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APPLICATION FOR APPEAL

Department of Safety and Inspections
375 Jackson Street, Suite 220
Saint Paul, MN 55101-1806
651-266-9008

RECEIVED

MAR 23 2017

By: City of St Paul DSI

Zoning office use only

File no. 17-023901

Fee \$453.00

Tentative hearing date:

4-19-2017

APPLICANT

Name Lynn + Val DiEuliis
Address 1033 FAIRMOUNT AVE.
City St. Paul St. MN Zip 55105 Daytime phone 651/297-8674
Name of owner (if different)

PROPERTY LOCATION

Address 1023 Osceola Ave., St. Paul, MN 55105
Legal description: Lots 10 Thru 20, Lot 21 except the East 22 feet
thereof and vacated alley as it accrues to Lots 10 thru 19, all in Block 2, SAMUEL B. PIERCES ENLARGEMENT OF SUMMIT PARK ADDITION TO ST. PAUL, Ramsey County, Minnesota.

TYPE OF APPEAL: Application is hereby made for an appeal to the:

- Board of Zoning Appeals
City Council

under the provisions of Chapter 61, Section 61.702, Paragraph (a) of the Zoning Code, to appeal a decision made by the Board of Zoning Appeals on MARCH 13, 2017. File number: 16-067184

GROUND FOR APPEAL: Explain why you feel there has been an error in any requirement, permit, decision or refusal made by an administrative official, or an error in fact, procedure or finding made by the Board of Zoning Appeals or the Planning Commission.

See Attached, please.

(attach additional sheet if necessary)

Applicant's signature Lynn DiEuliis Val DiEuliis Date 3/23/17 City agent

# TABLE OF CONTENTS

<b>1.</b>	<b>INTRODUCTION</b> .....	<b>4</b>
<b>2.</b>	<b>VARIANCES GRANTED BY THE BZA</b> .....	<b>6</b>
<b>3.</b>	<b>FACTUAL BACKGROUND</b> .....	<b>6</b>
<b>4.</b>	<b>APPLICABLE LAW</b> .....	<b>9</b>
<b>5.</b>	<b>FACTUAL ERRORS IN THE BZA PROCEEDINGS</b> .....	<b>10</b>
<b>6.</b>	<b>LEGAL ERRORS IN BZA PROCEEDINGS AND DECISION</b> .....	<b>11</b>
6.1	CRITERION #1: The BZA erroneously found that the variance is in harmony with the general purposes and intent of the zoning code.....	11
6.1.1	The variances do not promote and protect the public health, safety, morals, aesthetics, economic viability and general welfare of the community according to § 60.103(a).....	12
6.1.2	The variances do not implement the policies of the comprehensive plan according to § 60.103(b).....	13
6.1.3	The variances do not ensure adequate light, air, privacy and convenience of access to property according to § 60.103(e) .....	13
6.1.4	The variances do not facilitate the adequate provision of recreation according to § 60.103(f).....	14
6.1.5	The variances do not encourage a compatible mix of land uses, at densities that support transit that reflect the scale, character and urban design of Saint Paul’s existing traditional neighborhoods according to § 60.103(i).....	15
6.1.6	The variances do not prevent the overcrowding of land and undue congestion of population according to § 60.103(n).....	15
6.2	CRITERION #2: The BZA erroneously found that the variance is consistent with the comprehensive plan .....	16
6.3	CRITERION #3: The BZA erroneously found that 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.....	16
6.4	CRITERION #4: The BZA erroneously found that the plight of the landowner is due to circumstances unique to the property not created by the landowner .....	17
6.5	CRITERION #5: The BZA found that the variances will not permit any use that is not allowed in the zoning district where the affected land is located .....	18
6.6	CRITERION #6: The BZA erroneously found that the variance will not alter the essential character of the surrounding area.....	18

## TABLE OF EXHIBITS

Exhibit 1	City of Saint Paul Board of Zoning Appeals Resolution, 16-067184; March 13, 2017
Exhibit 2	Board of Zoning Appeals Staff Report; File 16-067184; February 9, 2017
Exhibit 3	SHA Recommendation to Deny Variances; September 14, 2016
Exhibit 4	Satellite Images of Saint Paul School Sites
Exhibit 5	Site Plan Layout of the Proposed Linwood School Building
Exhibit 6	Satellite Picture of Existing Linwood School Site

March 23, 2017

The Department of Safety and Inspections Zoning Section  
375 Jackson Street, Suite 220  
Saint Paul, MN 55101

RE: Appeal of Variances Granted by the Board of Zoning Appeals for a Proposed Expansion of the Linwood School located at 1023 Osceola Avenue (File # 16-067184)

We, Lynn DiEuliis and Val DiEuliis, as named Appellants, and the additional 39 undersigned neighbors have filed this appeal based on clear errors in facts, findings, and procedure by the Board of Zoning Appeals (BZA) regarding the variances requested by Nate Golin for the Saint Paul Public Schools (SPPS) regarding a proposed expansion of the Linwood School located at 1023 Osceola Avenue. See Exhibit 1 (BZA Resolution).

We request that our appeal be granted and that the variances requested by SPPS be denied.

## **1. Introduction**

This is an appeal to reverse a BZA decision to allow two variances (one for a non-compliant footprint and setback, the other for non-compliant height), requested by Nate Golin on behalf of the Saint Paul Public Schools (SPPS), to construct a very large 3-story addition to the Linwood School at 1023 Osceola Avenue to accommodate a shift of two grade levels from the Monroe campus of Linwood Monroe Arts Plus School to the Linwood campus. If the BZA's decision is allowed to stand and the variances are granted, the resulting school building will dwarf the buildings surrounding it (including apartment buildings), reduce the contiguous play space on the north side of the building by approximately 40%, completely block the view from the occupants' at 173 Oxford Street S., and shade many of the surrounding homes during the coldest months of winter. In addition, the resulting play space on the north side will be shaded for a significant part of the school year, especially during the winter months.

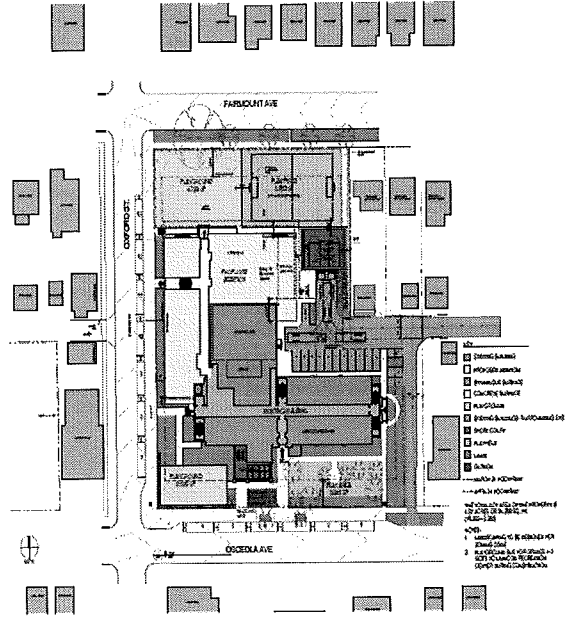
The two pictures below, show side- by-side a satellite picture of the existing Linwood site on the left and the site plan for the proposed building according to the requested variances on the right. picture below taken from the Variance Application. The satellite image is cropped and scaled to match, as closely as practicable, the scale and expanse of the proposed site plan. These two images may be reasonably compared to contrast the sizes of the school buildings, the sizes of the playgrounds, and the relationship of the school site with the surrounding neighborhood. The site plan shows the scale of the new building's footprint and its relationship to the surrounding homes.



See also Exhibit 5 (larger reproduction of the site plan) and Exhibit 6 (satellite Image of the Existing Site ).



Existing Site – Satellite Picture



Site Plan of Proposed Building

As explained in more detail below, the BZA failed to apply the criteria in the St. Paul Zoning Code governing variances in its decision. Most notably, the SPPS did not submit any evidence that the “plight of the landowner is due to circumstances unique to the property and not created by the landowner.” In this case, it is the SPPS programming desires to move two school grades from the Monroe campus to the Linwood campus that are driving the request for the variance rather than any deficiencies in the property itself.

The neighbors of Linwood School bring this appeal reluctantly. The most unfortunate part of the present dispute over the SPPS’s variance request is how it has created divisions between parents of children who currently attend Linwood School and neighbors in the community, many of whom have sent their children to Linwood School. The neighbors are fully aware of the deficiencies of the current building, and are strongly supportive of renovating the existing school building to address those deficiencies. The school has always been a central part of the neighborhood and the residents would have welcomed the opportunity to work with the school to provide input into a proposal to modernize Linwood School, including an addition that is consistent with the character of the surrounding neighborhood. But for reasons that have never been explained, SPPS never informed the neighbors of Linwood School of the proposal for this massive addition until the notice was sent in March 2016 that the BZA would convene a meeting 10 days later to decide whether to

grant significant variances to SPPS for a major addition to Linwood School. It was only quick action by the neighborhood that allowed the request to be delayed until the most recent BZA decision, but SPPS's actions both prior to and since March 2016 have unnecessarily created adversity between parties who should be working together and who have worked together in the past. We fully recognize that the school is in need of renovation and limited expansion. But the addition SPPS has proposed is far too large for the property, does not fit the character of the neighborhood and, most importantly, does not meet the variance requirements set forth in the City Code and Minnesota law.

## **2. Variances Granted by the BZA**

In its Resolution of March 13, 2017, the BZA granted two variances to construct an addition onto Linwood Monroe Arts Plus Lower Campus school building ("Linwood School"). The requested variances pertain to the maximum allowed building size and the maximum allowed building height. The relevant limits in the zoning code and the variances applied for and granted by the BZA are as follows:

- 1) A building footprint occupying a maximum of 35% of the lot or 28,452 square feet is allowed; the proposed building would occupy 38.5% of the lot or 31,300 square feet for a variance of 3.5% or 2,848 square feet.
- 2) A building height of 30 feet is allowed; the proposed addition, at three stories, would be constructed to match the height of the existing classroom spaces of 47 feet for a height variance of 17 feet in the R4 zoning district at 1023 Osceola Avenue.

The BZA's resolution is deficient because of errors in fact, procedure, and findings as detailed below.

## **3. Factual Background**

The Linwood School is situated on the smallest elementary school site (1.82 acres) in the City of St. Paul. This proposed addition would expand the building's footprint to the extent that approximately one-half of the existing open play space between the school and Fairmount Avenue would be eliminated. The proposed addition would be over 47 feet, and in some places the height would reach close to 62 feet. This addition is being proposed at a school site situated within an old historic residential neighborhood of Saint Paul that presently reflects the very fabric of Saint Paul's character. A survey of the neighborhood reveals that 85% of the neighbors oppose these variances. The proposed expansion is too big, too high, and too much.

The Linwood School is also situated in a state/national historic district area and is currently in the midst of a historic survey which could result in local historic designation. Any changes that detract from the historic character of the building would be especially egregious and detract from the acknowledged, not anecdotal, nature of the neighborhood.

SPPS states it needs these variances for a variety of reasons including building a new cafeteria, making classrooms larger, and other required upgrades that are necessary to bring the school building up to American with Disabilities Act (ADA) standards. Notably, however, SPPS has stated at least one Summit Hill Association (SHA) hearing that it does not require any variances to make the building ADA-compliant. Instead, the expansion is a plan necessitated by SPPS's other programming for the Linwood campus, that of moving two grade levels from Monroe to Linwood, thus increasing the student population at Linwood by 120 to 150 students. This places six grade levels at Linwood—a 48,000 square foot building—and four grade levels at the much larger Monroe building (Linwood's upper school)—a 148,000 square foot building three times larger than Linwood.

The Linwood campus is the smallest elementary school site in the city. The satellite images below and on the next page show how the Linwood School site compares to the Monroe site. See also Exhibit 4 (satellite images of area schools).



Linwood (picture encompasses one block; school site is approximately 1/3rd of a block; open space play area is less than 1/6th block; the proposed addition will reduce the open space play area to less than 1/10th of a block)

The north playground of Linwood School (top left area of the picture above) is an important community resource. It is used by the students attending Linwood; it is also used by virtually every age group of the neighbors and larger community surrounding the school, as described below. The picture above shows that this play space spans less than 1/6<sup>th</sup> of one block. In contrast, the picture below of Monroe school shows that the Linwood playground is tiny by comparison. See also Exhibit 4 showing the open space available at other area schools. The variances will reduce Linwood's open play space by approximately 40%, and moreover, the student population will be increased,

with the consequence that approximately 120-150 more students, or about 420-450 students total, will be vying for the smaller space. Furthermore, once the open play space is eliminated from the Linwood School site, it will be gone forever, regardless of any future programming changes made by SPPS after the current 10-year plan is obsolete.



Monroe (picture encompasses four blocks; Monroe school is one full block in the upper right hand corner; open space play area is one full block in the lower left hand corner)

SPPS has not considered alternatives that would mitigate the need for these variances, a fact that SPPS admitted to the Zoning and Land Use Committee (ZLU) of the Summit Hill Association. In a letter to the SHA Board concerning the ZLU's findings, Mr. Philip Wahlberg, at that time the chair of the ZLU Committee, stated "Upon questioning, it was clear that the district did not conduct a formal assessment of all options available to them to address their stated goals, nor were they able to present data to support their purported needs in several areas." See Exhibit 3 at 3 (Page 2 of Mr. Wahlberg's letter).

There are alternatives available to SPPS, including:

- Reducing the Linwood expansion by not moving either Pre-K or 4<sup>th</sup> grade.
- Moving students to another underutilized site, such as Galtier, a brand new multimillion dollar building, or Obama Elementary, which has a capacity of 928 students and enrollment of just 438.

- Building a new school at an existing SPPS site such as Albion Street (currently for sale by SPPS) or a new property such as 1050 Kent (an approach SPPS is using with Rivereast Academy)
- Expanding or renovating the upper school site at Monroe, both at the existing building and on the open lot.

#### 4. Applicable Law

Section 61.601 of the Saint Paul City Code states that the Board of Zoning Appeals and the Planning Commission shall have the power to grant variances from the strict enforcement of the provisions of this code upon a finding that:

- (a) The variance is in harmony with the general purposes and intent of the zoning code.
- (b) The variance is consistent with the comprehensive plan.
- (c) 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.
- (d) The plight of the landowner is due to circumstances unique to the property not created by the landowner.
- (e) The variance will not permit any use that is not allowed in the zoning district where the affected land is located.
- (f) The variance will not alter the essential character of the surrounding area. ...

In granting a variance, the board or commission shall make written findings stating the grounds upon which the variance is justified...

The relevant Minnesota statute governing variances contains similar requirements and states in relevant part:

Variances shall only be permitted when they are in harmony with the general purposes and intent of the ordinance and when the variances are consistent with the comprehensive plan. Variances may be granted when the applicant for the variance establishes that there are practical difficulties in complying with the zoning ordinance. "Practical difficulties," as used in connection with the granting of a variance, means that the property owner proposes to use the property in a reasonable manner not permitted by the zoning ordinance; the plight of the landowner is due to circumstances unique to the property not created by the landowner; and the variance, if

granted, will not alter the essential character of the locality. Economic considerations alone do not constitute practical difficulties.

Minn. Stat. § 462.357, subd. 6(2).

## 5. Factual Errors in the BZA Proceedings

The BZA Resolution granting the variances was based on unreliable evidence that includes at least the errors in fact described below.

First, the Staff Report (¶ C at 2) omits the decision by SPPS to move Pre-K and 4<sup>th</sup> grade from the Monroe school to the Linwood School. It selectively includes only the proposed improvements, and is silent concerning the addition of two new grades comprising 120-150 additional students.

Second, the Staff Report (¶ E – 1 at 2) states “[the] proposed addition is needed to match the height of the existing third floor.” In addition, the Staff Report (¶ E -3 at 4) states “...the height variance is needed to line up the new floor space with existing space on each of the three floors.” These statements make no sense and are not true. There is no inherent need to create a 3-story addition for the purpose of matching the height of the existing building. In addition, in its Variance Application on page 2, SPPS admits that a gym addition was built in 1965 and a kindergarten class building was added in 2008. Neither of these additions match the 3-story height of the original building.

Third, the Staff Report (¶ E-1 at 3) and the BZA Resolution at 2 state “Chapter 2.4 of the Comprehensive Plan encourages the development of a strategy for investing in a broad range of infrastructure projects that support the growth of existing schools.” The citation to Chapter 2.4 is confusing because the 2010 Comprehensive Plan is organized into various books that are named (e.g., Parks and Recreation, Land Use, and so forth) but not numbered as chapters. It is unclear what the Staff Report refers to.<sup>1</sup> We have found no references in the Comprehensive Plan that encourage a strategy of investment that support the growth of existing schools as stated in the Staff Report.

Fourth, the Staff Report (¶ F at 5) states “[as] of the date of this report, staff has not received a recommendation from District Council 16.” This is wrong. The District Council (Summit Hill Association aka SHA) submitted its recommendation to deny the variances on September 14, 2016.

Fifth, on page 10 of the Variance Application, the Applicant erroneously states that the “current north playfields have only been available for 3 years. It was formerly completely paved. The

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<sup>1</sup> We have asked the author of the Staff Report to clarify this issue. As of this writing we have not received an answer.

existing north playground is outdated.” This is wrong. First, the whole play area has been used as a playfield as long as the Appellants have lived here, 38 years for one of the authors of this appeal. Moreover, the north playground is not outdated. Many children from the school play there during recess, and on any given day, people from the neighborhood and beyond bring their children there to play.

Sixth, in its Environmental Assessment Worksheet (EAW) of October 10, 2016, SPPS states that it had reduced the height request of the variance from 50 feet to 47 feet in response to the neighborhood’s concern. In fact, there was no height reduction at all; SPPS had been wrong in its height calculation in its original request. SPPS does acknowledge, in a round-about way, that there was no real reduction of height by stating “[based] on a detailed survey of the property, we reduced our height variance request from 50’ to 47’.” See Variance Application at pages 72-73. Thus, after a formal survey, the height request was reduced, not the height of the building. This characterization of the so-called reduced height variance, which SPPS continued to espouse for many months, is erroneous at best, and disingenuous at worst.

## **6. Legal Errors in BZA Proceedings and Decision**

Applicants for a variance who seek to avoid strict enforcement of the Code must demonstrate that they satisfy the multifactor test according to the criteria labeled (a)-(f) in § 61.601. In this case, the SPPS has not met its burden of proof that it satisfies each and every one of the above criteria, labeled CRITERIA 1-6 in the Variance Application, and hence, it fails the multifactor test and there is no legal basis for the requested variances. Likewise, the BZA was in error in granting the variances.

### **6.1 CRITERION #1: The BZA erroneously found that the variance is in harmony with the general purposes and intent of the zoning code**

Section 60.103 of the Saint Paul Zoning Code states in relevant part the following:<sup>2</sup>

Sec. 60.103. - Intent and purpose.

This code is adopted by the City of Saint Paul for the following purposes:

- (a) To promote and to protect the public health, safety, morals, aesthetics, economic viability and general welfare of the community;
- (b) To implement the policies of the comprehensive plan;
- (e) To ensure adequate light, air, privacy and convenience of access to property;

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<sup>2</sup> Elements § 60.103(c), (d), (g), (h), (j)-(m), (o)-(t) do not apply to this appeal.

- (f) To facilitate the adequate provision of transportation, water, sewage disposal, education, recreation and other public requirements;
- (i) To encourage a compatible mix of land uses, at densities that support transit, that reflect the scale, character and urban design of Saint Paul's existing traditional neighborhoods;
- (n) To prevent the overcrowding of land and undue congestion of population;

The proposed variances do not meet CRITERION #1 because they are not in harmony with the general purposes and intent of the zoning code as specified in at least § 60.103(a), (b), (e), (f), (i), and (n).

In its findings of fact with respect to this criterion, the BZA Resolution at pages 1-3 incorporates word-for-word the language from the Staff Report at ¶ E-1 at 3.

First and foremost, the BZA did not present its findings for the individual elements of §60.103. As we demonstrate below, at least six elements are not met by the variances.

Second, as we have shown above in § 4, there are errors in fact in the Staff Report that apply to this criterion. See § 4 above (“Chapter 2.4 of the Comprehensive Plan encourages ...” and “[the] proposed addition is needed to match the height of the existing floor.”) The BZA incorporates the same language into its discussion of this criterion (CRITERION #1).

**6.1.1 The variances do not promote and protect the public health, safety, morals, aesthetics, economic viability and general welfare of the community according to § 60.103(a).**

In its resolution, the BZA is silent regarding this element of the Code and thus did not make required findings to justify the variance. The requested variances do not satisfy this element for at least the reasons given below.

This is a residential neighborhood of bungalow and foursquare homes with apartment buildings, 4- and 8-plexes, and duplexes sprinkled throughout. The scale and size of the neighborhood is reflected by the abundance of small to mid-sized single family homes, 2-story homes, and not the huge mansions that can be seen on Summit Ave.

A 47 to 62 foot building is out of keeping with the neighborhood. The aesthetics, size, scale, and siting of the building is inappropriate to the historic character of the neighborhood: the placement of the building at the edge of the western buildable line will narrow the view corridors and significantly decrease open space. A building of this size will also significantly increase shade on nearby homes, particularly in the winter when passive solar heat is important, and deep shade only increases home heating costs.



**6.1.2 The variances do not implement the policies of the comprehensive plan according to § 60.103(b)**

This issue is discussed below in Section 6.2.

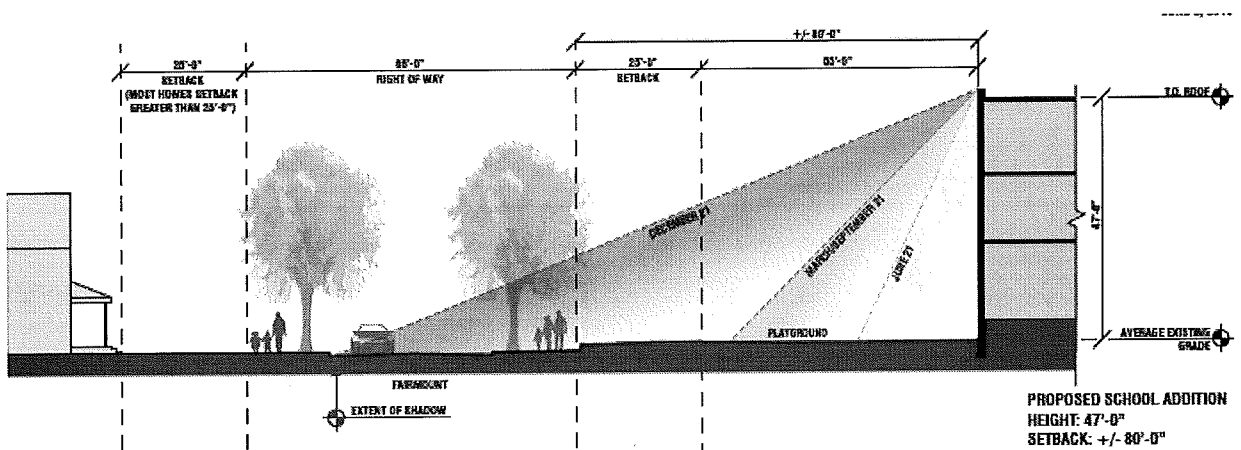
**6.1.3 The variances do not ensure adequate light, air, privacy and convenience of access to property according to § 60.103(e)**

In its resolution, the BZA is silent regarding this element of the Code and thus did not make required findings to justify the variance. The requested variances do not satisfy this element for at least the reasons given below.

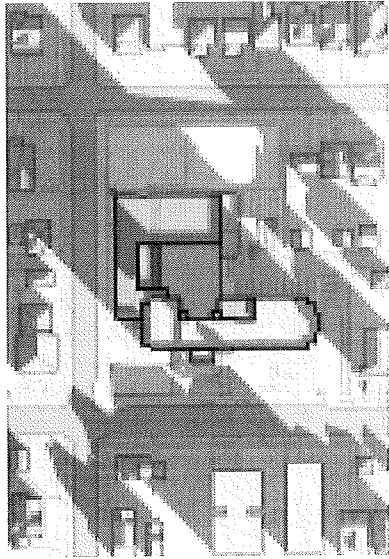
First, the proposed variances will significantly and negatively impact light due to the height of the proposed building, the reduced setback of 9 feet on the Oxford Street side, and overall massing of the new building.

The play space on the north side of the proposed addition and the homes surrounding the school will be significantly shaded during most of the school year, especially during the coldest winter months when passive solar heating is important. An illustration of the shading, taken from the Variance Application, is provided below.

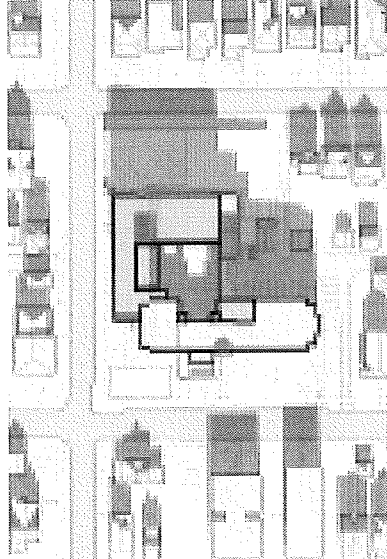
The picture below shows the shade on the playground for a range of times throughout the year. North is the left of the picture.



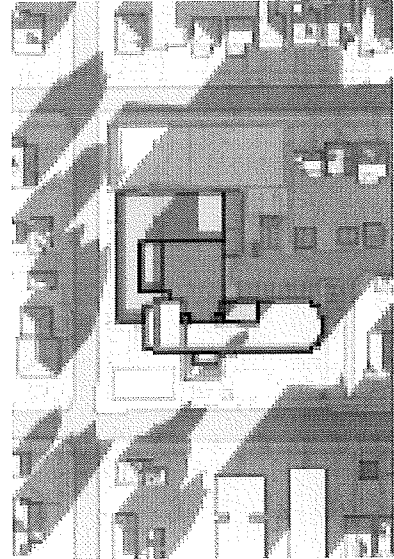
The series of three pictures below show the shade on the neighborhood on December 21<sup>st</sup>, the shortest day of the year, at 9AM, Noon, and 3PM, from left to right, respectively. North is at the top of the pictures.



December 21, 9AM



December 21, Noon



December 21, 3PM

Second, the height, massing, and reduced setback of the proposed building will negatively impact privacy of neighboring residential properties, which are predominantly 30' or less in height, by allowing greater visual access to upper floors and backyards due to added height over a much greater footprint than current.

**6.1.4 The variances do not facilitate the adequate provision of recreation according to § 60.103(f).**

In its resolution, the BZA is silent regarding this element of the Code and thus did not make required findings to justify the variance. The requested variances do not satisfy this element for at least the reasons given below.

First, the proposed addition to Linwood would convert a large portion of the existing playground park to a brick and mortar building addition. This park gets used daily—morning, afternoon, and most evenings—by kids and parents alike. Parents teach their kids how to ride a bike, how to throw a softball, how to use a bat, how to play soccer, how to shoot a basketball, and all manner of traditional family athletic games. Parents bring small children to play on the equipment and the bigger kids play with other kids in pick-up games of soccer, softball, hoops, etc. Kids ride their bikes and people walk their dogs. Linwood school children stay after school and play with and

without their parents. It is a family friendly place that gets lots of use during every month of the year. Moreover, is the only open play space within the pedestrian-friendly boundaries of Grand Avenue, Lexington Parkway, Dale Street, and St. Clair Avenue, and thus is a major meeting point for families who live in the neighborhood. The variance will eliminate this open space and replace it by a much smaller play area dwarfed by a large, three-story building.

Second, the Parks and Recreation document in the Comprehensive Plan in § 5.9 encourages the fostering of effective partnerships with private and other public organizations to offer recreation services by using a school for public recreation. The variances conflict with this policy because of the significant reduction of play space available to, and extensively used by, the public.

**6.1.5 The variances do not encourage a compatible mix of land uses, at densities that support transit that reflect the scale, character and urban design of Saint Paul's existing traditional neighborhoods according to § 60.103(i).**

In its resolution, the BZA is silent regarding this element of the code and thus did not make required findings to justify the variance. The requested variances do not satisfy this element for at least the reasons given below.

First, the new programming changes that are driving the variances will add an additional 120 to 150 students to Linwood, a density that will have a considerable impact on the transit, both with increased busing and with a significant increase in the car and pedestrian traffic caused by parents dropping off and picking up children.

Second, the proposed expansion will create an oversized institutional building not in keeping with the scale and character of the existing traditional neighborhood.

**6.1.6 The variances do not prevent the overcrowding of land and undue congestion of population according to § 60.103(n).**

In its resolution, the BZA is silent regarding this element of the Code and thus did not make required findings to justify the variance. The requested variances do not satisfy this element for at least the reasons given below.

First, the variances will contribute to the overcrowding of the land by adding the additional structure on an already small site of only one third of a city block.

Second, they will also contribute to crowding and undue congestion of the student population attending the school by increasing the number of students vying to use the open play space, which will have been reduced by almost 40%.

Third, the additional two grade levels SPPS proposes to add to the school will also add to a significant increase in bus and car traffic, as all but 6 or 8 students of the ~450 students are from outside the neighborhood and need transportation to and from the school. This creates congestion

and traffic for the surrounding neighborhood on the residential streets in the morning, when the students are dropped off, and then again in the afternoon when they are picked up to return home.

## **6.2 CRITERION #2: The BZA erroneously found that the variance is consistent with the comprehensive plan**

In its findings of fact with respect to this criterion, the BZA Resolution at page 3 incorporates word-for-word the language from the Staff Report at ¶ E-2 at 3-4.

First and foremost, the BZA provides no supporting evidence for its conclusions. Although the resolution refers to the City's Comprehensive Plan, it provides no citations to the sections it relied on. The BZA then states its finding after the conclusory statement "to construct a building addition large and tall enough to accommodate additional students ... is consistent with this vision of the Comprehensive Plan." The BZA's reasoning and bases for its findings are deficient and thus the BZA did not make required findings to justify the variance.

Second, as we have shown above in § 5, there are errors in fact in the Staff Report that apply to this criterion. See § 5 above ("Chapter 2.4 of the Comprehensive Plan encourages ..." and "[the] proposed addition is needed to match the height of the existing floor.") The BZA incorporates the same language into its discussion of this criterion (CRITERION #2).

The proposed variances conflict with the Comprehensive Plan in at least two areas as described below.

First, the proposed variances will *eliminate about 40%* of the publically accessible open space on the north side of the building, which eliminates about 40% of the green infrastructure. This conflicts with the Comprehensive Plan, which includes a strategy to extend green space and to increase the amount and distribution of green space to provide a public benefit. Parks and Recreation §§ 2.10 and 5.19.

Second, the destruction of the open space, a part of a natural eco-system and a critical element in the public realm, conflicts with the Comprehensive Plan's strategy to preserve and support open space as part of the natural eco-system and as a critical element in the public realm. See Comprehensive Plan - Land Use § 3.12.

## **6.3 CRITERION #3: The BZA erroneously found that 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.**

This criterion is critical to understanding how and why the BZA has erred in its findings. The BZA's resolution states two reasons for finding that this criterion is met.

First, in its resolution, with respect to this criterion, the BZA states that “the height variance is needed to line up the new floor space with existing space on each of the three floors.” As we pointed out in § 5, this is based on an error in fact. There is no inherent need to create a 3-story addition for the purpose of matching the height of the existing building. In addition, in its Variance Application on page 2, SPPS admits that a gym addition was built in 1965 and a kindergarten class building was added in 2008. Neither of these additions match the 3-story height of the original building. Construction technologies and techniques allow joining floors and mechanical elements at any floor level, not just the 3<sup>rd</sup> floor, which has driven the need for a height variance.

Second, the BZA, after explaining that the current layout of the school is inadequate and does not meet today’s standards, concludes that “[these] are practical difficulties in constructing a reasonable school addition without the requested variances.” This is wrong. Throughout these proceedings, the SPPS has implied that the Linwood School building cannot be modernized without also being expanded and that Linwood School is presently overcrowded. Neither proposition is supported by evidence and both are inaccurate. First, there is no contention that Linwood School is currently overcrowded with its present enrollment of slightly over 300 students. Indeed, the SPPS has conceded publicly at hearings before the Summit Hill Association Zoning and Land Use Committee and elsewhere that the forecasted enrollment increase is the result of SPPS’s desire to move pre-kindergarten and fourth grade students (120-165 students in total) from the larger school facility on Palace Avenue (Monroe Campus) at which they are presently enrolled, rather than circumstances beyond SPPS’s control. Moreover, SPPS representatives have conceded publicly in at least one hearing before the Summit Hill Association Zoning and Land Use Committee and elsewhere, that the existing Linwood School building can be modernized to comply with the Americans with Disabilities Act and to accommodate its existing enrollment without constructing the oversized addition to Linwood School that the current project proposal contemplates.

#### **6.4 CRITERION #4: The BZA erroneously found that the plight of the landowner is due to circumstances unique to the property not created by the landowner**

Criterion 4—that the plight of the landowner be due to circumstances unique to the property and not created by the landowner—is where the BZA decision most clearly departs from the requirements of the City Code and the relevant Minnesota statutory provisions. SPPS’s desire for a variance is due to the following factors, all of which are created by the SPPS’s programming desires (and thus are created by the landowner) and none of which are unique to the property:

- SPPS has chosen to move 2 grade levels from Monroe to Linwood, increasing the student population at Linwood by 120 to 150 students. This places six grade levels at Linwood, a 48,000 square foot building, and 4 grade levels at the much larger 148,000 square foot building at the Monroe building, which is three times larger than Linwood.

- SPPS has created its own plight by attempting to increase their building' population, program, and addition height and size beyond what the property will allow.
- The Linwood School Property is a typical piece of property that has been used as a functioning school for 90+ years, with no unique characteristics that make it challenging for a property owner to use.
- There is no need to enlarge this building to serve more students; the students are already being served at Monroe.
- The Linwood School Campus has the SMALLEST acreage of all the elementary schools in our City. The fact that the lot is too small for what SPPS would like to do now with the property by adding two additional grade levels is not a justification for a variance any more than a decision to build a high school on the lot would justify the variance. Instead, it merely highlights why the proposed addition is much too big for the lot and for the neighborhood and should be denied.
- There are alternatives that SPPS could explore that would mitigate its purported need for these variances. See e.g. § 3 above. SPPS has not considered alternatives, and has refused to sit down with the neighborhood to discuss them in good faith.

**6.5 CRITERION #5: The BZA found that the variances will not permit any use that is not allowed in the zoning district where the affected land is located**

The Appellants have no issue with this finding. This requirement is met.

**6.6 CRITERION #6: The BZA erroneously found that the variance will not alter the essential character of the surrounding area**

The variances, and the proposed development, will dramatically alter the essential character of the surrounding area. The proposed addition is out of scale, both in terms of height and massing, with the surrounding residential area. SPPS points out there are apartment buildings in the area, but the two across the street on Osceola are only 25 feet high and have appropriate setbacks. The two taller apartment buildings not in immediate proximity to Linwood, are oriented to face the side elevations of homes, rather than the fronts, which usually have more windows and are the dominant view for the homeowner.

The proposed addition height of 47 feet grows to 57 when the mechanical penthouse is added in, and 57 feet can grow to 62 when differences in lot grade are included. This height, of 57-62 will face Oxford Street with a reduced setback of 9 feet. Its height and close proximity will create a dominance that would be more appropriate in an area of higher density or a commercial district, not an R4 area of low density, single-family homes that surround the school on most of its four sides.

The addition's proposed height also impinges on the sunlight access and privacy of the close neighbors, by creating shading patterns on the homes on Oxford and Fairmount, and impinging

upon privacy due to “eyes on the street” as the SPPS calls the proposed addition’s windows. Yes, there would be “eyes on the street” and they would be looking in the windows and yards of the adjacent neighbors.

The aesthetics of the proposed addition are not in keeping with Linwood or the character of the neighborhood. The proposed design and fenestration are not in keeping with the original building and will be an eyesore that does not blend with the existing structure. If you look at the additions that were made to Linwood in the past, you might not even realize that the building had been added on to, so closely do they seamlessly blend with the style and materials of the school as it was originally built. Not so the elevations and drawings put forth by the SPPS whose designs and materials call attention to themselves and their shiny newness, rather than blending, as the previous changes did.

Lastly, the loss of the playground is a very significant loss to both the school children and the neighborhood, which uses it every day of the year. This is a playground that gets used morning, noon, and evening by children and people of all ages—from the school, from the neighborhood, and from parents that drive here from blocks away so their kids can play on the playground. Parents teach their kids how to play soccer, softball, basketball, and football here. Kids learn how to ride their first bike here. People meet new neighbors here as their kids play on the swings. In short, it is a community amenity that has served that purpose for some 95 years, and not, as the SPPS would have you believe, for just the last three years. This school and the playground are integral to the neighborhood. Most of the neighbors sent their kids there when it was a neighborhood school, have attended Linwood themselves in the case of the older neighbors, or tried to get their kids accepted there when it became a magnet school, which is almost impossible with the lottery and the fact that there is no neighborhood preference. But whether or not they or their children have attended Linwood, neighbors are passionate about the school and the playground because we all love what goes on there: it brings the neighborhood together and kids of all ages, shapes, and sizes get to learn and play there. Losing half the playground to the proposed addition will be depriving the children who attend Linwood of the vital space to play and exercise in what is already the smallest of all of SPPS elementary school playgrounds.

Based on the clear errors of fact, findings, and procedure by the BZA as set forth above, the proposed expansion of the Linwood School does not meet the elements of Section 61.601 of the Saint Paul City Legislative Code or Minnesota law. We respectfully request the City Council find in favor of the Appellants and deny the requested variances.

Sincerely,

1.	Val DiEuliis	1033 Fairmount Avenue	St. Paul, MN 55105
2.	Lynn DiEuliis	1033 Fairmount Avenue	St. Paul, MN 55105
3.	Alex Klass	990 Fairmount Avenue	St. Paul, MN 55105
4.	Lloyd Fjare	1037 Fairmount Avenue	St. Paul, MN 55105
5.	Dave Mc Manus	1004 Fairmount Avenue	St. Paul, MN 55105
6.	Kathy McManus	1004 Fairmount Avenue	St. Paul, MN 55105
7.	John Gehan	1008 Fairmount Avenue	St. Paul, MN 55105
8.	Nancy O'Brien Wagner	1049 Linwood Avenue	St. Paul, MN 55105
9.	David Wagner	1049 Linwood Avenue	St. Paul, MN 55105
10.	Natalie Hopfield	1027 Fairmount Avenue	St. Paul, MN 55105
11.	Kathryn Olmstead	1086 Linwood Avenue	St. Paul, MN 55105
12.	Kelly O'Kane	1007 Linwood Avenue	St. Paul, MN 55105
13.	Patrick Shal	1007 Linwood Avenue	St. Paul, MN 55105
14.	Tom Salonek	1061 Goodrich Avenue	St. Paul, MN 55105
15.	Harry Walsh	456 Summit Avenue #206	St. Paul, MN 55102
16.	Melissa Nonnemacher	1010 Fairmount Avenue	St. Paul, MN 55105
17.	Brian Uhlhorn	1010 Fairmount Avenue	St. Paul, MN 55105
18.	Cynthia Truitt	1011 Fairmount Avenue	St. Paul, MN 55105
19.	Tim Lynch	1011 Fairmount Avenue	St. Paul, MN 55105
20.	Kristin Hickman	935 Osceola Avenue	St. Paul, MN 55105
21.	Susan T Schuster	816 Portland Avenue	St. Paul, MN 55104
22.	Jason Goldberg	1052 Fairmount Avenue	St. Paul, MN 55105
23.	Shayne Blacksborg	1052 Fairmount Avenue	St. Paul, MN 55105
24.	Ken Schumann	1021 Fairmount Avenue	St. Paul, MN 55105
25.	Becca Pryse	1021 Fairmount Avenue	St. Paul, MN 55105
26.	Hugh Dillon	1058 Fairmount Avenue	St. Paul, MN 55105



27.	Dan Grundmeier	1000 Fairmount Avenue	St. Paul, MN 55105
28.	Cheri Kedrowski	1043 Goodrich Avenue	St. Paul, MN 55105
29.	Victor Barocas	1043 Goodrich Avenue	St. Paul, MN 55105
30.	Tim Oppenheim	1009 Fairmount Avenue	St. Paul, MN 55105
31.	Suzanne Farrell	1009 Fairmount Avenue	St. Paul, MN 55105
32.	Irene Pruzan (owner of)	1042-44 Fairmount Ave.	St. Paul, MN 55105
33.	Patrick Freeman (son-in-law caretaker of)	1042-44 Fairmount Ave.	St. Paul, MN 55105
34.	Sara Stedman	1008 Fairmount Avenue	St. Paul, MN 55105
35.	Nancy Scherer	1085 Lincoln Avenue	St. Paul, MN 55105
36.	Kevin Johnson	852 Holly Avenue	St. Paul, MN 55104
37.	Pamela Johnson	852 Holly Avenue	St. Paul, MN 55104
38.	Shirley E. Dufresne	1014 Fairmount Avenue	St. Paul, MN 55105
39.	Raphael E. Dufresne-Harden	6312 Nicollet Avenue S.	Richfield, MN 55423
40.	Todd Wichman	870 Osceola Avenue	St. Paul, MN 55105
41.	Susan Thompson	1037 Fairmount Avenue	St. Paul, MN 55105

# EXHIBIT 1

**CITY OF SAINT PAUL  
BOARD OF ZONING APPEALS RESOLUTION  
ZONING FILE NUMBER: 16-067184  
DATE: March 13, 2017**

WHEREAS, Nate Golin for Saint Paul Public Schools (SPPS) has applied for a variance from the strict application of the provisions of Section 66.231 & 66.232 of the Saint Paul Legislative Code pertaining to the maximum allowed building size and the maximum allowed building height. Two variances in order to construct an addition onto Linwood Monroe Arts Plus Lower Campus school building: 1) A building footprint occupying a maximum of 35% of the lot or 28,452 square feet is allowed, the proposed building would occupy 38.5% of the lot or 31,300 square feet for a variance of 3.5% or 2,848 square feet. 2) A building height of 30 feet is allowed, the proposed addition, at three stories, would be constructed to match the height of the existing classroom spaces of 47 feet for a height variance of 17 feet in the R4 zoning district at 1023 Osceola Avenue. PIN: 022823330034; and

WHEREAS, the Saint Paul Board of Zoning Appeals conducted a public hearing on February 13, 2017 pursuant to said application in accordance with the requirements of Section 61.601 of the Legislative Code; and

WHEREAS, the Saint Paul Board of Zoning Appeals based upon evidence presented at the public hearing, as substantially reflected in the minutes, made the following findings of fact:

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

This property is located in a National Register Historic District that is not in a locally designated district. However, under Minnesota Statute 116D.04, permits for any exterior work including the demolition or partial demolition of a building or structure on the property, cannot be issued until Heritage Preservation staff has determined if the proposed work requires completion of an Environmental Assessment Worksheet (EAW). A determination was made that an EAW was required for this project. An EAW was filed with the Minnesota Environmental Quality Board (EQB) on October 3, 2016 and circulated for review and comment to all parties on the Minnesota Environmental Review Program distribution list on October 6, 2016. A Notice of Availability of the EAW was published in the EQB Monitor and posted on the Saint Paul Early Notification System on October 10, 2016. The thirty-day public comment period ended November 9, 2016. The Findings of Fact and Record of Decision was completed on February 2, 2017.

The Findings of Fact and Record of Decision identifies two mitigation requirements. These are: 1) the completion of a traffic study documenting existing traffic volumes and planned operations at the school; and 2) archival photographic documentation of the existing building prior to any demolition activities, completion and submission to the State Historic Preservation Office (SHPO) of a *Minnesota Architecture-History Form* for the site, and a requirement that the finished building be consistent with the design submitted to SHPO by

the project proposer's representatives on January 10, 2017. Compliance with these mitigation requirements should be conditions of approval of the requested variances.

Linwood Monroe Arts Plus (LMAP) is a public magnet school for Pre-K thru 8<sup>th</sup> grade students. The program is currently divided between two campuses consisting of Linwood Lower (K thru 3<sup>rd</sup> grade) and Monroe Upper (Pre-K, ECFE and 4<sup>th</sup> thru 8<sup>th</sup> grades).

This site is Linwood Lower Campus, an Elementary School building constructed in 1922, which according to the applicant, is no longer suitable to accommodate the needs of today's elementary education due to its relatively small size. The space limitation resulted in a number of activities including gym, performances and meals taking place in the same gathering space and the Pre-K, 4<sup>th</sup> and 5<sup>th</sup> grades being housed in the Linwood Upper Campus a few miles away. This building accommodates grades K thru 3<sup>rd</sup> grade only.

In order to provide an adequate learning environment that would meet the education needs of the students and staff, the applicant is proposing to construct a building addition, additional parking on the east side of the existing building and other site amenities including playgrounds as shown on the submitted site and elevation plans. However, this proposal cannot be accomplished without the following variances: 1) A building footprint occupying a maximum of 35% of the lot or 28,452 square feet is allowed, the proposed building would occupy 38.5% of the lot or 31,300 square feet for a variance of 3.5% or 2,848 square feet. 2) A building height of 30 feet is allowed, the proposed addition, at three stories, would be constructed to match the height of the existing classroom spaces of 47 feet for a height variance of 17 feet.

The proposed addition is needed to match the height of the existing third floor. This school addition would be designed to mirror the height of existing elements, which vary between 46.6 feet and 52.3 feet, although the height of the new addition would not exceed 47 feet. Furthermore, the new addition would address accessibility concerns by raising the grading up around the addition 2 to 3 feet. This would also improve the height consistency around the school.

The proposed building addition would accommodate the transferring of programs Pre-K and 4<sup>th</sup> grade, which are currently located in the Monroe Upper Campus. According to the applicant, this proposal would create a better learning environment as it would allow similar-aged peer groups together in one building.

Chapter 2.4 of the Comprehensive Plan encourages the development of a strategy for investing in a broad range of infrastructure projects that support the growth of existing schools. The intent and purpose of the zoning code is to implement the policies of the Comprehensive Plan. The requested variances to allow the proposed school addition are

consistent with the above stated purpose and intent of the zoning code. This finding is met for both requested variances.

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

The City's Comprehensive Plan recognizes that economic sustainability is driven by quality schools which, as well as unique amenities, attract new populations while redevelopment renews the built environment. The request to construct a building addition large and tall enough to accommodate additional students and provide a better learning environment for both the staff and students is consistent with this vision of the Comprehensive Plan. This finding is met for both 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.*

The proposed three-story building addition is intended to meet the school's educational needs and the height variance is needed to line up the new floor space with existing space on each of the three floors. However, the 30-foot height limit for all buildings in this zoning district prevents an addition that matches the existing building height without a variance.

With the current layout of this school, a number of activities occur in the same space: gym, performances and meals. Additionally, the current layout of the existing classrooms, common areas and student services are inadequate and do not meet today's educational standards. These are practical difficulties in constructing a reasonable school addition without the requested variances. This finding is met for both requested variances.

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

The lack of adequate floor space and the height of the existing classroom space on the third floor of this building, which the applicant is trying to match, are circumstances unique to the property not created by the landowner. This finding is met for both requested variances.

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

A school is a permitted use in this zoning district and the requested variances if approved will not change the zoning classification of the property. This finding is met for both requested variances.

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

The new structure will complement the existing Linwood Elementary School building architecture. Care was taken in designing the building to address character and visual concerns. In order to reach this goal, the building was designed to mirror the height of existing elements, which vary between 46.6 feet and 52.3 feet. The proposed building will not detract from the residential character of the area. This finding is met for both requested variances.

NOW, THEREFORE, BE IT RESOLVED, by the Saint Paul Board of Zoning Appeals that the provisions of Section 66.231 & 66.232 are hereby waived to allow 1) A building footprint of 38.5% of the lot or 31,300 square feet for a variance of 3.5% or 2,848 square feet. 2) A building height of 47 feet for a height variance of 17 feet, ***subject to the following conditions: 1) The proposed building addition is constructed as shown on the plans submitted with this application. 2) The site development complies with the mitigation plan to complete a traffic study documenting existing traffic volumes and planned operations at the school. 3) Archival photographic documentation must be obtained for the existing building prior to any demolition activities, which must be completed and submitted to the State Historic Preservation Office (SHPO) on a Minnesota Architecture-History Form for the site. 4) The finished building be consistent with the design submitted to SHPO by the project proposer's representatives on January 10, 2017,*** on property located at 1023 Osceola Avenue; and legally described as Samuel B Piercesenlargement Lots 1o Thru 2o And Ex E 22 Ft For Alley Lot 21 And Vac Alley S Of And Adj Sd Lots 1o Thru Lot 14 Blk 2; in accordance with the application for variance and the site plan on file with the Zoning Administrator.

**MOVED BY:** Maddox  
**SECONDED BY:** Miller  
**IN FAVOR:** 4  
**AGAINST:** 1

**MAILED:** March 13, 2017

**TIME LIMIT:** No decision of the zoning or planning administrator, planning commission, board of zoning appeals or city council approving a site plan, permit, variance, or other zoning approval shall be valid for a period longer than two (2) years, unless a building permit is obtained within such period and the erection or alteration of a building is proceeding under the terms of the decision, or the use is established within such period by actual operation pursuant to the applicable conditions and requirements of the approval, unless the zoning or planning administrator grants an extension not to exceed one (1) year.

**APPEAL:** Decisions of the Board of Zoning Appeals are final subject to appeal to the City Council within 10 days by anyone affected by the decision. Building permits shall not be issued after an appeal has been filed. If permits have been issued before an appeal has been filed, then the permits are suspended and construction shall cease until the City Council has made a final determination of the appeal.

**CERTIFICATION:** I, the undersigned Secretary to the Board of Zoning Appeals for the City of Saint Paul, Minnesota, do hereby certify that I have compared the foregoing copy with the original record in my office; and find the same to be a true and correct copy of said original and of the whole thereof, as based on approved minutes of the Saint Paul Board of Zoning Appeals meeting held on February 13, 2017 and on record in the Department of Safety and Inspections, 375 Jackson Street, Saint Paul, Minnesota.

**SAINT PAUL BOARD OF ZONING APPEALS**

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**Debbie M. Crippen**  
**Secretary to the Board**

## EXHIBIT 2



**BOARD OF ZONING APPEALS STAFF REPORT**  
=====

**TYPE OF APPLICATION:** Major Variance **FILE #**16-067184

**APPLICANT:** NATE GOLIN, for Saint Paul Public Schools (SPPS)

**HEARING DATE:** February 13, 2017

**LOCATION:** 1023 OSCEOLA AVENUE

**LEGAL DESCRIPTION:** Samuel B Piercesenlargement Lots 1o Thru 2o And Ex E 22 Ft For Alley Lot 21 And Vac Alley S Of And Adj Sd Lots 1o Thru Lot 14 Blk 2

**PLANNING DISTRICT:** 16

**PRESENT ZONING:** R4

**ZONING CODE REFERENCE:** 66.231 & 66.232

**REPORT DATE:** February 9, 2017 **BY:** Sean Westenhofer

**DEADLINE FOR ACTION:** April 3, 2017

**DATE RECEIVED:** August 8, 2016

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A. **PURPOSE:** Two variances in order to construct an addition onto Linwood Monroe Arts Plus Lower Campus school building: 1) A building footprint occupying a maximum of 35% of the lot or 28,452 square feet is allowed, the proposed building would occupy 38.5% of the lot or 31,300 square feet for a variance of 3.5% or 2,848 square feet. 2) A building height of 30 feet is allowed, the proposed addition, at three stories, would be constructed to match the height of the existing classroom spaces of 47 feet for a height variance of 17 feet.

B. **SITE AND AREA CONDITIONS:** This is a 1.81-acre parcel with a T-shaped alley leading to off-street parking on the east side of the building.

Surrounding Land Use: The immediate area consists of apartment buildings to the south, single family dwellings to the north and east and a 5-unit building and the St. Paul Tennis Club to the west.

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C. **BACKGROUND:**

The proposed school expansion is part of Saint Paul Public Schools (SPPS) Facilities

Master Plan (FMP) project, which covers 72 facilities. This plan intends to address needed improvements of existing SPPS facilities with a goal to provide cost-effective strategies that would allow the buildings to be brought to modern standards suitable for the ever evolving learning needs of the students over the next decade.

#### D. ZONING CODE CITATION:

**66.232. Maximum lot coverage.** In residential districts, principal buildings shall not cover more than thirty-five (35) percent of any zoning lot. For R1-R4 residential districts in planning districts 14 and 15, excluding property with local heritage preservation site or district designation, the total lot coverage of all buildings, including accessory buildings, shall not exceed forty (40) percent.

**66.231.** Residential District Dimensional Standards table allows a maximum building height of 30 feet.

#### E. FINDINGS:

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

This property is located in a National Register Historic District that is not in a locally designated district. However, under Minnesota Statute 116D.04, permits for any exterior work including the demolition or partial demolition of a building or structure on the property, cannot be issued until Heritage Preservation staff has determined if the proposed work requires completion of an Environmental Assessment Worksheet (EAW). A determination was made that an EAW was required for this project. An EAW was filed with the Minnesota Environmental Quality Board (EQB) on October 3, 2016 and circulated for review and comment to all parties on the Minnesota Environmental Review Program distribution list on October 6, 2016. A Notice of Availability of the EAW was published in the EQB Monitor and posted on the Saint Paul Early Notification System on October 10, 2016. The thirty-day public comment period ended November 9, 2016. The Findings of Fact and Record of Decision was completed on February 2, 2017.

The Findings of Fact and Record of Decision identifies two mitigation requirements. These are: 1) the completion of a traffic study documenting existing traffic volumes and planned operations at the school; and 2) archival photographic documentation of the existing building prior to any demolition activities, completion and submission to the State Historic Preservation Office (SHPO) of a *Minnesota Architecture-History Form* for the site, and a requirement that the finished building be consistent with the design submitted to SHPO by the project proposer's representatives on January 10, 2017. Compliance with these mitigation requirements should be conditions of approval of the requested variances.

Linwood Monroe Arts Plus (LMAP) is a public magnet school for Pre-K thru 8<sup>th</sup> grade students. The program is currently divided between two campuses consisting

of Linwood Lower (K thru 3<sup>rd</sup> grade) and Monroe Upper (Pre-K, ECFE and 4<sup>th</sup> thru 8<sup>th</sup> grades).

This site is Linwood Lower Campus, an Elementary School building constructed in 1922, which according to the applicant, is no longer suitable to accommodate the needs of today's elementary education due to its relatively small size. The space limitation resulted in a number of activities including gym, performances and meals taking place in the same gathering space and the Pre-K, 4<sup>th</sup> and 5<sup>th</sup> grades being housed in the Linwood Upper Campus a few miles away. This building accommodates grades K thru 3<sup>rd</sup> grade only.

In order to provide an adequate learning environment that would meet the education needs of the students and staff, the applicant is proposing to construct a building addition, additional parking on the east side of the existing building and other site amenities including playgrounds as shown on the submitted site and elevation plans. However, this proposal cannot be accomplished without the following variances: 1) A building footprint occupying a maximum of 35% of the lot or 28,452 square feet is allowed, the proposed building would occupy 38.5% of the lot or 31,300 square feet for a variance of 3.5% or 2,848 square feet. 2) A building height of 30 feet is allowed, the proposed addition, at three stories, would be constructed to match the height of the existing classroom spaces of 47 feet for a height variance of 17 feet.

The proposed addition is needed to match the height of the existing third floor. This school addition would be designed to mirror the height of existing elements, which vary between 46.6 feet and 52.3 feet, although the height of the new addition would not exceed 47 feet. Furthermore, the new addition would address accessibility concerns by raising the grading up around the addition 2 to 3 feet. This would also improve the height consistency around the school.

The proposed building addition would accommodate the transferring of programs Pre-K and 4<sup>th</sup> grade, which are currently located in the Monroe Upper Campus. According to the applicant, this proposal would create a better learning environment as it would allow similar-aged peer groups together in one building.

Chapter 2.4 of the Comprehensive Plan encourages the development of a strategy for investing in a broad range of infrastructure projects that support the growth of existing schools. The intent and purpose of the zoning code is to implement the policies of the Comprehensive Plan. The requested variances to allow the proposed school addition are consistent with the above stated purpose and intent of the zoning code. This finding is met for both requested variances.

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

The City's Comprehensive Plan recognizes that economic sustainability is driven by quality schools which, as well as unique amenities, attract new populations while redevelopment renews the built environment. The request to construct a building

addition large and tall enough to accommodate additional students and provide a better learning environment for both the staff and students is consistent with this vision of the Comprehensive Plan. This finding is met for both 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.*

The proposed three-story building addition is intended to meet the school's educational needs and the height variance is needed to line up the new floor space with existing space on each of the three floors. However, the 30-foot height limit for all buildings in this zoning district prevents an addition that matches the existing building height without a variance.

With the current layout of this school, a number of activities occur in the same space: gym, performances and meals. Additionally, the current layout of the existing classrooms, common areas and student services are inadequate and do not meet today's educational standards. These are practical difficulties in constructing a reasonable school addition without the requested variances. This finding is met for both requested variances.

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

The lack of adequate floor space and the height of the existing classroom space on the third floor of this building, which the applicant is trying to match, are circumstances unique to the property not created by the landowner. This finding is met for both requested variances.

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

A school is a permitted use in this zoning district and the requested variances if approved will not change the zoning classification of the property. This finding is met for both requested variances.

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

The new structure will complement the existing Linwood Elementary School building architecture. Care was taken in designing the building to address character and visual concerns. In order to reach this goal, the building was designed to mirror the height of existing elements, which vary between 46.6 feet and 52.3 feet. The proposed building will not detract from the residential character of the area. This finding is met for both requested variances.

- F. **DISTRICT COUNCIL RECOMMENDATION:** As of the date of this report, staff has not received a recommendation from District Council 16.
- G. **CORRESPONDENCE:** Staff received 27 letters and emails in support and 13 in opposition to the requested variances. Also, staff received petitions: 1100 signatures in support and 163 in opposition to the requested variances.
- H. **STAFF RECOMMENDATION:** Based on findings 1 through 6, staff recommends approval of the requested variances subject to the following conditions: 1) The proposed building addition is constructed as shown on the plans submitted with this application. 2) The site development complies with the mitigation plan to complete a traffic study documenting existing traffic volumes and planned operations at the school. 3) Archival photographic documentation must be obtained for the existing building prior to any demolition activities, which must be completed and submitted to the State Historic Preservation Office (SHPO) on a *Minnesota Architecture-History Form* for the site. 4) The finished building be consistent with the design submitted to SHPO by the project proposer's representatives on January 10, 2017.

# EXHIBIT 3

# Summit Hill Association

District 16 Planning Council  
860 Saint Clair Avenue  
Saint Paul, Minnesota 55105  
Telephone 651-222-1222  
[www.summithillassociation.org](http://www.summithillassociation.org)  
[info@summithillassociation.org](mailto:info@summithillassociation.org)

September 14, 2016

Dear Board of Zoning Appeals  
**RE: 1023 Osceola Avenue, Variance Request**

I am writing in regards to the variance request for 1023 Osceola Avenue. The applicant is requesting two variances;

1. A building lot coverage variance to allow for a total of 39.5% lot coverage. The total allowable building lot coverage allowed by the zoning code is a maximum of 35%.
2. An overall building height variance to allow for a total building height of 47' as calculated by the code. The total allowable building height allowed by the zoning code is a maximum of 30'.

This item was heard in front of our Zoning and Land Use Committee on 09/06/2016, and recommended denial of both variances for failing to meet the appropriate criteria for a variance. That recommendation was then brought to our full board on 09/08/2016 and upheld as the decision of the full board with a vote of 13 in favor of denying the variances and 1 opposed.

The applicant was on hand to present to our full board, as well as answer some questions from board members in regards to the project. There were also a number of members of the community present during the meeting in opposition of the proposed variances. Please take note of the attached summary of the Summit Hill Associations Zoning and Land Use Committee attached for additional background information and the full recommendation and grounds for denial of the proposed variance requests.

Please note that the SHA and Community Members have been very active in following this matter since it first appeared in front of our board earlier this year, forming a working group with stakeholders, holding and encouraging the school district to hold neighborhood meetings, and working to allow for adequate neighborhood notice and response times to the issue. There has been information presented that would purport that we were made aware of changes to the Linwood School campus earlier in the planning process, which neither our staff, board, or majority of residents of the neighborhood would consider accurate. The SHA has encouraged, and continues to encourage additional time, planning and consideration of alternatives to the project that may better fit within the context of the neighborhood, zoning ordinances, and/or variance guidelines.

Thank you for your time and consideration in this matter.

Sincerely,  
Philip Wahlberg  
Chair, SHA Zoning and Land Use Committee

Cc: Yaya Diatta BZA-LIEP staff, City of St. Paul / Tom Parent Facilities Director, St. Paul Public Schools / Rebecca Noecker Ward 2 Councilmember, St. Paul City Council / SHA Board and Staff

# Summit Hill Association

To: SHA – District 16 Planning Council Board of Directors  
From: Philip Wahlberg, ZLU Committee Chair  
Date: September 7, 2016  
Re: 1023 Osceola Avenue, SPPS Linwood-Monroe Lower School Campus, Variance Requests

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Comments: The SHA Zoning and Land Use Committee held a meeting on Tuesday September 6, 2016 in regards to the variance requests for the Linwood-Monroe Lower School Campus located at 1023 Osceola Avenue. Below is a cursory summary of the meeting on Tuesday and includes many highlights, but is not exhaustive of all the points raised during the discussion or considered by the committee.

There was a presentation on behalf of the applicant, to introduce the project, by representatives of the SPPS district, as well as members of their architecture firm U+B Architecture. There were also approximately 30 members of the community present to voice their objections to the proposed variance requests.

The variances requested are as follows.

1. A building lot coverage variance to allow for a total of 39.5% lot coverage. The total allowable building lot coverage allowed by the zoning code is a maximum of 35%.
2. An overall building height variance to allow for a total building height of 47' as calculated by the code. The total allowable building height allowed by the zoning code is a maximum of 30'.

There were a number of questions from the ZLU committee to the applicant to discuss concerns, as well as points of discussion brought up by some of the attending members of the community including, but not limited to;

1. What type of analysis was done to look at alternate sites for the program; the district's rationale for proceeding with the same upper and lower-school campus sites for the school, and whether the rationale was justified in light of other possible locations and configurations, including the idea of a possible expansion at the larger upper-school campus site.
2. Whether or not the accessibility concerns could be dealt with without the full expansion.
3. What the overall mass of the proposed structure would be in comparison to the existing structure/allowable structure under the code requirements.
4. What the school's reasoning was for bringing the additional grades (PK and 4<sup>th</sup>) to the school, and how that is affecting the expansion.
5. The useable space of the playgrounds and sports fields.
6. How this proposal was similar or different than other variance requests made by schools in residential districts
7. How the expansion may affect traffic and parking in the area before, during and after school hours.
8. How the historic designation of the structure and/or district may affect the proposal and the need for the variances.
9. How the school districts changes in their proposal from the original variance request in March of this year.
10. What projected enrollment would be vs. current with the proposed expansions, and how many students were enrolled from the neighborhood vs. other areas of the city.
11. What the projected cost was for the proposed expansion and how it would be funded.

There was survey of hands to ascertain if there was anyone in the audience present that supported the project, or interested in speaking in favor of the project other than the project representatives, and nobody came forward in favor.

This variance request is to be analyzed based on 6 criteria found in the zoning code, which are as follows;  
Criteria #1 – The variance is in harmony with the general purpose and intent of the zoning code  
Criteria #2 – The variance is consistent with the Comprehensive Plan

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Criteria #3 – The applicant has established that there are practical difficulties 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.

Criteria #4 – The plight of the landowner is due to circumstances unique to the property not created by the landowner

Criteria #5 – The variance will not permit any use that is not allowed in the zoning district where affected land is located

Criteria #6 – The variance will not alter the essential character of the surrounding area

After deliberation, there was a motion to deny the variance requests based on Criteria 1, 2, 3, 4 and 6.

Criteria #1 – This finding is not met, as the scale of the proposal is not consistent with low-density residential neighborhood and a clear case was not made that stated goals of the proposed expansion could not be met without the expansion as clarified below;

- Under the “Intent and Purpose (A)” of the zoning code: “To promote and protect the public health, safety, morals, aesthetics, economic viability and general welfare of the community,” the applicants did not create a case that the issues they identified around accessibility, service vehicles maneuvering, educational, and mechanical system upgrades could not be accomplished without the proposed expansion, nor was data presented to support more subjective representations about adequacy of the existing space regardless of whether or not an expansion occurred. Upon questioning, it was clear that the district did not conduct a formal assessment of all options available to them to address their stated goals, nor were they able to present data to support their purported needs in several areas.
- Under the “Intent and Purpose (B)” of the zoning code: “To implement the policies of the Comprehensive Plan,” the applicants referred to the previous section, which as noted above not only did not present a cogent or compelling case for applicability, but did not address any specific areas of the Comprehensive Plan. If anything, it subverts several stated strategies and sub-strategies, e.g., Land Use Strategy 3 “Promote Aesthetics and Development Standards;” and several strategies and sub-strategies within the Historic Preservation section.
- Under the “Intent and Purpose (C)” of the zoning code: “To classify all property in such manner as to encourage the most appropriate use of land throughout the city,” 1023 Osceola is zoned R4, which is defined as “one-family residential districts [that] provide for an environment of predominantly low-density, one-family dwellings.” While “civic and institutional uses, public services and utilities that serve the residents in the districts” are specifically allowed, they are subject to the same height and lot coverage restrictions as housing. It is the zoning district’s intent that institutions in residential districts match the scale of the residential character of the district. The large scale of the proposed addition is representative of a higher density or commercial district.
- Under the “Intent and Purpose (E)” of the zoning code: “To ensure adequate light, air, privacy and convenience of access to property,” this proposed expansion would significantly and negatively impact light due to its height, small setbacks and overall massing; negatively impact privacy of neighboring residential properties, which are predominantly 30’ or less in height, by allowing greater visual access to upper floors and backyards due to added height over a much greater footprint than current; and limit access to the community of valued and highly-utilized recreational and green space that would be significantly reduced.
- Under the “Intent and Purpose (F)” of the zoning code: “To facilitate the adequate provision of transportation, water, sewage disposal, recreation and other public requirements.” This proposed expansion would actually create greater traffic congestion and reduce parking for residents in the neighborhood; potentially increase issues with drainage and runoff that would negatively impact surrounding residential properties and strain existing public resources (and potentially require a greater public investment in improvements to accommodate the proposed changes to this site due to increased usage); and demonstrably limit a valued recreational resource for the surrounding community.
- Under the “Intent and Purpose (G)” of the zoning code: “To lessen congestion of the public streets by providing off-street parking of motor vehicles and for off-street loading and unloading of commercial vehicles,” while more off-street parking has been provided, this would actually increase congestion by not providing for off-street loading/unloading of school buses and would, in fact, eliminate some current on-street parking serving the residents. Moreover, the increased usage that would result from more staff, parents and other stakeholders would increase traffic in an area which was not designed for such intensity of use.
- Under the “Intent and Purpose (H)” of the zoning code: “To provide for safe and efficient circulation of all modes of transportation, including transit, pedestrian and bicycle traffic,” as

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noted above, this proposal would actually add to congestion and present greater safety issues, as well, by cutting off existing sight lines in a dense residential area due to the lot coverage, height and overall massing of the proposed expanded building.

- Under the “Intent and Purpose (I)” of the zoning code: “To ensure a compatible mix of land uses, at densities that support transit, that reflect the scale, character and urban design of Saint Paul’s existing traditional neighborhoods,” the proposed expansion completely subverts this intent with a building that is completely out of scale with the existing residential neighborhood, and which is out of character with the nature of this state-designated historic district in almost all respects other than preserving a single façade.
- Under the “Intent and Purpose (L)” of the zoning code: “To conserve and improve property values,” there is little doubt that allowing a building that looms over surrounding residences, blocking light and sight lines, while eliminating valued recreational and community-building amenities, will negatively impact property values and destabilize this established, historic neighborhood.
- Under the “Intent and Purpose (M)” of the zoning code: “To protect all areas of the city from harmful encroachment by incompatible uses,” the incompatibility lies not with the fundamental use of this site for educational purposes, but by unnecessarily forcing a much more intense use of what is the smallest school site in the St. Paul School District than was ever intended when several other options exist that weren’t formally considered and analyzed which would likely be a better current and future fit for the district’s stated goals.
- Under the “Intent and Purpose (N)” of the zoning code: “To prevent the overcrowding of land and undue congestion of the population,” as stated in several sections above, this is an overly-intensive proposed use of a site which was never intended to support it, with several permanent negative impacts which override the limited—and often unsupported by data—benefits suggested by the school district.
- Under the “Intent and Purpose (O)” of the zoning code: “To fix reasonable standards to which buildings, structures and uses shall conform,” as stated earlier, there is nothing to prevent the school district from upgrading the facilities without engaging in this expansion.

Criteria #2 –This finding is not met due to the requirement of an EAW to be completed prior to the approval of the variances. (It should be noted that the city has since delayed the BZA hearing on the matter)

Criteria #3 – This finding is not met, as by exceeding the limits of the property in *both* lot coverage and height, the increases are magnified volumetrically. It is the feeling that the amount of building and occupants of the building would be too great for the size of the site.

Criteria #4 – This finding is not met, as the applicants own design and desire for expanded programing is the basis for the variance.

Criteria #6 – This finding is not met, as the building mass that will be created in the middle of a largely single family residential area will be out of scale and character with the surrounding neighborhood.

This motion passed with a vote of 5-0 in favor of denying the requested variances. This decision will be presented to the full board at the meeting on Thursday September 8, 2016. The full board will be asked to vote on the matter, whose decision will then be sent forth to the city staff and Board of Zoning Appeals for their consideration.

It should be noted, that the SPPS is currently in the process of completing an EAW (Environmental Assessment Worksheet) that will have a public comment period after that report is completed. The neighborhood, as well as the SHA, will have an opportunity to review and comment on that report once it is made available. The City and SPPS have, as of Wednesday, agreed to delay the BZA hearing until after the EAW process has been completed.

It was noted at the meeting last night that there would be limited time for presentation and comment on this matter at the full board meeting, so that the board was able to address other community matters as well. It is asked that board members please take the time to review this decision, as well as the supporting documentation that has been supplied from staff regarding the submittal from the applicant, as well as the information from the neighborhood that has been received. If there are any questions in regards to the ZLU’s decision or the variance requests being considered in front of the board please let me know.

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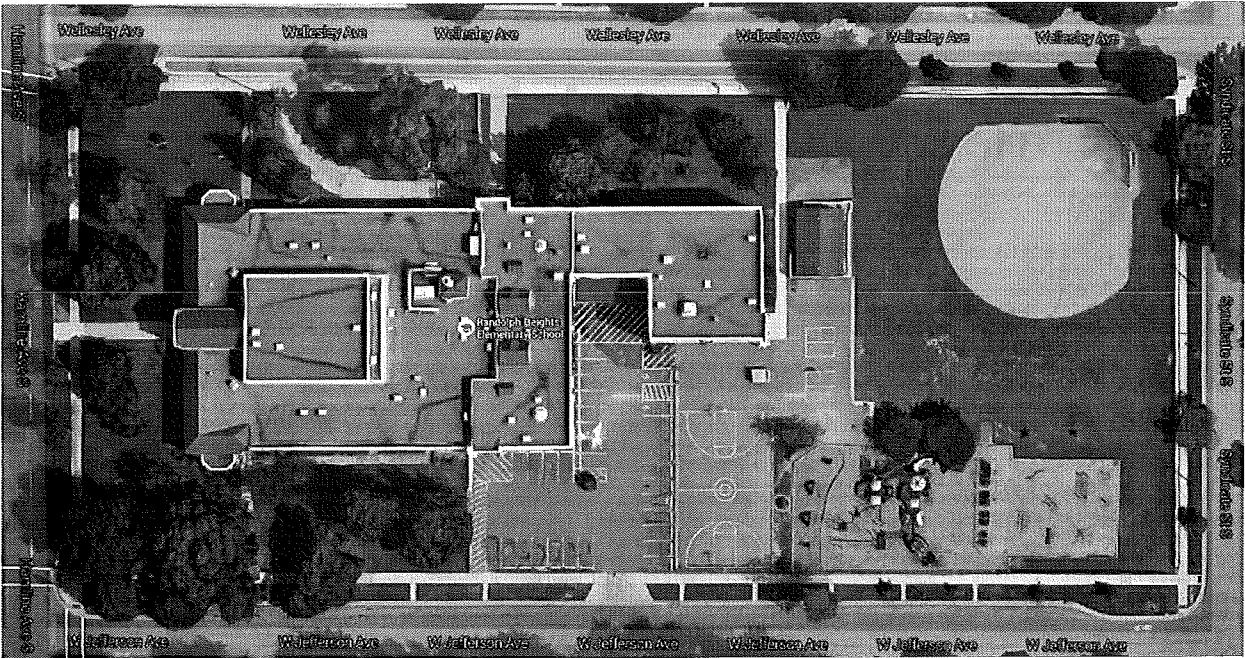
# EXHIBIT 4



Linwood (picture is full block; school site is approximately 1/3<sup>rd</sup> of a block; open space play area is less than 1/6<sup>th</sup> block; the proposed addition will reduce the open space play area to less than 1/10<sup>th</sup> of a block)



Monroe (picture is four blocks; Monroe school is one block; open space play area is full block)

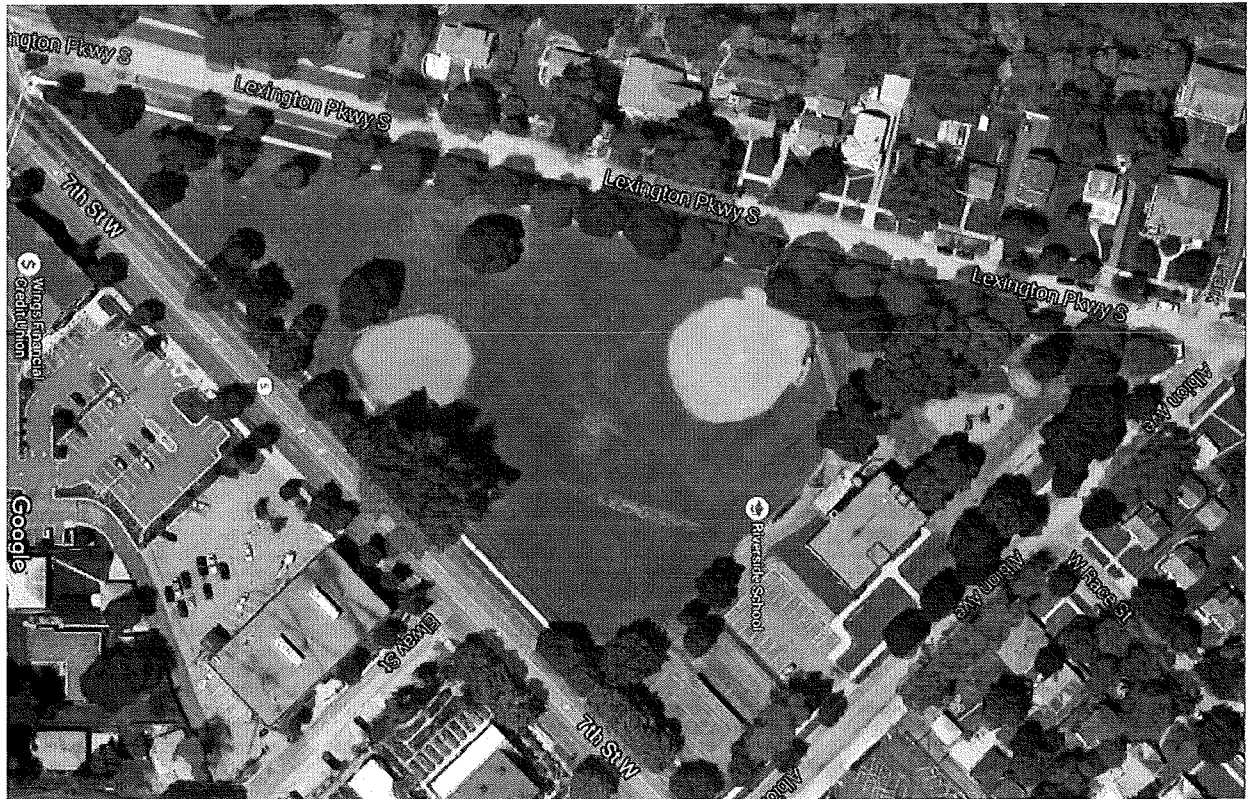


Randolph Heights (picture is a full block; school fills full block; open space play area approximately 1/3<sup>rd</sup> block)

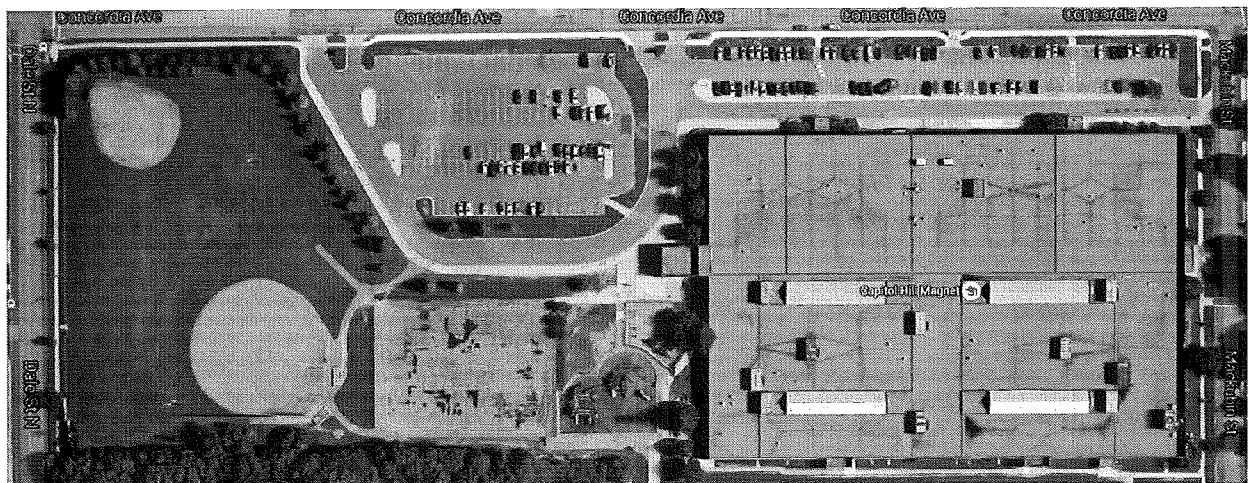


Saint Paul Academy (multi-block expanse; open space area multi-block)

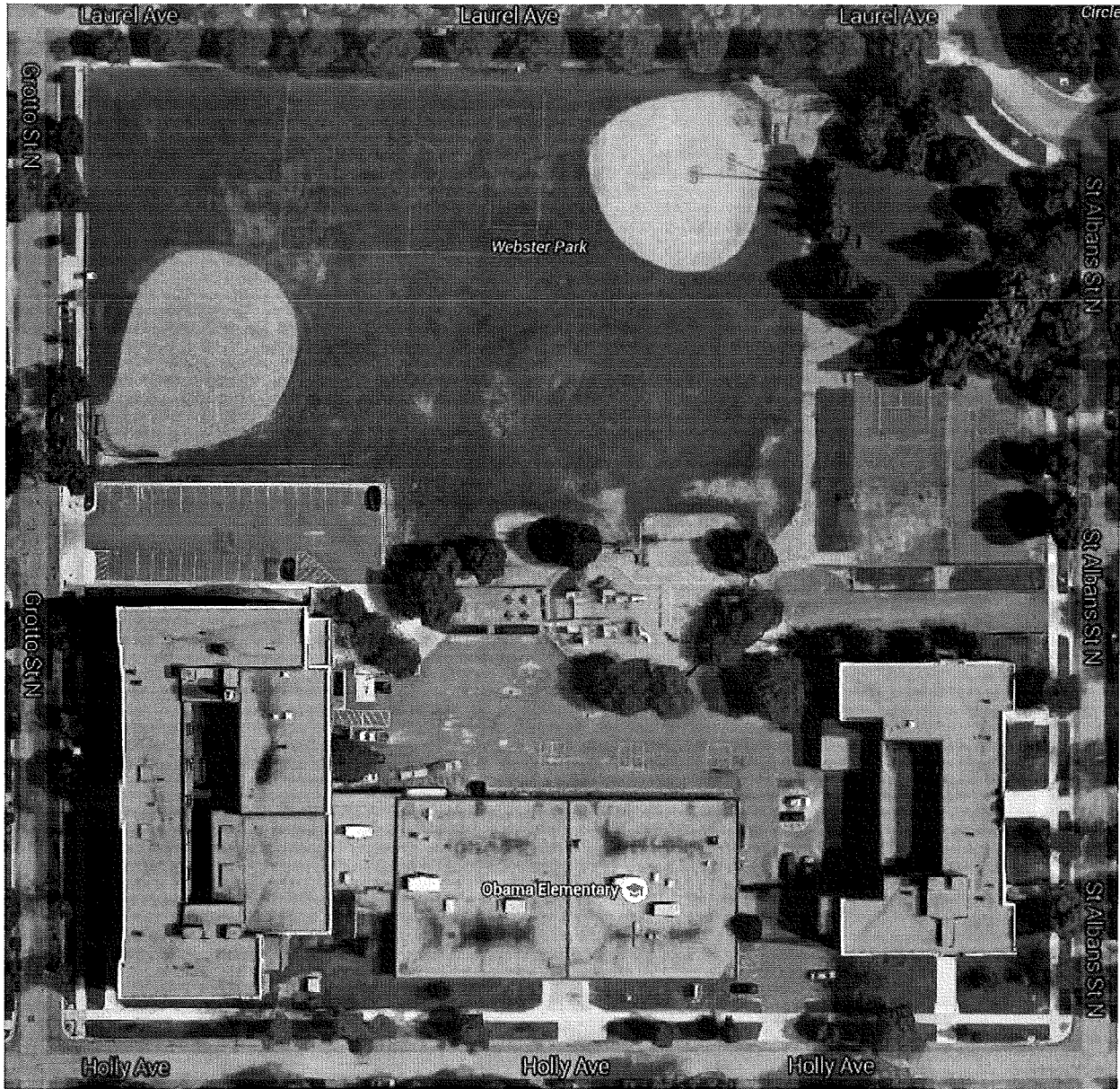




Old Riverside - Albion (multi-block triangular shaped lot; open play space takes the majority of the 5.4 acre lot)

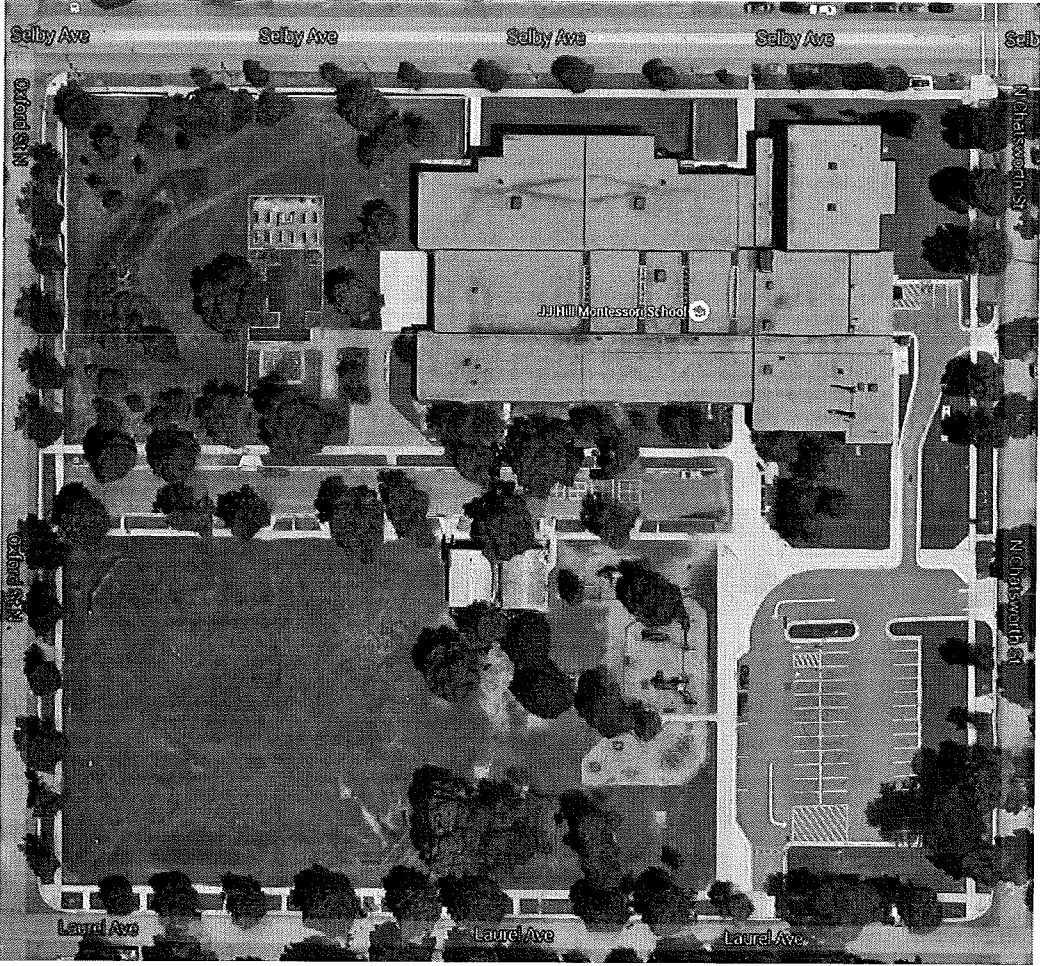


Capitol Hill (multi-block with multi-block open area play space)



Obama Elementary (multi-block; open area play space a majority of the lot)





JJ Hill Montessori (two full blocks; 1-1.5 block is open area play space)



Maxfield Elementary (two full blocks; 1 full block of open area play space)



# EXHIBIT 5

**UHB** Urban Habitat & Design, Inc.  
 2000 Alden Avenue South  
 Minneapolis, Minnesota 55404  
 Tel: 612-339-7862  
 www.uhbab.com

**Project Manager:** Adam Aik, LEED AP  
 aaik@uhbab.com

**Project Architect:**  
 Adam Aik, AIA  
 aaik@uhbab.com

**Project Designer:**  
 St. Paul Public Schools, District 625  
 300 Catherine St.  
 St. Paul, MN 55102

**Project Manager:**  
 Brian Trumbull  
 btrumbull@stps.org

**Legal Description**  
 Lots 10 Thru 20, Lot 21, except the East 1/2 of Section 25, Township 10N, Range 18E, S.W. 1/4 of Section 25, T10N, R18E, S25, St. Paul, Ramsey County, Minnesota.

**St. Paul Planning District**  
 Summit Hill Association  
 Nemala Station  
 P1 1st 1224-1022

**Variance Documents**  
 January 9, 2017

**Linwood Monroe - Lower School**  
 500 Osceola Ave  
 Project: 201432.LJLQ

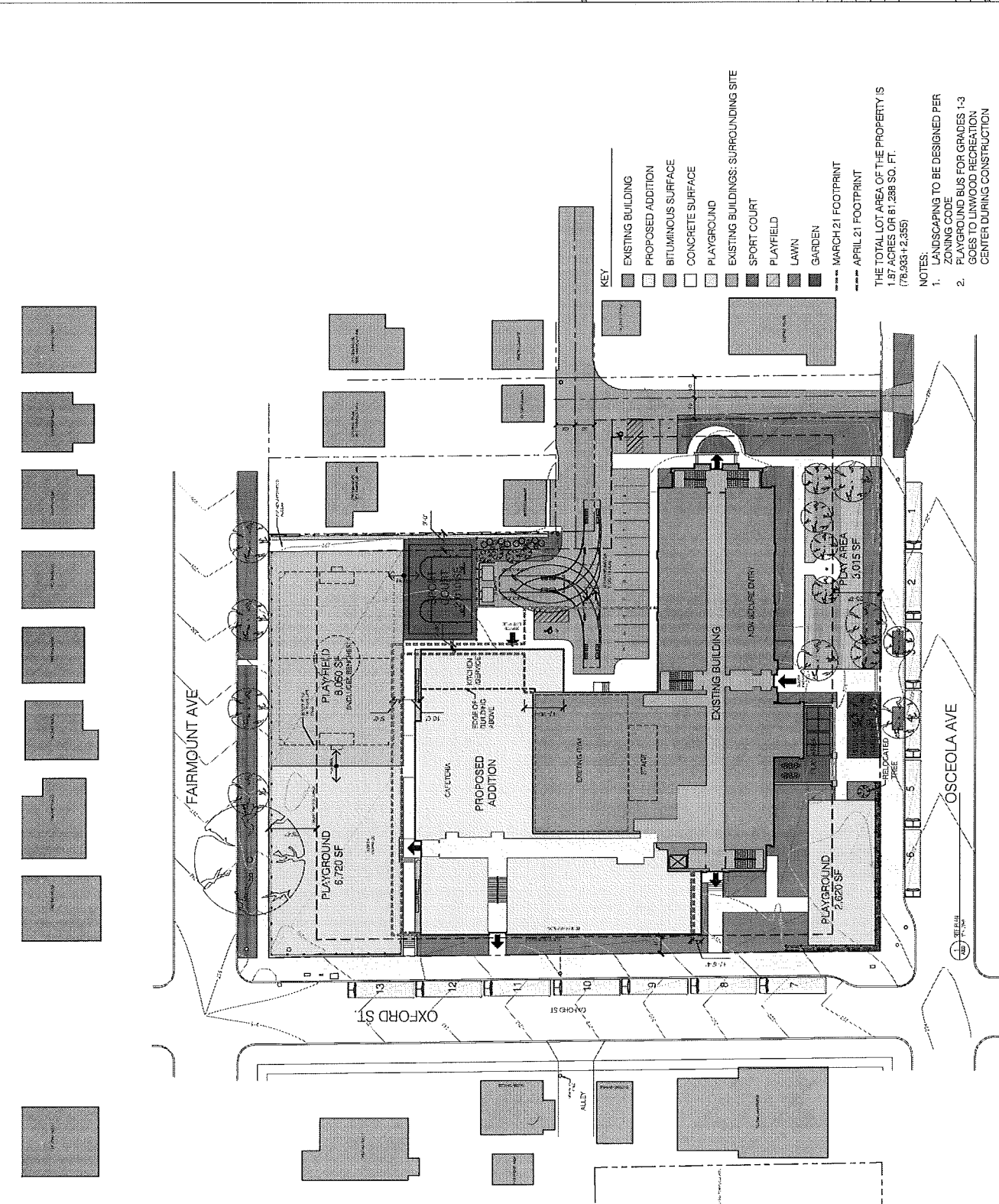
Drawings Issued	Date

**Site Plan**  
 Scale: 1/8" = 1'-0"  
 Project No. 201432.LJLQ

**Signature:**  
 Adam Aik  
 Project Manager

**Scale:**  
 1/8" = 1'-0"

## A000



# EXHIBIT 6

Exhibit 6 – Satellite Picture of Existing Linwood School Site

