

**APPLICATION WORKSHEET**

<b>Appellant</b>	Name	Chuck Levin
	Mailing Address Including City, State and Zip Code	2300 Milwaukee Ave Minneapolis, MN 55404
	Phone Number	612-729-5333
	Fax	612-729-8351
	Email	Chuck@charleslevinarchitects.com

**NOTICE OF APPEAL**

**Choose one:**

I, \_\_\_\_\_ (print name) do hereby file an exception to the Decision of the **Planning Director** as provided for in Chapter 599.180;

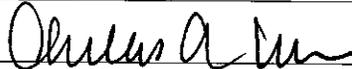
I, Chuck Levin (print name) do hereby file an exception to the Decision of the **Heritage Preservation Commission** as provided for in Chapter 525.190;

Project Name	Side Porch Replacement
Project Address	2300 Milwaukee Ave, Minneapolis, MN 55404
BZH Number	BZH-28347

Further, I do hereby request that I be given an opportunity to express my case before the Board of Adjustment or the proper committee of the City Council.

The action being appealed and the reasons for appealing the decision are attached and made a part of this notice of appeal.

Appellant's Name: Chuck Levin

Appellant's Signature:  Date: 10.3.14

October 3, 2014

RE: 2300 Milwaukee Avenue, Minneapolis, MN 55404

### APPEAL STATEMENT

Contrary to what we proposed, Staff recommended, and the HPC approved, a design *with a 5-foot setback condition*. The staff report did not cite a single elemental problem with the proposed design, nor did they recommend any changes.

This 'approval' results in a 7'-5¾" Porch with a 7'-0" interior, not the 8'-7" Porch with an 8'-1¼" interior that was proposed. Staff portrayed the additional 13¼" dimension as having a negative impact on the historic district. We believe the HPC Commissioners did not agree with the 'negative impact' portrayal.

We request that the setback condition be eliminated from the approval and that the setback matter be decided by a body empowered to make setback decisions.

### REASONS FOR APPEAL

#### 1. Decision

Condition #1 of the HPC's decision was substantially, if not completely, based on zoning considerations, which we believe to be the domain of the zoning administrator, "...who may authorize minor changes..." (ordinance 527.80) within a Planned Unit Development (PUD) or the Zoning Board of Adjustment, not the HPC.

If, in fact, zoning codes are within HPC's jurisdiction, then:

- a. We believe the HPC may have erred in part, by not acknowledging the underlying PUD<sup>1</sup> zoning. The very existence of the Milwaukee Avenue Historic District is dependent on the PUD and would likely not exist today without it; the staff report only acknowledges the zoning as R2B, evidenced by the fact that the staff report does not mention the PUD. We believe our proposal is consistent with the intent of the PUD and that requirements of the R2B zone are not necessarily controlling.
- b. We believe the HPC may have erred in part, by considering a decision made last year about a similar project when, in fact, there are numerous other precedents that were not considered that could justify other conclusions.
  - i. The cited decision, regarding 2304 Milwaukee, was reluctantly accepted by the homeowner because he didn't want to go through the appeal process (and he's the one most affected by our proposed project). A letter from that homeowner is attached.
  - ii. The HPC gave no weight to a prior, expired approval by both HPC and Zoning for the same project at 2300 Milwaukee with a setback reduction to 3'-6". The HPC staff report at that time stated in its findings: "The proposed work meets the guidelines for porches, siding, setbacks and streetscape."
  - iii. A portion of the building adjacent to the subject property at 2218 Milwaukee has a setback clearance of 2'-9".
  - iv. Of the 43 homes in the historic district PUD, there are numerous instances of 24" (or less) side yard setbacks.

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<sup>1</sup> The original classification of the Milwaukee Avenue Historic District was Planned Residential Development (PRD), subsequently retitled PUD.

- c. We believe the HPC may have erred in part by not limiting their decision to consideration of preservation issues. There was a clear sentiment in the meeting that the proposed design was appropriate as evidenced by the complimentary verbal statements of several commissioners. There were no concerns expressed, except relating to zoning and life-safety codes (also see #3 below).
  - i. The staff report lists as "Applicable Design Guidelines" a document named "Milwaukee Avenue Historic District Design Guidelines" In the 'Setback' section of this document, no reference is made to a 5-foot side yard setback as being a historic consideration. In fact, side yard porches are not mentioned.

## 2. Process

Process information presented by staff to us (the applicants) prior to the HPC hearing, to the HPC commissioners at the hearing and to us (the applicants) after the hearing has been inconsistent. We believe the inconsistency may have affected the outcome of the vote.

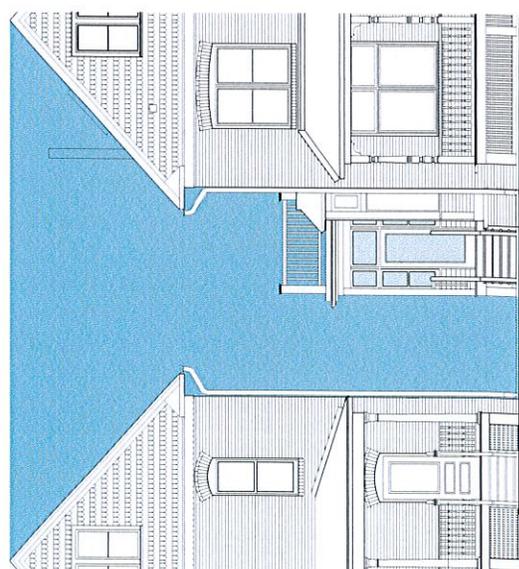
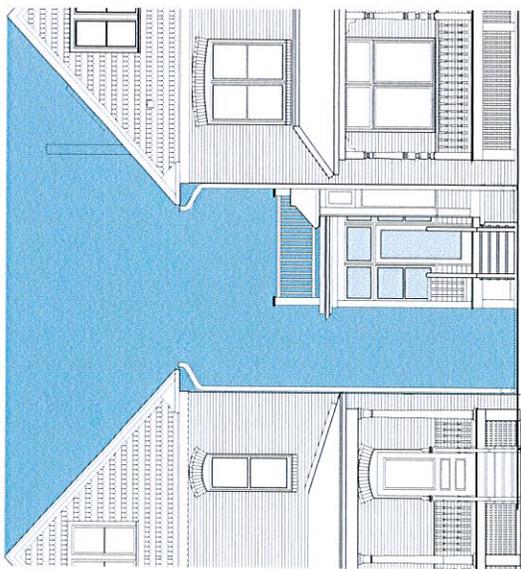
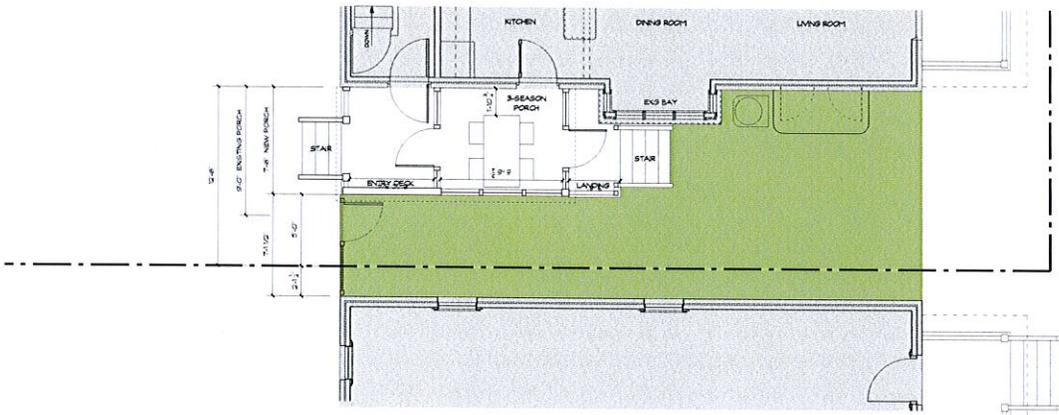
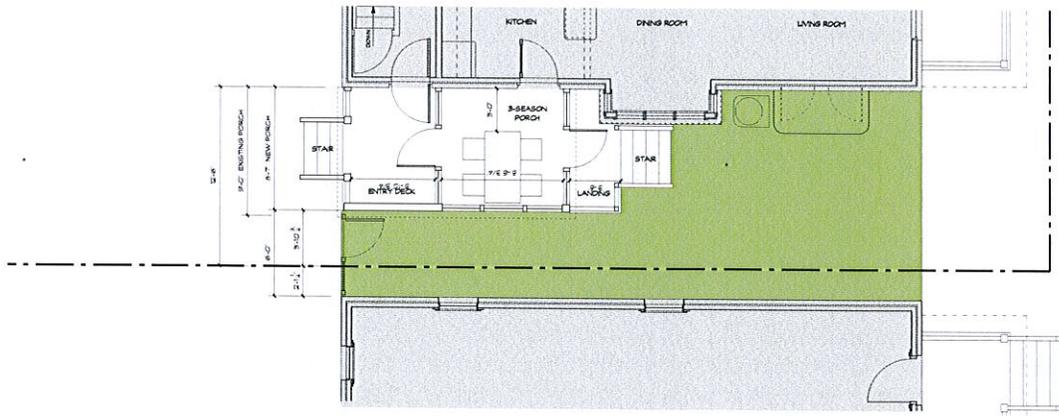
Prior to the vote, it was apparent that the Commissioners were confused about their responsibilities and debated how best to allow the proposal to move forward to a zoning authority for decision about the setback question.

- a. Staff led the Commissioners to believe that our (the applicant's) next step was to present the project to the Zoning Board of Adjustment for consideration of a setback variance. This has turned out not to be the case.
- b. As the process has now been explained to us, we will need to have a total of five public hearings to complete the approval/appeal process: (1) HPC, (2) Zoning and Planning Subcommittee, (3) City Council, (4) Zoning Board of Adjustment and, if approved, (5) back to the HPC a 2<sup>nd</sup> time. It doesn't seem right that we would need 5 public hearings. We believe that the proper decision by HPC would have been approval, with the setback condition removed, which would have allowed us to go directly to the Zoning Board of Adjustment.

## 3. Jurisdiction

The HPC Commissioners raised questions about life safety. In response, staff also stated there were life safety issues, although there was no mention made about life safety in the staff report or the staff presentation at the hearing. We believe our proposal is completely in conformance with the building code and believe that life safety issues are the jurisdiction of the Building Code Department, not the HPC. There was no building code authority present to address the Commissioner's questions.

4. The HPC gave no weight to letters of support from the Seward Neighborhood Group (SNG), the Milwaukee Avenue Homeowner's Association or seven immediate neighbors including the neighbor most affected.



10/3/14

To the Zoning and Planning Subcommittee of the City Council:

I understand that my project at 2304 Milwaukee was introduced as evidence of precedent at the 9/23/14 hearing for the 2300 Milwaukee Certificate of Appropriateness.

Last year, HPC conditionally approved my project without my requested variance. Due to the cost and time required to appeal, the condition of my existing porch and family health issues, I chose to not appeal even though I was very unhappy with the HPC's decision.

I support the Brofman-Levin request as proposed and if it is approved, will take no action to appeal or change the HPC decision regarding my property.

A handwritten signature in black ink that reads "Richard Erickson". The signature is written in a cursive style with a large, looped initial "R".

Richard Erickson  
2304 Milwaukee Avenue  
Minneapolis, MN 55404



# SEWARD NEIGHBORHOOD GROUP

PHONE: 612 338 6205  
FAX: 612 399 0739

EMAIL: info@sng.org  
WEB: www.sng.org

September 10, 2014

Lisa Steiner  
250 South 4<sup>th</sup> Street, Room 300  
Minneapolis, MN 55415

**Regarding: 2300 Milwaukee Ave. Certificate of Appropriateness & Variance (BZH-28347)**

Dear Ms. Steiner:

The Seward Neighborhood Group recommends approval of a Certificate of Appropriateness by the Heritage Preservation Commission and a side-yard setback variance to replace an existing porch with a new porch at 2300 Milwaukee Avenue.

Thank you for the opportunity to comment on this proposal.

Sincerely,

Ben Walen  
Co-President  
Seward Neighborhood Group

cc: Charles Levin

# M A H A

## Milwaukee Avenue Homeowners Association

August 25, 2014

Chuck Levin and Lynn Brofman  
2300 Milwaukee Avenue  
Minneapolis, MN 55404

RE: Approval of side porch project

Dear Chuck and Lynn,

This letter is to confirm that the Milwaukee Avenue Homeowner's Association (MAHA) Architectural Review Committee (the ARC) has recommended, and the MAHA Board of Directors has approved, your proposal for your side porch project, a copy of which is on file with the ARC. This approval includes both the appropriateness of the Porch design and MAHA's support of your request for a side setback variance.

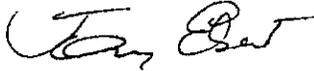
Please be advised that MAHA approvals are only for conformance with the *MAHA Guidelines for Architecture and Maintenance of Properties (11/87)* and that other approvals/permits from regulatory agencies such as the Heritage Preservation Commission (HPC), the Zoning Department or the Building Code Department may be required.

In addition, to ensure that your project goes smoothly for you and your neighbors, please adhere to the following guidance:

- Any obstruction of the paved mall 'street' or 'sidewalk' requires an obstruction permit from the City of Minneapolis. This is available at <http://www.minneapolis.mn.roway.net/> and triggers notification of emergency service providers. In addition, obstructions require warning cones/tape to increase pedestrian safety. These permits should be provided by the contractor or homeowner.
- Driving vehicles on the mall 'landscape' and/or staging of materials is strongly discouraged due to the possibility of damage. If absolutely necessary, coordination with the landscape committee to flag sprinkler system components is required. Also, plywood or other protection should be used under materials, tires, etc. Homeowner is responsible for the cost of repairing any damage caused by their activities.
- If you are going to need a dumpster, think about where it will need to be located. Do not use MAHA or City property without obtaining prior written permission/s.
- It's highly encouraged that you talk to your neighbors in advance; notify your neighbors prior to starting your project, e.g. talk face-to-face, distribute notices, call, email, etc. as necessary to avoid surprises.

On behalf of MAHA, I thank you for your compliance with MAHA's review and approval process and wish you good luck with your project.

Sincerely,



Jenny Ebert  
MAHA Board Vice President  
2218 Milwaukee Avenue  
Minneapolis, MN 55404  
612.867.5915

cc: MAHA Board  
MAHA Architectural Review Committee (Diane Richard, Chairperson)  
Minneapolis Heritage Preservation Commission

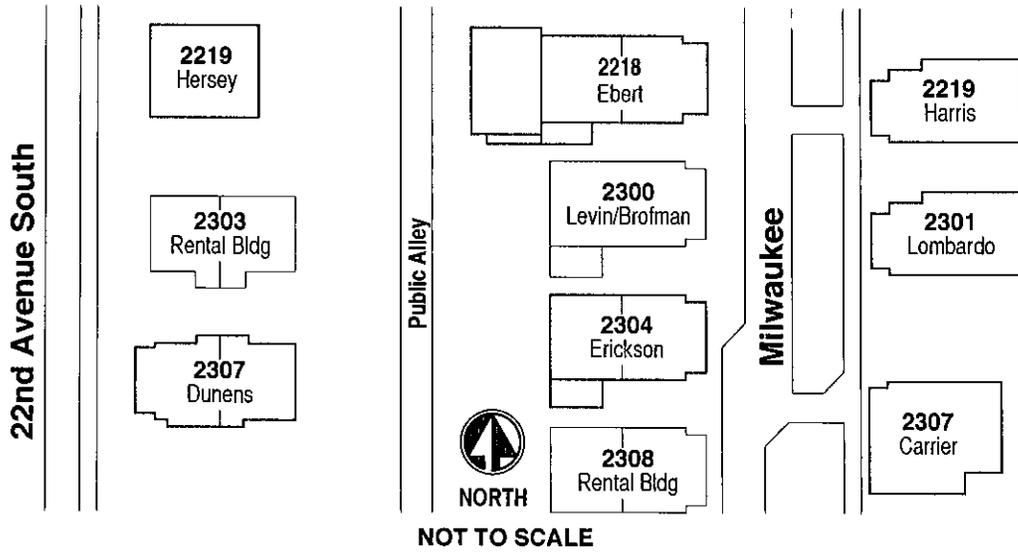
Helpful Links:

HPC: <http://www.ci.minneapolis.mn.us/hpc/>

Mpls.Development Review Hours: <http://www.ci.minneapolis.mn.us/ndr/>

Mpls.Development Review Free Parking Info: [http://www.ci.minneapolis.mn.us/ndr/location\\_and\\_parking.asp](http://www.ci.minneapolis.mn.us/ndr/location_and_parking.asp)

# LETTER OF SUPPORT FROM NEIGHBORS



August 10, 2014

Heritage Preservation Commission  
City of Minneapolis  
c/o Minneapolis Planning Department  
Public Service Center  
Room 300  
250 South 4<sup>th</sup> Street  
Minneapolis, MN 55415-1339

Re: Certificate of Appropriateness and Variance for 2300 Milwaukee Avenue, Minneapolis, MN  
Legal: Lot 6 Block 10 Milwaukee Mall Addition, Hennepin County, MN

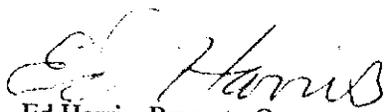
To Whom It May Concern:

I own the rental property at 2219 Milwaukee Avenue which is across Milwaukee Avenue to the Northeast from Lynn Brofman and Chuck Levin.

I have reviewed their proposed porch design and understand their request for a side setback variance from 5'-0" to 3'-10<sup>3</sup>/<sub>4</sub>". I support both their request for a Certificate of Appropriateness and for a Variance. I believe this planned improvement will be a welcome improvement to the building while maintaining the integrity of the historic district.

I encourage you to grant their requests for Certificate of Appropriateness and Variance.

Sincerely,



Ed Harris, Property Owner  
2219 Milwaukee Avenue  
Minneapolis, MN 55404-3150

August 10, 2014

Heritage Preservation Commission  
City of Minneapolis  
c/o Minneapolis Planning Department  
Public Service Center  
Room 300  
250 South 4<sup>th</sup> Street  
Minneapolis, MN 55415-1339

Re: Certificate of Appropriateness and Variance for 2300 Milwaukee Avenue, Minneapolis, MN  
Legal: Lot 6 Block 10 Milwaukee Mall Addition, Hennepin County, MN

To Whom It May Concern:

I am the neighbor of Lynn Brofman and Chuck Levin located directly across Milwaukee Avenue to the East at 2301 Milwaukee Ave.

I have reviewed their proposed porch design and understand their request for a side setback variance from 5'-0" to 3'-10 $\frac{1}{4}$ ". I support both their request for a Certificate of Appropriateness and for a Variance. I believe this planned improvement will be a welcome improvement to the building while maintaining the integrity of the historic district.

I encourage you to grant their requests for Certificate of Appropriateness and Variance.

Sincerely,

A handwritten signature in cursive script, appearing to read "Arlene Lombardo".

Arlene Lombardo, Property Owner  
2301 Milwaukee Avenue  
Minneapolis, MN 55404-3150

August 10, 2014

Heritage Preservation Commission  
City of Minneapolis  
c/o Minneapolis Planning Department  
Public Service Center  
Room 300  
250 South 4<sup>th</sup> Street  
Minneapolis, MN 55415-1339

Re: Certificate of Appropriateness and Variance for 2300 Milwaukee Avenue, Minneapolis, MN  
Legal: Lot 6 Block 10 Milwaukee Mall Addition, Hennepin County, MN

To Whom It May Concern:

I am a Milwaukee Avenue neighbor of Lynn Brofman and Chuck Levin located at the adjacent Southeast property (2307 Milwaukee Ave.).

I have reviewed their proposed porch design and understand their request for a side setback variance from 5'-0" to 3'-10 $\frac{3}{4}$ ". I support both their request for a Certificate of Appropriateness and for a Variance. I believe this planned improvement will be a welcome improvement to the building while maintaining the integrity of the historic district.

I encourage you to grant their requests for Certificate of Appropriateness and Variance.

Sincerely,



Carol Carrier, Property Owner  
2307 Milwaukee Avenue  
Minneapolis, MN 55404-3150

August 10, 2014

Heritage Preservation Commission  
City of Minneapolis  
c/o Minneapolis Planning Department  
Public Service Center  
Room 300  
250 South 4<sup>th</sup> Street  
Minneapolis, MN 55415-1339

250 South 4<sup>th</sup> Street  
Minneapolis, MN 55415-1339

c/o Zoning Administration Office  
Public Service Center  
Room 300

Re: Certificate of Appropriateness and Variance for 2300 Milwaukee Avenue, Minneapolis, MN  
Legal: Lot 6 Block 10 Milwaukee Mall Addition, Hennepin County, MN

To Whom It May Concern:

I am a Milwaukee Avenue neighbor of Lynn Brofman and Chuck Levin located at the adjacent North property (2218 Milwaukee Ave.).

I have reviewed their proposed porch design and understand their request for a side setback variance from 5'-0" to 3'-10<sup>3</sup>/<sub>4</sub>". I support both their request for a Certificate of Appropriateness and for a Variance. I believe this planned improvement will be a welcome improvement to the building while maintaining the integrity of the historic district.

I encourage you to grant their requests for Certificate of Appropriateness and Variance.

Sincerely,



Jenny Ebert, Property Owner  
2218 Milwaukee Avenue  
Minneapolis, MN 55404-3150

August 1, 2014

Board of Adjustment  
City of Minneapolis

Heritage Preservation Commission  
City of Minneapolis

c/o Zoning Administration Office  
Public Service Center  
Room 300  
250 South 4<sup>th</sup> Street  
Minneapolis, MN 55415-1339

c/o Minneapolis Planning Department  
Public Service Center  
Room 300  
250 South 4<sup>th</sup> Street  
Minneapolis, MN 55415-1339

Re: Certificate of Appropriateness and Variance for 2300 Milwaukee Avenue, Minneapolis, MN  
Legal: Lot 6 Block 10 Milwaukee Mall Addition, Hennepin County, MN

To Whom It May Concern:

I am a Milwaukee Avenue neighbor of Lynn Brofman and Chuck Levin located at the adjacent South property (2304 Milwaukee Ave.).

I have reviewed their proposed porch design and understand their request for a side setback variance from 5'-0" to 3'-10 $\frac{1}{4}$ ". I support both their request for a Certificate of Appropriateness and for a Variance. I believe this planned improvement will be a welcome improvement to the building while maintaining the integrity of the historic district.

I encourage you to grant their requests for Certificate of Appropriateness and Variance.

Sincerely,

A handwritten signature in black ink that reads "Richard Erickson". The signature is written in a cursive style with a prominent loop at the end of the last name.

Richard Erickson, Property Owner  
2304 Milwaukee Avenue  
Minneapolis, MN 55404-3150

August 10, 2014

Heritage Preservation Commission  
City of Minneapolis  
c/o Minneapolis Planning Department  
Public Service Center  
Room 300  
250 South 4<sup>th</sup> Street  
Minneapolis, MN 55415-1339

Re: Certificate of Appropriateness and Variance for 2300 Milwaukee Avenue, Minneapolis, MN  
Legal: Lot 6 Block 10 Milwaukee Mall Addition, Hennepin County, MN

To Whom It May Concern:

I am a Milwaukee Avenue neighbor of Lynn Brofman and Chuck Levin located at the adjacent Northwest property (2219 22<sup>nd</sup> Ave. S).

I have reviewed their proposed porch design and understand their request for a side setback variance from 5'-0" to 3'-10<sup>3</sup>/<sub>4</sub>". I support both their request for a Certificate of Appropriateness and for a Variance. I believe this planned improvement will be a welcome improvement to the building while maintaining the integrity of the historic district.

I encourage you to grant their requests for Certificate of Appropriateness and Variance.

Sincerely,



Galen Hersey, Property Owner  
2219 22<sup>nd</sup> Avenue S  
Minneapolis, MN 55404-3150

August 10, 2014

Heritage Preservation Commission  
City of Minneapolis  
c/o Minneapolis Planning Department  
Public Service Center  
Room 300  
250 South 4<sup>th</sup> Street  
Minneapolis, MN 55415-1339

Re: Certificate of Appropriateness and Variance for 2300 Milwaukee Avenue, Minneapolis, MN  
Legal: Lot 6 Block 10 Milwaukee Mall Addition, Hennepin County, MN

To Whom It May Concern:

We are Milwaukee Avenue neighbors of Lynn Brofman and Chuck Levin located at the adjacent Southwest property (2307 22<sup>nd</sup> Ave. S).

We have reviewed their proposed porch design and understand their request for a side setback variance from 5'-0" to 3'-10<sup>3</sup>/<sub>4</sub>". We support both their request for a Certificate of Appropriateness and for a Variance. We believe this planned improvement will be a welcome improvement to the building while maintaining the integrity of the historic district.

We encourage you to grant their requests for Certificate of Appropriateness and Variance.

Sincerely,



Elizabeth and Eriks Dunens, Property Owners  
2307 22<sup>nd</sup> Avenue S  
Minneapolis, MN 55404-3150