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November 13, 2015

Saint Paul City Council
Department of Safety and Inspections
Board of Zoning Appeals
375 Jackson Street, Saint Paul, MN 55101-1806

Attention: Yaya Diatta

**Re: File #15-163947
Response to Appeal of Approval of Major Variance for 1174 Grand Avenue**

Dear City Councilmembers:

Please accept this as our response to the appeal filed by the Summit Hill Association (“SHA”) on October 22, 2015 to the Board of Zoning Appeals’ (“BZA”) approval of the major variance application for 1174 Grand Avenue.

As an initial matter, the SHA does not accurately describe the variance approved by the BZA. Page 1 of the SHA’s appeal states that the City code requires a front yard setback of “25 feet,” which implies that we have obtained a larger variance than was sought and approved. This is not correct, as the applicable code requires a front yard setback of 23.4 feet for this property and our application sought a front yard setback of 22 feet, for a variance of 1.4 feet. Both our application and the findings correctly reflect this fact.

Second, the SHA’s appeal fails to point out any basis for reversing the BZA’s approval under the applicable City code. The SHA’s appeal is governed by Section 61.702 of the City code, which provides in relevant part that “[t]he city council shall have the power to hear and decide appeals where it is alleged by the appellant *that there is an error in any fact, procedure or finding made by the board of zoning appeals or the planning commission.*” (emphasis added). A close review of the SHA’s appeal fails to identify any alleged error in a “fact, procedure or finding” made by the BZA. Instead, the SHA repeatedly takes issue with the proposed height of the building and argues that is a basis for challenging the BZA’s findings. However, the proposed height of our building complies with City code. It was not part of the variance application and, therefore, cannot be a basis for any alleged error made by the BZA. The SHA’s other arguments in its appeal simply amount to a difference of opinion, as opposed to identifying any specific error in a “fact, procedure or finding” made by the BZA. A review of the findings demonstrates that the BZA accurately describe the facts and are supported by the evidence. At most, the SHA’s arguments amount to general statements of opposition from certain residents of the neighborhood, which as a matter of Minnesota law may not serve as the basis for denying this application. *Minnetonka Congregation of Jehovah’s Witnesses, Inc. v. Svee*, 226 N.W.2d 306 (Minn. 1975). Because no “errors” have been identified by the SHA’s appeal, it lacks any possible legal basis for reversing the BZA’s decision.

Lastly, we disagree with the SHA's suggestion that we have not made significant efforts in our plans to mitigate concerns that were raised by the Planning Commission and residents of the neighborhood. Below is a summary of our efforts to date in that regard.

- **Off Site Parking (City and Neighbors):** To address parking concerns on Grand Avenue, we proposed an underground parking ramp that will accommodate 8 vehicles, including a handicap stall. Additionally, we will have 3 spots available in the rear. The benefits of off-site parking far outweigh any inconvenience caused by increased traffic in the alley. We have reduced the drive lane width and the length of the stalls as far as we could while still making it viable to use. This results in an 18 inch variance per side. To accommodate enough stalls, we have moved the trash room and stairwell to the back side of the building. This results in a 6 foot variance from the alley setback for one-third of the building. The balance of the building will be at the allotted 25 feet.

- **Maintain Historical Development Pattern (City):** We were asked to have the building set back from the sidewalk to match the setbacks of the adjacent buildings. The 4 adjacent buildings are 3-story apartment buildings with 14-18 units per building. They yield a car count of 16 vehicles per building, per City code, yet do not accommodate off-site parking for all vehicles. In comparison, we will yield a car count of 11 vehicles per the same City code. Furthermore, our plans provide for off-site parking, as noted above. We have attempted to match the size of these 4 buildings as well. The livable square feet for our proposed building is actually smaller than the existing 4 buildings' average. We are a total of 12, 925 square feet, while the approximate average of the other 4 buildings is 13,295 square feet. Furthermore, the average foundation size of the existing 4 buildings is approximately 4,515 square feet. We are proposing a foundation size of 4,599 square feet, only 84 square feet larger to accommodate a parking garage. The height is a nonfactor and is below the code allotment of 40'.

- **Follow the City's Comprehensive Development Plan (City):** The focal point for this plan is increased residential density in mixed use corridors, such as Grand Avenue (Strategy 1, 1.2, 1.3, 1.16, 1.23, 1.25 and 1.26 of the plan). We are proposing 8 units ranging from 1 bedroom to 3 bedrooms each, which is the maximum amount of allowable units per City code for this site. This will increase the property taxes by nearly \$100,000 annually.

- **Privacy and Overall Size (Neighbors):** We pulled back our rear setbacks to accommodate the allowable 25' for most of the building along the alley. In order to ensure a parking garage could fit, we are 19' back for a portion (one-third) of the building. We used this portion for the stair tower and trash room to further ensure privacy as opposed to using this wall space for livable areas with windows.

In summary, the findings of the BZA are supported by the record and there is no legal basis for reversing this decision. We are very excited to move forward with this project and believe it will be a welcomed addition to the community. Thank you for your time and consideration of this letter, and please let me know if you need any further information in advance of the hearing.

Sincerely,

Ryan Burke & Kyle Lenzen
BleuAnt Designs, LLC