

Advisory Neighborhood Commission 2E



Representing the communities of Burleith, Georgetown and Hillandale

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March 2, 2016

Marnique Y. Heath, Chairperson, and Members of the Board
Board of Zoning Adjustment
441 – 4th Street, NW, Suite 210S
Washington, DC 20001

Re: BZA No. 17535A, 3254 O Street NW

Dear Chairperson Heath and Members of the Board:

Advisory Neighborhood Commission 2E, at a public meeting held on February 29, 2016, for which notice was duly given, with eight of eight commissioners present constituting a quorum, unanimously adopted the following resolution with regard to BZA Application No. 17535A, 3254 O Street NW:

ANC 2E requests that the Board of Zoning Adjustment defer consideration of Application No. 17535A until a pending dispute between the District of Columbia and Mr. Kebreab Zere concerning, among others things, whether homeowners whose properties abut the alley behind 3254 O Street have the right to access and traverse that alley.

Alternatively, for the reasons set out in this resolution, ANC 2E asks the BZA to deny the applicant's request that BZA waive the requirements of section 202.10(d) of the Zoning Regulations to allow the issuance of a special exception that would allow the applicant to construct a "trellised walkway" to connect her existing single-family dwelling to her existing free-standing garage and to expand the garage to include an accessory apartment.

Background. As a preliminary matter, ANC 2E notes that the BZA has been asked to grant similar relief with respect the applicant's property at least four times since 2001.

- In 2001, the applicant applied for a variance to permit the construction of a second story addition to the garage to be used as living quarters for a maid or a family member. That application was denied by the BZA.

COMMISSIONERS:

Ed Solomon, District 1 Ron Lewis, District 2 Jeff Jones, District 3 Kendyl Clausen, District 4
Bill Starrels, District 5 Tom Birch, District 6 Monica Roaché, District 7 Reed Howard, District 8

- Four years later, in 2005, the applicant filed another application in which she apparently requested relief that was very similar to the relief requested in the current application. That application was withdrawn before the BZA took it up.
- In 2006, the applicant applied for a special exception that would have allowed her to construct a covered walkway to connect her dwelling to the accessory garage located at the rear of her lot. The Applicant did not at that time apply for a special exception that would allow her to expand her garage. The BZA approved the special exception the applicant requested. In its order approving the special exception, the BZA cited the applicant's representation that she had no intent to pursue other construction.
- However, it appears the applicant did not go forward with the plans to construct the covered walkway, and she is now requesting approval of a special exception that allows both the construction of the covered walkway and expansion of the garage.

ANC 2E also notes that in 2010 and 2011, the applicant asked the Old Georgetown Board ("OGB") to review concept designs for alterations to her garage. After the OGB provided comments, the applicant apparently abandoned the project. The applicant has not asked the OGB to review the design that is the subject of her pending application to the BZA.

Request That Consideration Of Application Be Deferred. The garage that is the subject of Application No. 17535A abuts an alley that runs east to west between Potomac Street and 33rd Street, paralleling N Street to the south and O Street to the north. The project for which the applicant is seeking a special exception contemplates that the proposed accessory apartment could be accessed through a door to be added to the existing garage that would open on the alley. Mr. Kebreab Zere is the owner of five of the six tax lots that comprise the alley, including lots 804 and 820, the lots that abut the applicant's property. Mr. Zere has taken the position that neighbors such as the applicant (or her tenants) do not have the right to traverse the alley without his permission. The District of Columbia disagrees, and recently sued Mr. Zere, requesting, among other things, a declaration that the general public, including neighbors such as the applicant, have a right to traverse the alley by foot or by vehicle.

ANC 2E submits that the question of whether occupants of the proposed accessory apartment would have the right to access that apartment through the alley is relevant to the BZA's consideration of the applicant's request for a special exception. Therefore, ANC 2E requests that the BZA defer its consideration of Application No. 17535A until the issue of the applicant's right of access to the alley has been resolved.

Alternative Request That The Application Be Denied. If the BZA determines that a hearing on Application No. 17535A, currently scheduled for April 5, 2016, should go forward, ANC 2E submits that the application should be denied. Section 202.10(d) of the Regulations provides that a special exception may be approved to permit the addition of an accessory apartment to an existing one-family detached dwelling only if the new apartment is to be "created only through internal conversion of the house, without any

additional lot occupancy or gross floor area..." The expansion of the garage footprint as described in the plans and addition of a second story would clearly not be an "internal conversion" of the garage, much less of the house to which it is not currently connected. Moreover, even if the garage were considered to be part of the house because of the addition of a covered walkway connecting the two structures, the proposed project would not only increase lot occupancy, but would also increase the gross floor area of the combined structures by approximately 25%.

Recognizing that her proposal does not comply with the requirements of Section 202.10(d), the applicant has asked the BZA to waive those requirements. Section 202.10(i) of the Zoning Code permits the BZA to waive requirements such as those set out in Section 202.10(d) only if the modification resulting from the waiver does not "conflict with the intent of this section to maintain a single-family residential appearance and character in the R-1, R-2, and R-3 Districts..." The applicant argues that because the proposed accessory apartment would not be visible from O Street the single-family appearance and character of the neighborhood would not be affected by the project, but fails to acknowledge that an expanded garage with an accessory apartment on a new second floor and a door accessing the alley would be visible from both Potomac Street and 33rd Street. If constructed, the expanded garage would appear to be a stand-alone structure comprised of a first-floor garage and a second-story apartment. Such a structure would clearly conflict with the intent of Section 202.10 "to maintain a single-family residential appearance and character..." in the neighborhood.

ANC 2E also notes that the application submitted to the BZA contains no discussion whatsoever of how construction of the proposed walkway would comply with the Regulations. The application states that the "Principal Structure" created by connecting the two structures currently on the property with a covered walkway "would be under the maximum 60% lot occupancy for the Property." Given that section 403.2 of the Regulations allows for up to 60% lot coverage by a dwelling in the R-3 District only if the structure is classified as a "row dwelling" it appears the applicant assumes the project will change the house and its connected structures from its current classification as a detached dwelling to a row dwelling. However, this change is not discussed in the application. Furthermore, the application does not address the question of whether the addition of the walkway and the expansion of the garage would result in non-compliance with sections 404 and 406 of the Regulations, which govern Rear Yards and Courts, respectively.

For the reasons stated in this resolution, ANC 2E respectfully submits that if the BZA proceeds with the hearing currently scheduled for April 5, 2016, Application No. 17353A should be denied.

Sincerely,



Ron Lewis
Chair, ANC 2E