

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT
441 4th Street, N.W.
Washington, D.C. 20001

Appeal of Advisory Neighborhood Commission 6C

BZA Appeal No. 19550

**D.C. DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS’
PARTIAL CONSENT MOTION TO CONTINUE HEARING TO MAY 23, 2018**

The D.C. Department of Consumer and Regulatory Affairs (DCRA) respectfully submits this motion to continue the May 9, 2018 hearing to May 23, 2018 (or later at the Board of Zoning Adjustment’s (the Board) convenience) for the following reasons:

On March 31, 2017, Building Permit No. B1706219 (Permit) was issued, which allowed the Permit Holder to renovate and convert 1125 7th Street, N.E. (the Property) from an existing single-family dwelling to a two-unit townhouse. This appeal alleges that the Permit was issued in violation of the District of Columbia’s zoning regulations.

On April 18, 2018, a revised permit was issued as Building Permit No. B1805207 (Revised Permit). The Revised Permit may moot the issues raised on appeal. Along with the instant motion, DCRA filed a Motion to Incorporate By Reference the Revised Permit Into This Appeal, given that the changes found in the Revised Permit are material to issues raised on appeal. In light of this new information, DCRA considered that Appellant ANC 6C and the Intervenor may need additional time to review the Revised Permit prior to the hearing date.

In addition, DCRA’s attorney of record in this appeal, Maximilian Tondro, left DCRA on April 13, 2018, and the newly appointed undersigned attorney requests more time to adequately review the file and prepare an adequate defense for the hearing. If a continuance were not granted, DCRA would be severely prejudiced.

Lastly, on April 18, 2018, the Secretary of the Board, Mr. Clifford Moy, confirmed that May 23, 2018 would be an acceptable date for a continued hearing in this appeal. The Permit Holder consents to this continuance; the Appellant and the Intervenor do not consent.

In the alternative, DCRA proposes that the Board waive the 21-day requirement for Appellant to file its pre-hearing statement and provide Appellant and the Intervenor an additional seven days from service of this motion to file an amended pre-hearing statement addressing the Revised Permit. 11 DCMR Subtitle Y §300.15.

For the foregoing reasons and in the interest of judicial economy, DCRA respectfully requests that the Board grant the instant motion, continue the May 9, 2018 hearing to May 23, 2018 (or later at the Board’s convenience).

Respectfully submitted,
ESTHER MCGRAW
Interim General Counsel
Department of Consumer and Regulatory Affairs

Date: 4/20/2018

/s/ Adrienne Lord-Sorensen
ADRIANNE LORD-SORENSEN (DC Bar # 493865)
Assistant General Counsel
Department of Consumer and Regulatory Affairs
Office of the General Counsel
1100 4th Street, S.W., 5th Floor
Washington, D.C. 20024
(202) 442-8401 (office)
(202) 442-9447 (fax)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 20th day of April 2018 a copy of the foregoing DCRA’S Partial Consent Motion to Continue Hearing to May 23, 2018 was served via electronic mail to:

Mark Eckenwiler, Single Member Advisory
Neighborhood Commissioner, ANC 6C04
312 E Street, N.E.
Washington, D.C. 20002
6C04@anc.dc.gov
Appellant

Karen Wirt, Chair
Advisory Neighborhood Commission 6C
234 E Street, N.E.
Washington, D.C. 20002
6C02@anc.dc.gov
Appellant

John Patrick Brown, Jr., Esq.
Greenstein DeLorme & Luchs, P.C.
1200 19th Street, N.W., 3rd Floor
Washington, D.C. 20036
jpb@gdllaw.com
Counsel for Permit Holder

Heather Edelman, Single Member Advisory
Neighborhood Commissioner, ANC 6C06
1152 5th Street, N.E.
Washington, D.C. 20002
6C06@anc.dc.gov
Appellant

Kevin Cummins
1123 7th Street N.E.
Washington, D.C. 20002
kevin.cummins11@gmail.com
Intervenor

/s/ Adrienne Lord-Sorensen
Adrienne Lord-Sorensen

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Appeal of Advisory Neighborhood Commission 6C

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**D.C. DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS’
PARTIAL CONSENT MOTION TO INCORPORATE
BY REFERENCE THE REVISED PERMIT INTO THIS APPEAL**

The D.C. Department of Consumer and Regulatory Affairs (DCRA) respectfully requests that the Board of Zoning Adjustment (the Board) grant DCRA’s request to incorporate by reference Building Permit No. B1805207 (Revised Permit).

On March 31, 2017, Building Permit No. B1706219 (Permit) was issued, which allowed the Permit Holder to renovate and convert 1125 7th Street, N.E. (Property) from an existing single-family dwelling to a two-unit townhouse. On April 18, 2018, the Revised Permit was issued. (Attachment A- Revised Permit). The Revised Permit addresses and moots all issues raised in this appeal.

To conserve the parties’ resources and in the interest of judicial economy, the Board should incorporate by reference the Revised Permit because it addresses and resolves the following issues in this appeal:

- (i) Whether the Permit violates the minimum pervious-surface requirement;
- (ii) Whether the Permit allows for the construction of too many units; and
- (iii) Whether the Permit allows for the construction of an illegal second principal building.

The Revised Permit no longer authorizes the construction at the Property in the same manner found in the Permit.

Incorporating the Revised Permit into this appeal also clarifies the issues before the Board and avoids the potential for an additional appeal of the Revised Permit. The parties would not be prejudiced by the Board granting this motion because: (1) the Revised Permit addresses and resolves issues raised by the Appellant and Intervenor on appeal; and (2) the Permit Holder has a right to come into compliance if, under Appellant’s and Intervenor’s interpretation of the Zoning Regulations, the Permit violated the District of Columbia’s zoning regulations. The

Permit Holder consents to this motion. The Appellant and Intervenor do not consent to this motion.

CONCLUSION

For the foregoing reasons, DCRA respectfully requests that this Board grant DCRA’s Partial Consent Motion to Incorporate By Reference the Revised Permit into This Appeal.

Respectfully submitted,
ESTHER MCGRAW
Interim General Counsel
Department of Consumer and Regulatory Affairs

Date: 04/20/2018

/s/ Adrienne Lord-Sorensen
ADRIANNE LORD-SORENSEN (DC Bar # 493865)
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Washington, D.C. 20024
(202) 442-8401 (office)
(202) 442-9447 (fax)

CERTIFICATE OF SERVICE

I hereby certify that on this 20th day of April 2018 a copy of the foregoing DCRA’s Partial Consent Motion to Incorporate By Reference the Revised Permit into This Appeal was served via electronic mail to:

Mark Eckenwiler, Single Member Advisory
Neighborhood Commissioner, ANC 6C04
312 E Street, N.E.
Washington, D.C. 20002
6C04@anc.dc.gov
Appellant

Karen Wirt, Chair
Advisory Neighborhood Commission 6C
234 E Street, N.E.
Washington, D.C. 20002
6C02@anc.dc.gov
Appellant

John Patrick Brown, Jr., Esq.
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Counsel for Permit Holder

Heather Edelman, Single Member Advisory
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Washington, D.C. 20002
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Appellant

Kevin Cummins
1123 7th Street N.E.
Washington, D.C. 20002
kevin.cummins11@gmail.com
Intervenor

/s/ Adrienne Lord-Sorensen
Adrienne Lord-Sorensen

ATTACHMENT A



Department of Consumer and Regulatory Affairs

Permit Operations Division

1100 4th Street SW

Washington DC 20024

Tel. (202) 442 - 4589 Fax (202) 442 - 4862



B

BUILDING PERMIT

THIS PERMIT MUST ALWAYS BE CONSPICUOUSLY DISPLAYED AT THE ADDRESS OF WORK UNTIL WORK IS COMPLETED AND APPROVED

Issue Date: 04/18/2018

Expiration Date: 04/18/2019

PERMIT NO. B1805207

| | | | | | | | | | |
|--|--|---|--|--|----------------------------|--|---------------------------|---------|--------------|
| Address of Project: 1125 7TH ST NE | | | | | Zone: RF-1 | Ward: 6 | Square 0886 | Suffix: | Lot: 0035 |
| Description Of Work: REVISION REVISE Building Permit B1706219 to renovate the converted single-family dwelling to a two-unit flat. No change or expansion to the building or zoning envelope ***Route to DDOT per Sarah B-Carr | | | | | | | | | |
| Permission Is Hereby Granted To: Atlas Squared Llc | | | Owner Address: 7926 JONES BRANCH DR STE 600 MC LEAN, VA 22102-3373 | | | | PERMIT FEE: \$36.30 | | |
| Permit Type: Alteration and Repair | | Existing Use: Two-Family Flat - R-3 | | Proposed Use: Two-Family Flat - R-3 | | Building Construction Type TYPE V - Any Materials Permitted | | Plans: | |
| Agent Name: Stephanie Erwin | | Agent Address: 9413 Gamba Ct Vienna, VA 22182 | | Existing Dwell Units: 2 | Proposed Dwell Units: 2 | No. of Stories: 3 | Floor(s) Involved: All | | |
| Conditions/ Restrictions: Owner must have a wall check approved before calling DCRA for either a foundation or a framing inspection. This Permit Expires if no Construction is Started Within 1 Year or if the Inspection is Over 1 Year. All Construction Done According To The Current Building Codes And Zoning Regulations; As a condition precedent to the issuance of this permit, the owner agrees to conform with all conditions set forth herein, and to perform the work authorized hereby in accordance with the approved application and plans on file with the District Government and in accordance with all applicable laws and regulations of the District of Columbia. The District of Columbia has the right to enter upon the property and to inspect all work authorized by this permit and to require any change in construction which may be necessary to ensure compliance with the permit and with all the applicable regulations of the District of Columbia. Work authorized under this Permit must start within one(1) year of the date appearing on this permit or the permit is automatically void. If work is started, any application for partial refund must be made within six months of the date appearing on this permit. Lead Paint Abatement Whenever any such work related to this Permit could result in the disturbance of lead based paint, the permit holder shall abide by all applicable paint activities provisions of the 'Lead Hazard Prevention and Elimination Act of 2008' and the EPA 'Lead Renovation, Repair and Painting rule' regarding lead-based include adherence to lead-safe work practices. For more information, go to http://ddoe.dc.gov , Lead and Healthy Housing. | | | | | | | | | |
| Director: Melinda Bolling | | | Permit Clerk TCARRINGTON | | | | | | |
| TO REPORT WASTE, FRAUD OR ABUSE BY ANY DC GOVERNMENT OFFICIAL, CALL THE DC INSPECTOR GENERAL AT 1-800-521-1639 FOR CONSTRUCTION INSPECTION INQUIRIES CALL (202) 442-9557 TO SCHEDULE INSPECTIONS PLEASE CALL (202) 442-9557. | | | | | | | | | |

Kaprelova, Anna P. (DCRA)

From: John Patrick Brown Jr. <JPB@gdllaw.com>
Sent: Thursday, April 19, 2018 5:12 PM
To: Kaprelova, Anna P. (DCRA); Eckenwiler, Mark (SMD 6C04); 'kevin.cummins11@gmail.com'
Cc: McGraw, Esther (DCRA); lathompson@dclawfirm.com
Subject: RE: BZA Appeal 19550

Atlas Squared consents to incorporation and continuance to May 23 which is an available date for our team. If no continuance is agreed upon, Atlas Squared will not object to waiving three week period for Appellant and Intervenor to file revised statements by April 25. Thanks, Pat

John Patrick Brown, Jr., Esq.
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administrator@gdllaw.com <<mailto:administrator@gdllaw.com>>

THANK YOU.

From: Kaprelova, Anna P. (DCRA) [<mailto:anna.kaprelova@dc.gov>]
Sent: Wednesday, April 18, 2018 8:22 PM
To: Eckenwiler, Mark (SMD 6C04); 'kevin.cummins11@gmail.com'; John Patrick Brown Jr.
Cc: McGraw, Esther (DCRA)
Subject: RE: BZA Appeal 19550

Commissioner Eckenwiler, Mr. Cummings, and Mr. Brown,

The revision to Building Permit # B1805207 (the "Permit") was issued today by DCRA, and DCRA will be filing a Motion to Incorporate tomorrow. Please advise as to whether you consent to the motion.

Kaprelova, Anna P. (DCRA)

From: Kevin Cummins <kevin.cummins11@gmail.com>
Sent: Thursday, April 19, 2018 11:36 AM
To: Eckenwiler, Mark (SMD 6C04)
Cc: Kaprelova, Anna P. (DCRA); jpb@gdllaw.com; McGraw, Esther (DCRA); lathompson@dclawfirm.com
Subject: Re: RE: BZA Appeal 19550

Ms. Kaprelova,

You have not actually shared a draft motion for me to consider. To be clear, I do not consent to another continuance or a motion to incorporate.

I would appreciate answers to the questions asked by Commissioner Eckenweiler.

I also ask that you clarify which version of the Zoning Regulations DCRA used to review and approve this new permit B1805207.

Thank you for your consideration and understanding.

Sincerely,

Kevin

Kevin Cummins

On Thu, Apr 19, 2018 at 10:09 AM, Eckenwiler, Mark (SMD 6C04) <6C04@anc.dc.gov> wrote:
Ms. Kaprelova,

Owing to the extremely short notice and the complexity of the issues involved, ANC 6C is not willing at this time to consent to the motion. That position may change with the benefit of further reflection and consultation; given that (as you know) I'm going to be tied up much of this afternoon with other matters, however, I wanted to let you know promptly of our current position.

One question: can you confirm that DCRA's position is that the prior permit (B1706219) is now superseded and that the permitholder's entitlement to build under its terms--as opposed to those of B1805207--has ended? I assume that's correct, but I'm not able at the moment to rummage through Title 12A for the answer.

Regards,

Mark Eckenwiler
Commissioner, ANC 6C04
www.anc6c.org

From: Kaprelova, Anna P. (DCRA)
Sent: Wednesday, April 18, 2018 8:22 PM
To: Eckenwiler, Mark (SMD 6C04); 'kevin.cummins11@gmail.com'; jpb@gdllaw.com

DCRA actively uses feedback to improve our delivery and services. Please take a minute to share your feedback on how we performed in our last engagement. Also, subscribe to receive DCRA news and updates.