



FILE  
18-092702

Chair Gloria Bogan and members of the Board of Zoning Appeals  
Attn: Jerome Benner II  
Department of Safety and Inspections  
375 Jackson Street, Suite 220  
St. Paul, MN 55101

August 31, 2018

Re: Little Grocery (#18-092702) 1724 University Avenue West

Dear Chair Bogan and members of the Board of Zoning Appeals:

The Association for Nonsmoker – MN was one of 57 organizations that collaborated to pass Saint Paul's menthol ordinance. At a minimum, these organizations sent letters of support to the city council. Many attended public hearings, testified, alerted their members and did grassroots organizing in support of the menthol restrictions. You are likely familiar with many of them, including: Saint Paul Public Schools, NAACP, Saint Paul Business Review Council, Twin cities Medical Society, American Cancer Society, American Heart Association, Ramsey County commissioners via resolution, L.I.F.T to End Poverty, Aurora Saint Anthony Neighborhood Development Corporation, Family Tree Clinic and Comunidades Latinas Unidas En Servicio (CLUES), and African American Leadership Forum. To say we are deeply concerned about the blatant effort by the Little Grocery to find a way around this ordinance would be to minimize our concerns.

We are writing to oppose the variance requested by the above applicant. The applicant seeks to operate a new tobacco shop that is less than one-half mile from another tobacco shop. The applicant cannot meet the "practical difficulties" standard needed for a variance to be granted for the following reasons:

- More than seven years ago (2011), long before the menthol ordinance was enacted, the City of St. Paul enacted the Tobacco Products Shop ordinance and intentionally laid out ½ mile distance standards between tobacco shops. The purpose of limiting the number of tobacco shops was to discourage tobacco use, particularly among youth, and to prevent oversaturation of this type of business.
- The 2017 menthol ordinance served the same goals. In fact, Council Member Amy Brendmoen stated that she is *"not wanting to see a proliferation of tobacco stores or liquor stores that sell tobacco. ... I'm looking for legislation that puts some limits or caps on tobacco licenses in St. Paul because...decrease in access is the goal."* (10/25/18 city council meeting re: menthol tobacco regulation, video at 29:00-29:46).
- The St. Paul City Council recently passed an ordinance capping the number of tobacco retailers. This further illustrates the City's intent to limit the number of tobacco shops.

- If the applicant argues that his inability to sell menthol tobacco products creates economic hardship, the ordinance and state law clearly state that “Economic considerations alone do not constitute practical difficulties.”

We are also concerned that the BZA recently approved the variance for Reemo Corp., DBA Rice Street Tobacco, despite the BZA staff report that the applicant did not meet the criteria for “practical difficulties.” This could set an alarming precedent for other tobacco retailers to seek a variance so they too can continue to sell menthol tobacco products after the ordinance goes into effect. Such a precedent would undermine the intent of the tobacco products shop ordinance, the menthol ordinance, and the tobacco retail cap.

Further, we learned at the 8/27/18 BZA public hearing that the BZA is considering changing its longstanding practice of measuring property line to property line. It is irrelevant that this property contains a multi-tenant building. Creating a different standard for one building creates an inequitable zoning practice. As one of the BZA members commented “*Once you do this for one applicant, you can’t willy-nilly pick and choose.*” We hope that the BZA does not deviate from its measurement policy.

The City of Saint Paul anticipated that the menthol ordinance might impact licensed tobacco retailers (i.e., neighborhood gas stations and convenience stores). The Department of Safety and Inspections is working with the Planning and Economic Development Department to offer assistance to support neighborhood retailers, **just like the applicant**, through this transition. The City is funding two groups to provide staff training on successful retailer strategies and direct business technical assistance to neighborhood retailers. These resources are available to this neighborhood store to help reduce their reliance on tobacco sales.

The Little Grocery is currently allowed to sell all tobacco products, including menthol. We visited the store recently and took photos of the current inventory. The store was locked and does not appear to be open for business.



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Based on the initial discussion at the BZA there did not seem to be a lot of information about what a tobacco product shop is. Below are photos of one of Saint Paul's tobacco shops, Best of Times Tobacco. This is the type of business that the Little Grocery wishes to become.



While the Little Grocery may not aspire to contain as much drug paraphernalia as does Best of Times Tobacco, the fact that they already have three bongos in the window does not bode well. It is the very nature of tobacco shops that led councilmember Brendmoen to wish to limit the expansion of these stores.



I sincerely hope you will follow the zoning regulations related to distance and not undermine the will of the council and the many individuals and organizations who worked to put the menthol ordinance in place.

Thank you for your consideration.

Sincerely,

A handwritten signature in cursive script that reads "Jeanne Weigum".

Jeanne Weigum  
President