

September 19, 2018
1217 Selby Avenue
St Paul MN 55104

To the City Council:

I would like to respond point by point to the Appeal Statement from the applicant. Please refer to the Appeal Statement as needed.

The BZA did not err in not granting the variance. The lot is too small to meet the requirements, and twice now the BZA has denied the variance.

The BZA has not violated policy by “blocking access to an accessible 2 bedroom by physically disabled persons.” Disabled persons may choose to rent the property as a single family home. The applicant’s argument that the property is too large for them to afford means she should have never overbuilt the property, or she should reduce the rent to accommodate the tenants. The most recent tenants at the property were young college aged people, none of them obviously disabled. No tenants have been put out due to City regulations. Disabled persons may still occupy the two bedroom main level, and use or not use upper floors at their choice. It is not a unique problem that two level homes are not usable by disabled persons, and the applicant should receive no special considerations for this argument.

Use of this property as a duplex is a problem created by the applicant when she was denied a duplex variance in 2009 but chose to move forward with construction plans to turn it into a functional duplex despite the lack of proper zoning. We would not be here had the applicant not taken on this construction.

Practical difficulties cited in the Appeal Statement:

1. That handicapped persons are not able to easily use upper floors is not a problem unique to the applicant, and they still may occupy the main level
2. Six large bedrooms and 3400 square feet: The property was previously 4 beds 2 baths and 1556 square feet. If the large size that the applicant created is too large, why doesn’t she put it back to the original layout? Issues with marketing the property are a problem she has created.
3. Styling differences are the result of the applicant’s own construction choices.
4. Economic issues – The cost to renovate the home into such a large dwelling was the applicant’s own choice. The tax value of the property will not decrease in the event the applicant cannot find tenants suitable to her as suggested in the Appeal Statement. As a real estate agent, the duplex market is booming and there is no worry over finding a buyer that is able to secure financing. On the contrary the City is currently more concerned with commercial landlords with too much cash that are making our rental units unaffordable.
5. Multifamily neighbors – Just because a neighbor property has a different zoning does not mean the applicant has the right to choose whatever zoning she would like. Thought my neighbor has commercial zoning, my single family home will not be granted commercial zoning unless I meet the requirements and participate in the process to change the zoning. It is not a foregone conclusion that zoning may be changed at owner’s whim.

From "Unique Circumstances" in the Appeal Statement:

1. I visited the home when it was previously for sale. The second story was not an attic as suggested in the Appeal Statement. It was a traditional one and a half story Craftsman bungalow with a larger than normal upper level that contained a hallway, two full bedrooms, and a bath. It had the original staircase which was wide and sturdy and up to code. Craftsman bungalows are known as being well-built and this upper area was not an attic expansion but an original part of the home. The ceiling heights were adequate and both the MLS listing from this time and the DSI Cat 2 report consider the upper level a safe and adequate space.
2. The home was never considered "historic" and DSI's Cat 2 report definitely does not require the applicant to expand the structure in the manner she has chosen.
3. See above
4. Nowhere in the Cat 2 report is the applicant required to raise the roof or add a second story. Any additions to the square footage were the result of the applicant's own desires. I have never heard of DSI requiring a third story be put on a 1.5 story bungalow.
5. The neighborhood is a mix of single family homes and original duplexes and fourplexes. The home should remain single family to keep the best mix.
6. This lot is particularly narrow and does not meet the standards for a multifamily dwelling.
7. The main level is wheelchair accessible but I can find no reason that the wheelchair user must have several "able-bodied linear relatives" to occupy the upper floors. Perhaps the applicant should adjust her expectations on the rent received so handicapped persons can afford the property if that is the tenant she desires.
8. This home has no reason to expect a variance to allow the property owner to rezone at will.

The Appeal Statement says the plight is not self-inflicted. It is clear, even by including this paragraph in the Appeal Statement, that the applicant created this zoning problem when she chose to turn a single family home into a de facto duplex after she was denied a variance the first time but chose to go forward with construction of a duplex anyhow. With the purchase of the property she agreed to the condition and the required Cat 2 repairs. She was not required to create a 6 bedroom 3400 square foot home out of a 1556 square foot home.

The arguments from the applicant are very weak, and it is clear her motivations are to sell the property for the highest price as it is currently for sale. The market is currently favoring multifamily homes, as they are drawing the highest prices. The applicant is well aware this variance is worth tens of thousands of dollars in the sale price of the property. Without the duplex variance, the property is worth much less.

Please deny this variance and help preserve the state of the neighborhood, as well as deny this transparent cash grab by the applicant.

Sincerely,

Amy Caron