

From: rtvarco@comcast.net
To: [*CI-StPaul Contact-Council](#)
Cc: [Therese Skarda](#)
Subject: April 9,2024, hearing on University of St. Thomas request for sound level variance
Date: Thursday, April 4, 2024 2:03:48 PM
Attachments: [STU email.pdf](#)

On April 9 , 2024, the City Council is scheduled to hear a request for a sound level variance from the University of St. Thomas. Section 293.09 (e) 3 of the Legislative Code contains the standard that the Council must use when considering this request. That section provides: (3) The variance may be granted or modified only if the council finds that full compliance with the requirements of this chapter would constitute an unreasonable hardship on the applicant, on other persons, or on the community. The council shall balance the hardship to the applicant against the adverse impact on the health, safety and welfare of the persons affected, the adverse impact on property affected, and any other adverse effects of granting the variance.

The application filed by the University does not set out the unreasonable hardship that the Code requires. Put simply the University has not demonstrated that the school or the spectators at the football game will suffer unreasonably if the noise variance is not granted. On the other hand , the harm that will fall on the neighborhood residents is exactly that which the Code prohibits, i.e., noise above a certain level. The balance of harms tips in favor of the neighborhood. The requested variance should be denied.

Additional evidence that the required hardship is not present is found in the above attached file. In summary this correspondence between the undersigned and a University official reveals that football games at the University can be played without the variance here sought at no harm to the audience.

Finally, the practice of granting sound level variances in disregard of the Code may be found to constitute a denial of due process. In turn that may subject the City and those officials who engage in such conduct to liability. I would ask that you consult with your legal counsel on this point.

Thank you for your consideration.

Richard Varco, Jr.

rtvarco@comcast.net

From: Benner, Jerome B. <jerome.benner@stthomas.edu>
Sent: Monday, October 9, 2023 9:26 AM
To: rtvarco@comcast.net
Subject: Re: [External] RE: All For The Common Good

Understood. Thanks for clarifying.

No, I don't believe there was any harm due to the lack of the sound level variance. The variance provides us some flexibility to host our events at levels that may be louder than the typical noise you experience living in an urban setting.

Jerome

Jerome Benner II
Director of Neighborhood and Community Relations
Office of the President
University of St. Thomas | stthomas.edu

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From: rtvarco@comcast.net <rtvarco@comcast.net>
Sent: Monday, October 9, 2023 8:49:49 AM
To: Benner, Jerome B. <jerome.benner@stthomas.edu>
Subject: RE: [External] RE: All For The Common Good

Jerome: Your framing of what I asked is a slight bit off. My question is to the harm, if any, that effected those who attended the September 2 game, the university, and the neighbors due to the lack of the sound level variance requested for that game. My sense is that there was none. I am simply asking whether that is also your belief.

Rick Varco

From: Benner, Jerome B. <jerome.benner@stthomas.edu>
Sent: Friday, October 6, 2023 10:21 AM
To: rtvarco@comcast.net
Subject: RE: [External] RE: All For The Common Good

Morning Rick,

My apologies for the late reply.

It sounds like you're asking if the game was played at a sound level that didn't require a variance, what would that experience be like for the fans, neighbors, etc.? Is that your question?

I'm happy to chat over the phone, too, if you prefer. I'll be in my office all day.

651-962-6063