished work out of the space.**
- b. **We use some delicate equipment that is sensitive to dust and needs to be protected from other parts of the artistic development process that can generate dust. To segregate the fabrication that produces dust from this equipment, the third stall of the garage will be walled off from the rest of the garage. The sensitive equipment will be stored in the upper art studio level of the garage.**

These reasons have been deemed by the Board of Zoning Appeals to be both practical difficulties and plight unique to the property not created by us therefore in accordance with the requirements of the Code.]]

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

We agree with the Dept of Safety and Inspections and disagree with the Board of Zoning Appeals. Again, we are unsure why the homeowner cannot abide by existing code. The homeowner has communicated that the reason he can't remodel his basement is due to asbestos. I would think that asbestos abatement would be an important consideration of the homeowner and the city. We feel the homeowner's basement, or a conforming garage would be sufficient.

[[BUSTOS: Again, we looked at other options for places to create art including using our remodeled attic as well as using our basement. What we found is that we are unable to do this. The reasons include the following difficulties:

- a. **There is insufficient headroom both in the basement and in the U-shaped basement stairwell that impedes our ability to work on larger scale projects because, in addition to the height and width limitations of home doorways, it is impossible to get larger scale art supplies into the space and the finished work out of the space.**

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b. We use some delicate equipment that is sensitive to dust and needs to be protected from other parts of the artistic development process that can generate dust. To segregate the fabrication that produces dust from this equipment, the third stall of the garage will be walled off from the rest of the garage. The sensitive equipment will be stored in the upper art studio level of the garage.

Our variance request mentioned that our basement has asbestos-covered pipes but in no way stated that the basement could not be remodeled because of this as the appellant claims. The variance request says, "Our home was built in 1922 and has an unfinished basement complete with asbestos-covered pipes and exposed mechanicals. The space is uninspiring and would take significant effort to convert into a usable space." This statement clearly acknowledges that the space can be remodeled. Nevertheless, the difficulties listed above with using the space as we desire still apply.

Finally, the two difficulties listed above have been deemed by the Board of Zoning Appeals to be both practical difficulties and plight unique to the property not created by us therefore in accordance with the requirements of the Code.]]

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

We do not object to a garage on this property, we object to it's proposed size.

[[BUSTOS: This finding is met. Accessory structures are allowed in all zoning districts.]]

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

We agree with the Dept of Safety and Inspections and disagree with the Board of Zoning Appeals. The homeowner sites the Conservation District's overlay efforts for Tangletown, designed to preserve our neighborhood's character. Part of the Conservation District overlay effort was to preserve trees. We think it disingenuous of the homeowner to say that this project is in keeping with that effort after having cut down nearly all (10) of the mature trees in his backyard.

[[BUSTOS: With all due respect, I am confused by the appellants argument on this point. I don't believe our 2016 landscaping has anything to do with the requested garage variances. If the argument about the trees does matter for any reason beyond attempting to undermine our integrity, I will share some additional context.

We re-landscaped our backyard to make it more useful to our three young children and to prepare to build a garage. We had been planning to remove the shrubbery that ran the along the West border of our property and some shrubbery that ran about a third of the way up the middle of the back yard towards the alley. That patch included two relatively young trees (see photo "Garage - Match Photo.pdf").

When we moved in, the then homeowner at 135 S. Wheeler St. asked if we would take several (4-6) trees down that were located on our property but immediately to the West of her property line (also visible in

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photo "Garage - Match Photo.pdf"). Her backyard was getting very little sunlight. The trees caused afternoon shade across a majority of her backyard while her house caused significant morning shade. The trees were also getting tangled in the power lines. We agreed to help our neighbor and agreed to remove these trees.

We also removed the largest, most mature tree on our lot, a 100-year-old Silver Maple, based on the unsolicited recommendation from five of the six arborists we consulted due to a variety of structural concerns/defects with the tree. The proposal for removing this tree states "Removal recommendation based on a variety of structural concerns/defects discussed during meeting". The tree was dying and posed a danger to our home and the home of the neighbors at 1790 Goodrich Avenue. The tree was quite close to our son's bedroom so we took the arborists' advice and removed the tree.

This leaves one other large tree, a spruce, that was taken down because it had the potential to interfere with the garage.

So, net-net, we took down a majority of the trees to help our neighbor, one at the recommendation of several arborists, two relatively young trees among the shrubbery we were removing as part of our landscaping and one tree related to the garage build.

We also worked with our landscaper to invest in and quickly plant six new trees that are strategically placed around the yard to provide both beauty and privacy (see photo "Backyard.pdf").]]

After the removal of most of the mature trees from the homeowner's backyard, we as neighbors have lost noise and light absorbency of the trees, as well as their beauty. With the construction of a garage, we will now have a mostly unimpeded view of this structure and our neighbor's activities.

[[BUSTOS: Per our architects, acoustically trees do very little to block sound unless you have a large number of dense evergreens to do it, which we didn't.

In the case of the neighbor at 135 S. Wheeler St., they requested we help them get more sunlight by removing some of the trees, which we did.

The other trees were not positioned to provide much light absorbency or block the view of the garage for the appellant (see photo "Garage - Match Photo.pdf").]]

Our home is the closest residence to this garage. In fact, there are four residences closer to this proposed garage than the homeowner himself. (See the map attached).

[[BUSTOS: Tangletown has long been a built-out neighborhood with many houses in close proximity to one another. The zoning code contemplates that. The appellant indicates numerous times that they are not against a garage on our property. They will be comparably close to the garage with or without the approved variances.]]

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This garage will have more square footage than our three-bedroom home.

[[BUSTOS: We addressed this already above: "With all due respect, the appellant seems to be under the impression that the variances being requested are more extreme than they really are. For the garage specifically, we have asked for an additional 16" height over code of 15 feet and an additional 120 sq. ft. over code of 1,000 sq. ft. In terms of our plans, this means the garage will be 4' 3" wider than a conforming garage with the same depth. See attached photo "Garage - Match Photo.pdf" that our architect prepared to show the scale of the approved garage in context of our yard.

I also want to clarify that the garage itself will not rival the actual dimensions of any surrounding homes, including the appellant's which is the smallest in the vicinity and nearly half the square footage of most nearby homes.]]

Due to the nature of how our neighborhood lots are aligned, we anticipate more lights, more noise and more activity clearly viewable from our collective backyards.

[[BUSTOS: The positioning of adjacent houses is not in our control. The appellant indicates numerous times that they are not against a garage on our property. A garage that is 16" taller and 4' 3" wider than a conforming garage will not result in a meaningful increase in lights, noise and activity.

The garage will be situated between two adjacent garages. We believe the plans show that, while certainly subjective, the garage will be a beautiful, functional structure that matches our home, and is an investment in our property, the Tangletown neighborhood and Saint Paul.]]

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DISTRICT COUNCIL RECOMMENDATION

THE Macalester- Groveland Community Council has recommended approval of this project. We disagree with the Macalester -Groveland Council. We were never invited, nor notified, nor apprised, nor asked to review the council's intentions in this matter.

[[BUSTOS: We presume that the Housing & Land Use Committee of the Macalester-Groveland Community Council has operated in accordance with their policies and procedures.]]

CORRESPONDENCE


We believe that greater weight should be considered to neighbors who are adjacent to the homeowner's property, and less consideration for neighbors who live on the other side of Wheeler Street. While the neighbors at 132-Wheeler have approved this project, they can neither see, nor hear the activities of the homeowner's backyard. Nor will they have a permanent large structure installed for perpetual viewing.

[[BUSTOS: We cannot comment on the weighting of neighbor feedback. What we can confirm is that everyone that has shared an opinion on the garage variances is a resident of and stakeholder in the Tangletown neighborhood.]]

In conclusion, we ask that the City Council rescind the approval of the Board of Zoning and Appeals in this matter. We ask that the City Council follow the staff recommendations of the Department of Safety and Inspections to deny this variance request. We sympathize with the homeowner's desire to build a garage but would ask that they remain within code. As 38-year residents of our property, we want to limit the scale of this project and continue to receive as much quiet enjoyment of our backyard as possible.

[[BUSTOS: Again, the positioning of adjacent houses is not within our control. The appellant indicates numerous times that they are not against a garage on our property. A garage that is 16" taller and 4' 3" wider than a conforming garage will not result in a differentiated impact on the quiet enjoyment of our neighbor's backyard.]]

Respectfully Submitted,

The image shows two handwritten signatures in blue ink. The top signature is for Dan Carlson and the bottom signature is for Barbara Pilling. The signatures are written over the printed names of the signatories.

Dan Carlson

Barbara Pilling

Dan Carlson

Barbara Pilling
141 S. Wheeler Street
St. Paul, MN 55105

Attachments: neighborhood map

Addendum to Appeal: Dan Bustos Annotation

We the undersigned, request that the City Council rescind approval of the Board of Zoning Appeals resolution in favor of our neighbor's variance to existing city building code concerning zoning file #19-081671.

Martha Krohn
Richard M Berowski
Signature
1789 Princeton Ave
Address

MARTHA KROHN
Richard M Berowski
Print Name
bethebike@gmail.com
Email

10/13/19
Date

Henry S. Jerome
Catherine S Lay
Signature
145 Wheeler St So.
Address

HENRY S. JEROME
CATHERINE S LAY
Print Name
Henry.Jerome@spps.org
Email

13 Oct 2019
Date

Dane Sorenson
135 Wheeler St. So
Signature
Address

Dane Sorenson
DANE E. SORENSEN@gmail.com
Print Name
Email

10/14/19
Date

Karen R Lanegan
140 So. Wheeler
Signature
Address

Karen Lanegan
Knargenal@ad.com
Print Name
Email

10/14/19
Date

John Rademacher
1797 Princeton Ave
Signature
Address

John Rademacher
Print Name
Email

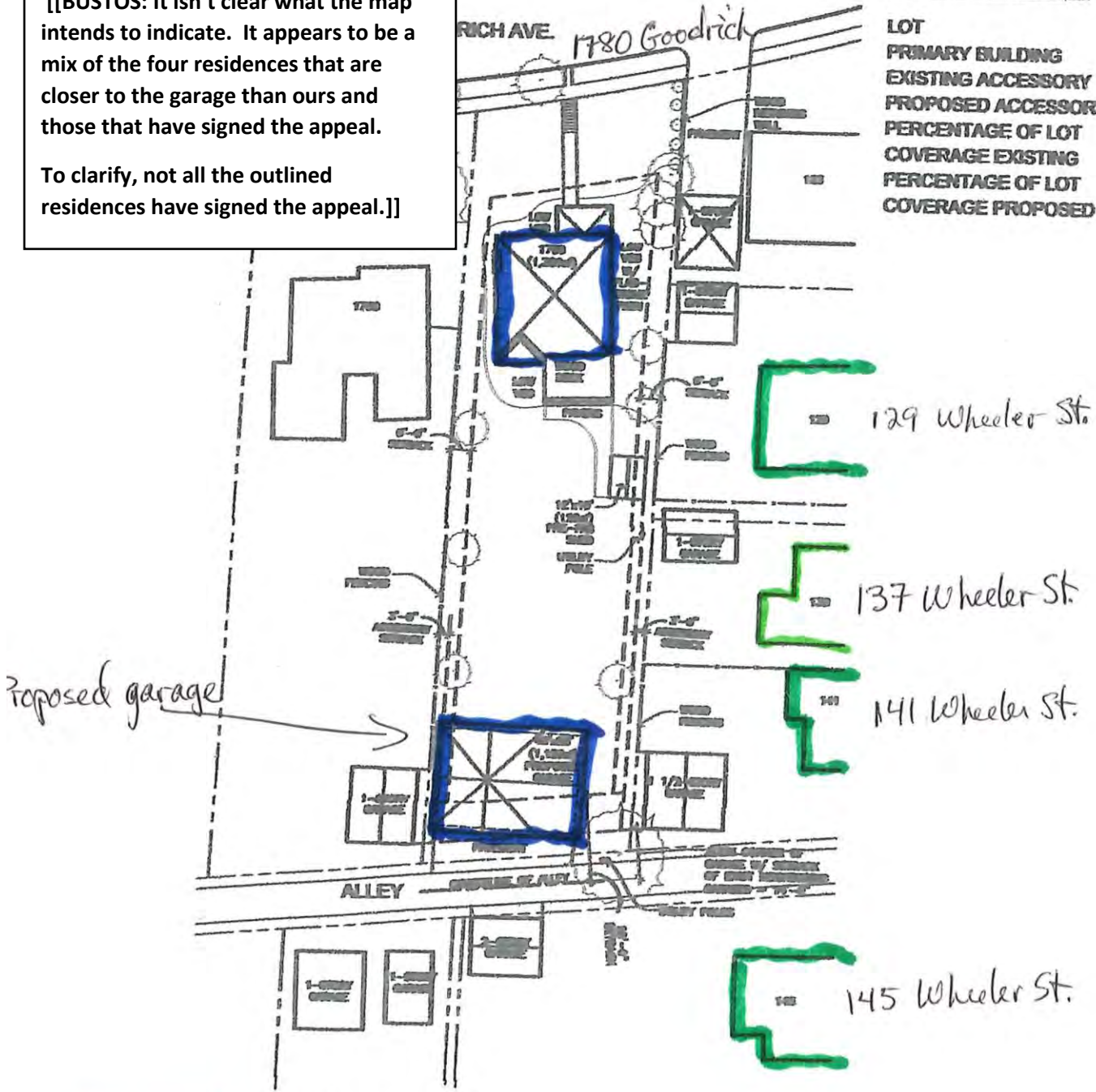
10/14/19
Date

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[[BUSTOS: It isn't clear what the map intends to indicate. It appears to be a mix of the four residences that are closer to the garage than ours and those that have signed the appeal.
To clarify, not all the outlined residences have signed the appeal.]]

AREA CALCULATIONS:

LOT	=13,930.2sf
PRIMARY BUILDING	= 1,300sf
EXISTING ACCESSORY	= 120sf
PROPOSED ACCESSORY	= 1,120sf
PERCENTAGE OF LOT COVERAGE EXISTING	=10.2%
PERCENTAGE OF LOT COVERAGE PROPOSED	=18.2%



SITE PLAN
Scale: 1" = 40'
PLAN

VARIANCE APPLICATION
JULY 10, 2017

BUSTOS GARAGE
1780 Goodrich Avenue, St. Paul
Contact: Dan Bustos - 651.592.4108

A010

1793 Princeton

1789 Princeton

Addendum to Appeal: Dan Bustos Annotation

CITY COUNCIL APPEAL PUBLIC HEARING NOTICE (REVISED TO CORRECT M... Page 1 of 1

Date: October 15, 2019

Location: 1780 Goodrich Avenue

Purpose: An appeal of a decision by the Board of Zoning Appeals granting variances of the height and lot coverage requirement for a new, three-car detached garage. 1) A 15' maximum height is permitted; a height of 16'4" was approved. 2) Accessory buildings cannot occupy more than 35% of the lot or 1,000 square feet, whichever is less; the proposed 1,120 square foot garage and the existing 120 square foot shed total 1,240 square feet.

Public Hearing Date: November 6, 2019

Time of Hearing: 5:30 PM

Location of Hearing: 15 Kellogg Blvd W. Room 300 Courthouse

You may attend the hearing to express your opinion regarding this matter. You may also send written comments to the Department of Safety and Inspections' staff person handling the case, Matt Graybar, at 375 Jackson St. Suite 220, Saint Paul, MN 55101 or E-mail him at Matthew.graybar@ci.stpaul.mn.us . If you have any questions about this application, please call the zoning line at 51-266-9008 as ask for him.

This property is located in the area represented by Macalester Groveland Community Council, an independent organization that provides advisory recommendations to the City about a variety of issues. They may choose to discuss this item at a neighborhood meeting and provide a recommendation to the Board of Zoning Appeals (BZA). Please contact them at (651) 695-40000 or by E-mail at Liz@macgrove.org if you are interested in participating in the neighborhood review process.

This is a preliminary notice: This application has not been reviewed for completeness and the requested variance(s) may change.

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10/15/2019