

Moore, Shari (CI-StPaul)

From: Lynn DiEuliis <lynzio@comcast.net>
Sent: Tuesday, April 18, 2017 5:34 PM
To: *CI-StPaul_Contact-Council
Cc: #CI-StPaul_Ward1; #CI-StPaul_Ward2; #CI-StPaul_Ward3; #CI-StPaul_Ward4; #CI-StPaul_Ward5; #CI-StPaul_Ward6; #CI-StPaul_Ward7
Subject: Linwood Variances: City Council File # ABZA 17-5: Lynn DiEuliis Letter opposing variances for Linwood School expansion

Lynn DiEuliis
1033 Fairmount Avenue
St. Paul, MN 55105

April 18, 2017

VIA EMAIL

St. Paul City Council
15 Kellogg Blvd. West
310 City Hall Saint Paul, MN 55102

RE: Appeal to City Council of BZA Grant of Zoning Variances for Linwood School

Dear Members of the St. Paul City Council,

My name is Lynn DiEuliis and I am an Appellant on the City Council Appeal File Number: ABZA 17-5.

I live at 1033 Fairmount Avenue, across the street from the open area and playground of Linwood Monroe Arts Plus Lower Campus. I have lived here for 30 years and seen many changes at Linwood. My husband and I love this school, as do all our neighbors. We do our best to be good stewards and protectors of the school, as it has been a cherished member of our neighborhood, for almost 100 years. We watch over the school when its administrators aren't present and call the police when it seems appropriate. We have been known to "weed the wall" around the open area, clean the grates in the street to prevent back-up, plant flowers on occasion, pick up litter around the school, and in the past, donate time and money. And, every year when the children come around with the May baskets, I write a Thank You note to the children telling them how much I appreciate it. These aren't just someone else's kids, they're our kids, too.

We want Linwood to prosper, we want the children to be warm in the winter and have the ADA requirements met and a new lunchroom. We want Linwood to get needed updates. But, we also want to have these changes preserve how Linwood works as a neighbor in our community, as a place of community and unity, working with the neighborhood to meet everyone's needs.

To that end, I am writing you to ask that you grant this Appeal seeking to reverse the BZA's decision regarding the two variances requested by the SPPS for the expansion at Linwood School. There may be future variances which I hope to support, but I ask you to reverse the BZA decision for these two variances.

It is my understanding that this reversal can be brought by errors in fact, finding, or procedure in the Board of Zoning Appeals (BZA) decision of March 13, 2017. And that:

According to the zoning code, the BZA must make the following findings before they can grant a variance:

- The variance is in harmony with the general purposes and intent of the zoning code.
- The variance is consistent with the comprehensive plan.
- 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 plight of the landowner is due to circumstances unique to the property not created by the landowner.
- The variance will not permit any use that is not allowed in the zoning district where the affected land is located.
- 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. Inadequate access to direct sunlight for solar energy systems constitutes a practical difficulty in the third bullet point above.

In granting a variance, the BZA may attach reasonable conditions to their approval. The BZA does not have the authority to allow a use that is not otherwise permitted in the zoning district.

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

I submit that the supporting argument for Criterion 4 as written in the BZA Staff Report and Resolution is in error and employs faulty logic and circular reasoning, and should be denied as true statements, and thus, cause for reversing both variances.

Mr. Westenfofer's staff report and the BZA Resolution state:

"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."

The circumstances they cite are not unique to the property. Rather, the "circumstances" have been created by the landowner's decision to build an addition and match it to the existing building. This decision is a plight of their own creation caused by their plan to bring over 2 additional grade levels to Linwood from Monroe. The 120-150 new students need additional space, which then creates a need for a large addition, which in turn creates a need for variances. **These are "creations" of the landowner which originate from a choice by the landowner and not a circumstance unique to the property. The landowner has created their "plight" by their choice.**

The landowner must, as noted in the zoning code, meet *all* the criteria noted above to be granted a variance. Because the SPPS does not meet at least Criterion 4 specifically, they should be denied both variances.

Based on this and other arguments made during the presentation for the Appellants, we ask that you grant this Appeal to reverse the BZA decision of March 13, 2017, which supported the two variances for Linwood Monroe Arts Plus Lower Campus.

Thank you,

Lynn DiEuliis
Appellant
City Council Appeal
File # ABZA 17-5