

**BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA**

In Re Appeal of:

Advisory Neighborhood Commission 2E

v.

Zoning Administrator

Department of Consumer and Regulatory Affairs)

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Appeal No. _____

STATEMENT IN SUPPORT OF APPEAL

Advisory Neighborhood Commission 2E ("ANC 2E" or "ANC") appeals the issuance on January 20, 2006, of building permit # 88614 ("Permit") for 1242 Potomac Street, NW, Square 1219, Lot 45, located in the R-3 Zoning District ("Subject Property") by the District of Columbia Department of Consumer and Regulatory Affairs ("DCRA" or "Appellee").

The Subject Property is located within the boundaries of ANC 2E and thus the ANC is entitled as a matter-of-right to bring this appeal.

ANC 2E respectfully submits that issuance of the Permit violates the laws and regulations of the District of Columbia, including but not limited to provisions in the District of Columbia Municipal Regulations ("DCMR") regarding lot occupancy requirements for one-family semi-detached dwellings in an R-3 district. The record does not reflect the grant of any special exception or zoning variance.

Four of the seven Commissioners of ANC 2E, the ANC's Executive Director, along with a Vice President of the Citizens Association of Georgetown ("CAO"), and a

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concerned citizen, met with the Zoning Administrator on March 29, 2006, and at that time were provided with a copy of the attached Plat for Building Permit of Square 1219, Lot 45, dated October 12, 2005 (Exhibit 1). At that meeting the Zoning Administrator was unable to provide additional details concerning the issuance of the Permit, although they had been requested earlier, indicating that they could not be located.

On April 4, 2006, ANC 2E held its regularly scheduled public meeting, duly noticed, at which all seven commissioners were present, and unanimously adopted a resolution to file this Appeal, and to request DCRA to suspend the Permit pending resolution of the ANC's appeal. DCRA was notified of this decision in a letter dated April 6, 2006 (Exhibit 2).

Grounds for Appeal

1. DCRA failed to give "Great Weight" to the ANC's Objections

The ANC objected to the grant of the Permit well in advance of its issuance and nothing in the record suggests that DCRA addressed and/or found a basis for overriding the ANC's objections, thus not complying with the provisions of law requiring that "great weight" be given to the ANC's position.

2. The Subject Property was already non-conforming

In February of 2005, the ANC was provided by the Owners' representative with a plat which reflected that the lot occupancy of the then existing improvements was 48%, in excess of the 40% allowed for a semi-detached residence in the R-3 District. (Exhibit 3). Assuming, *arguendo*, that such non-conforming use was "grandfathered," by

demolishing part of the pre-existing structure, the lot occupancy allowance would revert to 40%.

3. Any suggestion that the Subject Property is a “row house” is specious

A row house in the R-3 District is permitted a lot occupancy of 60%. It is abundantly clear that the Subject Property is a semi-detached dwelling, and not a row house. Even if that were the case, based on the representations in the February 1, 2005 plat (Exhibit 3), that allowance would be exceeded.

Summary

For the foregoing reasons, and such other and further reasons as may be asserted at hearing on this Appeal, ANC 2E respectfully requests that the Permit be nullified, and such other and further relief as may be appropriate in the circumstances.