

Appeal to the Board of Zoning Adjustment

Re: Mary M. Donovan
1363 Massachusetts Ave SE

On October 15, 2010, Mary M. Donovan, without formal notice or public proceeding began work on an addition in her back yard. When questioned, she displayed a building permit, and stated that she intended to build a one-story porch addition covering essentially 100 percent of her lot to all rear lot lines, including over 37 feet along the rear alley, rising nearly 20 feet off of the ground.

1. Linda Argo, Director, DC Department of Consumer and Regulatory Affairs failed to interpret and apply the DC Zoning Regulations Section 11-101 by issuing a Zoning Variance and building permits that allow Mary Donovan to build an addition beyond lot occupancy limitations without public process.

- No public ANC, Historic Preservation or Zoning process.
- Records and DCRA evaluation are nondisclosable because they contain medical information.
- No notice to next-door neighbor until end of day that work began. That notice arrived in the form of a back-dated letter. It was incomplete and not accurate about the full extent of the lot coverage. Other neighboring property owners, including those directly across the 10-foot alley, have not received notice of the project.
- The proposed addition blocks a long-standing easement right-of-way of the neighboring property. This denial of a property right was approved by DCRA without proper notice or public process.
- The Fair Housing Act provides that the District will 'Reasonably modify DCRA rules, policies, programs and procedures to ensure that people with disabilities have equal opportunity to use and enjoy their homes.' Nothing in the proposed addition ensures equal opportunity to use and enjoy the home. It is seasonal space for use part of the year when the weather permits, so even with the proposed addition, the existing space is deemed adequate when the weather is too hot or too cold for porch use. In addition, the existing 256 square feet of porch space is more than adequate.

2. Linda Argo, Director, DC Department of Consumer and Regulatory Affairs failed to interpret and apply the DC Zoning Regulations Section 11-101 by issuing a Zoning Variance and building permits that allow Mary Donovan to

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18154

EXHIBIT NO. 3

build an addition beyond lot occupancy limitations without proper evaluation of existing space.

- 1363 Massachusetts Ave SE was designed and built as a building with Residential Flats. The first floor was designed and built as a complete and independent 2-bedroom living space. Mary Donovan subsequently tore down walls of one of the bedrooms to make a large living room, leaving one bedroom and bathroom on the first floor.
- The existing living space on the first floor (over 1,000 square feet including the existing porch) provides fully adequate living space for 2 people.
- Mary Donovan and her husband currently occupy space on all 3 floors and a finished attic at 1363 Massachusetts Ave, SE. There is rental space in part of the basement and part of the second floor. The non-rental space on the second floor, the attic and in the basement will continue to be available to Mary Donovan. For example, laundry facilities and storage space in the basement would be available to Mary Donovan, the second floor space could be used as an office and sitting room for Mary Donovan. This extra space adds to their more than ample living space.
- Mary Donovan stated on October 15, 2010, that no DCRA employee had come to 1363 Massachusetts Ave SE to evaluate whether existing space was adequate or whether the addition of over 370 square feet of porch space is a necessary "reasonable accommodation." Nor was there any apparent evaluation of the encroachment on neighboring property rights, including the blocking of an easement. Plans do not include alterations more typical of "reasonable accommodation" for the disabled, for example, widened hallways and grab bars.

3. Linda Argo, Director, DC Department of Consumer and Regulatory Affairs failed to interpret and apply the DC Zoning Regulations Section 11-101 by issuing a Zoning Variance and building permits that allow Mary Donovan to build an addition beyond lot occupancy limitations without proper evaluation of whether additional porch space is a "reasonable accommodation" of the needs of Mary M. Donovan.

- The existing rear porch space (256 square feet) provides adequate porch space for 2 people. The proposed addition of another 370 square feet (judging from the crude and incomplete plans submitted) of porch to all rear lot lines, including 37 feet along the alley is excessive, unnecessary and does not justify a "reasonable accommodation" given the existing porch space. The proceedings and records of DCRA relating to this zoning variance are not available to the public.

- Less intrusive alternatives do not appear to have been considered. The proceedings and records of DCRA relating to this zoning variance are not available to the public. (We are within the Capitol Hill Historic District.)
- The proposed addition unreasonably blocks light and air to many nearby properties. . .without proper notice. It will rise nearly 20 feet off the ground, covering over 370 square feet of our limited open space-- completely out-sized and out of character with existing buildings and spaces.
- Bad faith on the part of Mary Donovan: a stop work order was issued to Mary Donovan within the past few years on an unpermitted enlargement of the same back porch at 1363 Massachusetts Ave SE. Mary Donovan recently completed an unpermitted enclosure of the rear yard of a rowhouse inhabited by her son at 1375 Massachusetts Ave SE. Mary Donovan stated that she intended to build a similar structure in her own back-yard at 1363 Massachusetts Ave SE.
- The combination of bad faith, secrecy of proceedings and records, the lack of meaningful notice and public process and the absence of real DCRA evaluation as to whether the extent of the encroachment is justified by the disability sets a dangerous precedent for others who want to abuse the Fair Housing Act and avoid reasonable administration of land use in the District.

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