

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

In Re Appeal of:)
)
Advisory Neighborhood Commission 2E)
)
)
)
Zoning Administrator)
Department of Consumer and Regulatory Affairs)

Appeal No. 17519

Rec'd
5-8-06
8/2

STATEMENT IN SUPPORT OF APPEAL

Advisory Neighborhood Commission 2E ("ANC 2E" or "ANC") appeals to the District of Columbia Board of Zoning Adjustment ("BZA") the issuance of building permit # 89770 on March 9, 2006 ("Permit") (Exhibit 1) for 1812-35th Street, NW, Square 1296, Lot 802, located in the R-3 Zoning District ("Subject Property") by the District of Columbia Department of Consumer and Regulatory Affairs ("DCRA"). The Permit erroneously indicates that the property is located in Ward 3, when in fact it is located in Ward 2. And further, the Permit indicates it authorizes "conversion [sic] as per plans to change single famil[y] dwelling into a row house."

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 the decision to issue 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.

BOARD OF ZONING ADJUSTMENT
District of Columbia
Board of Zoning Adjustment
District of Columbia
CASE NO. 17519
EXHIBIT NO. 3

Introduction

This property has a long, and relevant, history before the BZA. In BZA Case No. 17327, the owner sought special exception relief under 11 DCMR §§ 3104.1 and 223, to allow an addition to an existing single-family dwelling. That relief was denied by the BZA. In BZA Case No. 17310, the owner asserted that the Subject Property was a “row house,” and thus entitled to 60% lot occupancy under the applicable regulations. The BZA rejected that notion, but has yet to issue its formal Order. The ANC would respectfully request that the BZA incorporate by reference the records of these two prior proceedings involving the Subject Property.

The Permit subject to this Appeal purports, without benefit of any special exception or variance, to allow the owner to convert the existing one-family, semi-detached dwelling into a “row house” in what is an obvious attempt to unlawfully increase the lot occupancy allowance.

The ANC has unsuccessfully attempted to obtain the complete record regarding the issuance of the Permit, and anticipates supplementing this Appeal at such time as the relevant documents become available.

Grounds for Appeal

The BZA failed to give “Great Weight” to the ANC

Representatives of ANC 2E 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 1296, Lot 802 (Exhibit 2). 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. Consequently, the attached Plat (Exhibit 2) does not reflect the construction authorized by the Permit.

Conversion of a one-family semi-detached dwelling to a row house requires BZA approval.

The implicit position of DCRA that the owner of a one-family, semi-detached dwelling can, without benefit of a proceeding before the BZA for a special exception, and the associated prior notice to the ANC and affected neighbors, and their rights to object to such, is simply without basis in the law or regulations. In issuing the Permit, the DCRA totally eliminated the rights of both the ANC and the affected neighbors from making their objections known prior to the issuance of such a permit.

Further, the very issuance of the Permit, allows violation of the lot limit requirements for the *existing* dwelling without appropriate review and authorization.

Conclusion

Fore the foregoing reasons, and such other and further reasons as may be asserted at hearing on this matter, the ANC respectfully requests that the Permit be nullified, and for such other and further relief as may be appropriate in the circumstance

St No: 1812 St Name: 35TH Suffix: ST Quad: NW Suite:
Zip: Square: 1296 Suffix: Lot 1: 802 Lot 2: Lot 3: Lot Ext:
Cluster: Ward: 3 ANC: Parcel Key:
Address:

Building Permit

Rec Type: BUILDING App. Date: Issued Date: 03/09/2006 File Job #:
Bldg Permit No: 89770 Permit Type: No Flrs: Units:
Use Group: Use:
Permit Fee: 66.00 Valuation: 20,000.00 Filing Fee: 00
Owner Name: 1812 35th street llc Phone No: ()
Agent: GISELA GARCIA-TUNON 301-229-3328 Phone No: (301) 22-9 33
Address: City: State: Zip:
Comments: CONVERSION AS PER PLANS TO CHANGE SINGLE FAMIL DWELLING INTO A ROW HOUSE

Record No: 58100
Added By: Added Date: Updated By: Updated Date:

Exhibit 1

OFFICE OF THE SURVEY

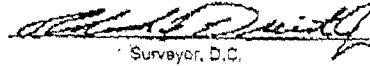
Washington, D.C., February 11, 2004

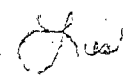
Plat for Building Permit of: SQUARE S - 1286 SITE PER SUB

Scale: 1 inch = 20 feet

Receipt NO. 09384

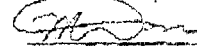
Furnished to: 1812 35TH STREET PARTNERSHIP



Surveyor, D.C.
By: B.D.M. 

I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly plotted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and plotted and agree with plans accompanying the application; that the foundation plans as shown hereon is drawn, and dimensioned accurately to the same scale as the property lines shown on this plat and that by reason of the proposed improvements to be erected as shown hereon the size of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that this area has been correctly drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or lots, or in excess of 12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property.)

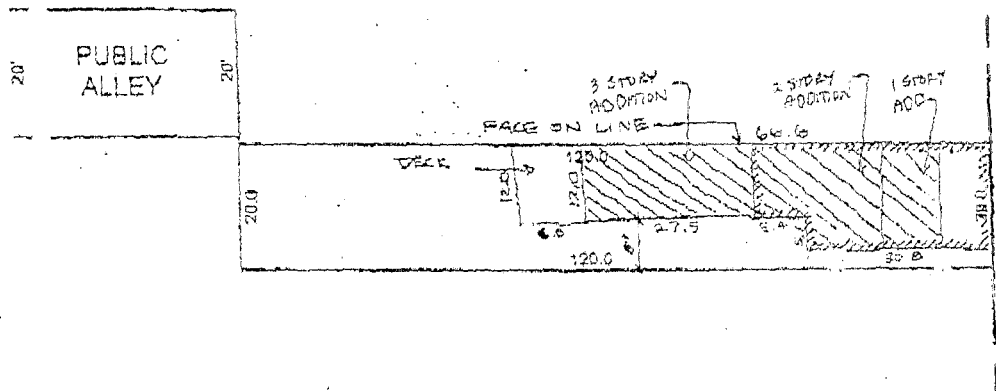
Date: 8/2/04



(Signature of owner or his authorized agent)

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.

RECEIVED
D.C. OFFICE OF ZONING
2005 MAR 21 PM 1:21



RESIDENTIAL DISTRICT	R3
LOT SIZE	2400 SF
EXISTING HOUSE FOOTPRINT	637 SF
EXISTING HOUSE OCCUPANCY	24.5 %
PROPOSED HOUSE FOOTPRINT	967 SF
PROPOSED HOUSE OCCUPANCY	40 %
HEIGHT OF HOUSE	24'-4"
PROPOSED HEIGHT OF HOUSE	37'-0"

KEY

/// EXISTING FOOTPRINT

 ADDITION

A SURVEYOR HAS
BEEN ORDERED TO
CREATE A LOT OF RECORD.

Exhibit 2

BZA APPLICATION NO. 17519

PAGE NO. 2

If you have any questions or require any additional information, feel free to call the Office of Zoning at (202) 727-6311.

SINCERELY,

A handwritten signature in black ink, appearing to read 'Jerrily R. Kress', written in a cursive style.

JERRILY R. KRESS, FAIA
Director