

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

**APPEAL OF 2101 CONNECTICUT AVENUE
COOPERATIVE APARTMENTS, INC. FROM A
DETERMINATION OF THE ZONING
ADMINISTRATOR PERTAINING TO A PROPOSED
REAR ADDITION TO 2012 KALORAMA ROAD,
NW, WASHINGTON, DC 20009
SQUARE 2537, LOT 0150 (R-5-B)**

Appeal No. 18540

AND REQUEST FOR STAY

ADDITIONAL INFORMATION IN SUPPORT OF REQUEST FOR STAY

On February 4, 2013, 2101 Connecticut Avenue Cooperative Apartments, Inc. (the “Cooperative”), the owner of Square 2537, Lot 0300 with the street address of 2101 Connecticut Avenue N.W. (the “2101 Residence”), by and through its duly authorized counsel, Linowes and Blocher LLP, filed Appeal No. 18540 (the “Appeal”) pursuant to Section 6-641.07(f) of the D.C. Code Annotated (“D.C. Code Annotated”) and Sections 3100.2, 3112.2, and 3112.5 of Title 11 of the District of Columbia Municipal Regulations (“DCMR”) (the “Zoning Regulations”) from a determination of the Zoning Administrator rendered on December 5, 2012 (provided to counsel for the Cooperative on December 7, 2012) concluding that the proposed rear addition to 2012 Kalorama Road and conversion of an existing single-family dwelling to an eight-unit apartment building (the “Project”) can be constructed by “matter of right.” As part of that Appeal, the Cooperative also asked the Board of Zoning Adjustment (the “Board”) to stay all processing and approval of any permits related to the development on 2012 Kalorama Road (the “2012 Lot” or the “Property”) until the completion of the Board’s review of the Appeal (the “Request for a Stay”). The Cooperative now submits further information to support its Request for a Stay. In sum, as discussed herein, the Cooperative’s request satisfies the requirements set-forth in *Kuflom v. District of Columbia Bureau of Motor Vehicle Services*, 543 A.2d 340 (D.C. 1988), and

without a stay, the Project developer will continue to apply for and possibly obtain building permits that will directly result in irreparable damage to the Cooperative's members, adjoining neighbors to the east, and the general public. Accordingly, for the reasons stated below, the Cooperative respectfully asks the Board to stay all processing and approval of any permits related to the development of the Property, until after the Board issues its final decision on the Appeal.

A. Summary of Case

Lock 7 Development (the "Developer") is the contract purchaser of the 2012 Lot and intends to convert the historic townhouse from a single-family dwelling into an eight-unit apartment house with three parking spaces (the "Project"). The plans shown to the Zoning Administrator propose almost tripling the gross-floor area and construction of a 40-foot tall, 60-foot long windowless brick wall along the eastern property line. Because the plans shown to the Zoning Administrator were not accurate or complete, he was not able to ascertain that in fact the Project will violate the side yard and parking requirements, may not meet lot occupancy restrictions, and does not provide required Inclusionary Zoning units (because it is really a joint project with the adjacent townhouse proposed for 9 units, so a total of 17 units). Further, a complete survey of the Property has not been prepared in order to ascertain the proper boundary line of the Property as it relates to structures and improvements that may belong to the neighboring property to the east known as the Stratford Condominium (the "Stratford"), and which may be affected by the Project. Lastly, the Project does not provide for sufficient trash and recycling storage or removal, or a location for the nine HVAC units that will produce noise upwards of 70-85 decibels in violation of the residential noise restrictions.

B. Need for Stay

The Developer has made clear its intention to move forward quickly with any and all permits and plans for the Property. There have been applications and plans filed that do not fully and accurately reflect what is being proposed, thus not allowing proper review by the appropriate agencies. Accordingly, approving a stay for all permits would allow sufficient time for corrections to be made and proper review to be conducted, without harming the Developer.

To that end, on January 14, 2013, the Developer applied for Building Permit No. B1303106 (the “Building Permit”), despite the fact that it did not, and still does not, own the Property. A copy of the publicly-available information about the Building Permit from the DCRA website is attached as Exhibit “A”. Because DCRA has not issued the Building Permit, the Cooperative could not review specific information about the scope of work and/or building plans. However, because this Building Permit was applied for prior to the Historic Preservation Review Board (“HPRB”) action on January 24, 2013 (discussed below), it must seek to allow construction of the proposed addition design the Developers originally submitted to the HPRB as part of the conceptual design for the 2012 Lot and the adjoining row house located at 2014 Kalorama Road (“2014”), which was reviewed and approved by the HPRB as a consent item on October 25, 2012 (the “Concept Plan”).

The design that the Cooperative believes is the basis for the Building Permit was, in large part, rejected by the HPRB between when the Building Permit application was filed on January 14, 2013 and today, and indeed the Developer has filed a new Building Permit Review Application with the HPRB. Therefore, if allowed to be issued, the Building Permit would violate the HPRB’s recent actions.

Specifically, in mid-January, the Cooperative, Advisory Neighborhood Commission 1C (the “ANC”), and other neighbors asked the HPRB to reconsider its approval of the Concept Plan and re-open the proceeding to receive additional testimony because the Developer had improperly indicated that they had been informed of the Project. The HPRB agreed to re-open the record, and it received additional substantial and new information from the Cooperative and its historic, architectural, traffic and economic experts in January 2013.

On January 24, 2013, the HPRB conducted a public hearing in which it heard from the Cooperative and its experts as well as the Developer. Following the public hearing, the HPRB required the Developer to amend its plans prior to applying for building permits and that all building permit applications required HPRB approval before they could be issued by DCRA. In particular, at its January 24, 2013 meeting, the HPRB determined that the Concept Plan, which was the basis of the Building Permit, was “very rough,” “heavy handed,” “doesn’t show a lot of skill,” and needs to be developed to show a “better understanding of where the original structure is.” HPRB directed the Developer to, among other things, “refine” the design in order to

preserve the architectural features of the rear facades of the two houses (including the roof form, dormers, and chimneys); clearly delineate the old from the new; and, give careful attention to how the original houses are to be connected to the new additions. Furthermore, the HPRB required the Developer to revise the plans with the assistance of the ANC, the Cooperative and other neighbors.

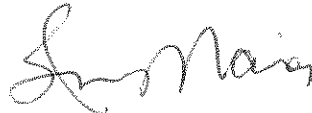
Despite the HPRB's clear direction to refine the Concept Plan and make substantial changes in conjunction and consultation with the ANC and the neighbors, on January 25, 2013, the day after the HPRB meeting, the Developer filed an application for building permit review with the HPRB ("Building Permit Review Application," designated HPA No. 13-164). In doing so, the Developer submitted a set of plans that were almost identical to the plans the HPRB had asked them to revise only the day before with the intention of trying to move the process along as quickly as possible. Further, these plans were not provided to the Cooperative, the ANC or other neighbors for discussion. However, the Developer intends to have the HPRB review its Building Permit Review Application on March 28, 2013, a full month before the Board is scheduled to hear the Appeal.

Based on the Developer's actions over the course of this process, the Cooperative strongly believes that without the Board's granting of a stay, the Developer will obtain and implement the Building Permit and start demolition wherever it can, as well as begin grading and construction prior to or immediately following the HPRB's action (planned for March 28, 2013) without adequately determining the zoning issues and completing a survey to determine the ownership issues of various structures, both of which will have a substantial impact on the Project. Moreover, failure to grant this Stay could put DCRA in the absurd position of issuing a Building Permit for a design that does not comply with the HPRB's direction and/or is inconsistent or incompatible with any final Building Permit Review Application the HPRB may approve for the Project.

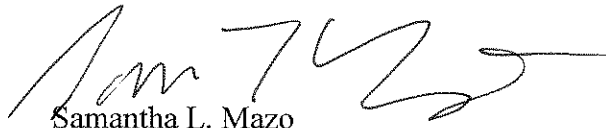
Accordingly, due to what we understand to be the potentially imminent issuance and implementation of an incompatible and incorrect Building Permit by DCRA, the Cooperative asks the Board to stay all processing and approval of any permits related to the Property for the pendency of this Appeal.

Respectfully submitted,

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February 19, 2013

CERTIFICATE OF SERVICE

I hereby certify that on this 19th of February, 2013, a copy of the foregoing was mailed, first class postage prepaid to:

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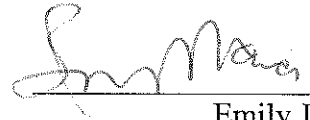
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A handwritten signature in dark ink, appearing to read "Emily J. Vaia", written over a horizontal line.

Emily J. Vaia



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Building Plan Review Status

Permit Number	Address	File Date
B1303106	2012 KALORAMA RD NW	1/14/2013

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