

ADVISORY NEIGHBORHOOD COMMISSION 3E
TENLEYTOWN • AMERICAN UNIVERSITY PARK • FRIENDSHIP HEIGHTS

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**Resolution Opposing Motion of Stephanie Wallace to Amend Appeal
(BZA Appeal No. 17747)**

Whereas, Appellant Stephanie Wallace seeks to overturn the September 28th, 2007 decision of the Zoning Administrator (ZA) denying a fifth building permit for construction at 5013 Belt Road, N.W. On April 10, 2008, ANC 3E passed, by unanimous vote, a resolution opposing the appeal and urging the Board of Zoning Adjustment (BZA) to affirm the ZA's decision. That resolution has been submitted to the BZA.

Whereas, on April 29, 2008, ANC 3E attended the BZA hearing for the purpose of opposing the Wallace Appeal.

Whereas, Appellant now has filed a Motion to Amend Appeal No. 17747. In her proposed amended appeal, Appellant asserts a right to repair or rebuild the non-conforming addition. Appellant is attempting to redefine the scope of the appeal which is properly limited to whether she may lawfully retain the non-conforming addition now that there no longer exists a non-conforming side-yard on which to build an addition.

Whereas, With this proposed amended complaint, Appellant seeks review of an issue that is not yet ripe for appeal. She is attempting to bypass the permit process and put before the BZA a permitting issue that can be considered only by the ZA. Whether the developer can build or repair the existing non-conforming structure is a question that can be answered solely by the ZA. The BZA may not consider the issue until the ZA has made a final determination from which an appeal can be sought.

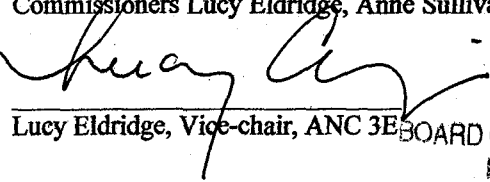
Whereas, The process for securing permission to build non-conforming structures includes notice to and consideration by the ANC. None of the issues sought to be included in the amended appeal have been considered by the ANC. The Appellant has not submitted plans to the ANC, nor has she contacted the ANC to discuss modifications to the structure or any of the other proposals referenced in her Motion to Amend the Appeal.

Whereas, The amended appeal and the process by which that amendment has been pursued seek to contort the appeal process to circumvent the permit process. The BZA should not allow the Appellant to proceed in such a manner.

THEREFORE BE IT RESOLVED, for the reasons set forth above, that the ANC strongly opposes the Appellant's Motion to Amend Appeal No. 17747, as filed on June 2, 2008, because it seeks to put before the BZA issues that are not yet ripe for appeal as they have not yet been considered by the ZA.

THEREFORE BE IT FURTHER RESOLVED that in the event the Board grants the Motion to Amend, ANC 3E respectfully requests a continuance of the Hearing so that it may review the changes contained in the amended appeal and take official action on the Appellant's proposals. If the Board grants the Appellant's untimely Motion to Amend, in spite of the ANC's lack of opportunity to consider this proposal, the ANC will be deprived of its regulatory rights and be unduly prejudiced.

ANC 3E approved this resolution at its regularly scheduled meeting on July 10, 2008, which was properly noticed and at which a quorum was present. The resolution was approved by a vote of 4-0. Commissioners Lucy Eldridge, Anne Sullivan, Amy McVey and Matthew Frumin were present.


Lucy Eldridge, Vice-chair, ANC 3E
BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 17747
EXHIBIT NO. 48

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