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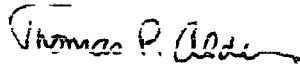
THOMAS P. ALDER

□ 454 NEW JERSEY AVE., SE
WASHINGTON, DC 20003
PATERSONA@SBCGLOBAL.NET

□ 1471 E. UNIVERSITY ST.
SPRINGFIELD, MO 65804-1230
PATERSONA@SBCGLOBAL.NET

April 22, 2013

This is to certify that I am the author of the associated PDF file containing a non-party submission in BZA case 18542. My signature is below.



Thomas P. Alder

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BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18542

EXHIBIT NO. 28

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BZA18542

I am Thomas Alder, a District resident with a permanent residence at 545 New Jersey Avenue, S.E., immediately adjacent to the property in this application. I have owned and lived in this house for 51 years, as has my wife for 44 years. We have been out of state for several years due to a family care giving need, but will resume regular occupancy in the near future.

John Crain, the applicant, has been a good neighbor for the six years he has owned the house at 452. He has asked me to support this application as it stands, which I wish I could do. I have declined only after serious consideration of all parts of the proposed project, its scope, and its ramifications. I have one procedural and three substantive objections. Because I am not present to appear or to follow the application closely, I am submitting my points in opposition to the application in its current form as an interested non-party respondent.

I. Insufficient 200-foot notice does not comply with Form 120, Sec. 5(G).

My copy of the 200-foot notification list provided to the Office in compliance with Form 120, Sec. 5(G) fails to include any addresses on the west side of New Jersey Ave., S.E. This omits a significant number of property owners within a 200 foot radius. By contrast, it is my recollection that we, at 454, received notice of zoning applications for west side properties in the 1970-90 period. If this evident lack of compliance in this case is an oversight, it is hard to see how it can be considered harmless error without disregarding the 200-foot notice requirement and its purpose. I requested clarification of the apparent omission in an e-mail to the Office, but have not received one. I have assumed, therefore, that the matter would be raised with the applicant by the Office on its own initiative; I note it here in the event it has not.

II. The proposed additions to the original structure do not meet the requirements of Secs. 223.2, 223.2(a) and 223.2(b). They unduly affect the light and air available at 454 New Jersey Ave., S.E. and unduly compromise the use of that adjacent property.

(a) The addition not necessary for the structural integrity of the rear wall, or for the other purposes of the application.

The application does not claim that the rear wall of the dwelling has "failed" or that it must be demolished, reconstructed and extended in order to secure its structural integrity. This distinguishes it from the proposal to demolish and reconstruct the front facade. It also differs in this respect from one reason given to neighbors in the 1980's by the then-owners of the adjacent property at 450 New Jersey Ave., for the rear wall extension of that dwelling. The present application relies on that addition as precedent, and would essentially emulate it. The application also does not represent that the addition is necessary to allow the proposed reconfiguration the windows and entrances. In short, the extension and the non-conforming result it would create have no exigent or necessary purpose to warrant relief from the R-4/CAP requirements, and denial of this exception would not preclude the applicant from achieving the other aspects of the proposal.

(b) This addition would grossly violate yard area requirements.

The applicant's property and my own sit three and four lots away from the convergence of New Jersey Avenue, 1st Street, and North Carolina Avenue and border on a common 3-foot alley. The compression caused by this convergence is borne entirely by the rear yards. As a result, both rear yards do not even now conform to the 20-foot minimum depth requirement. The rear wall addition proposed in the application will go further and eliminate 20% of the applicant's existing rear yard. Because that yard is already constricted, this would result in a rear yard that is only c.75% of the minimum area required under the regulation. I submit that a special exception should be granted for such a radical encroachment only where the circumstances presented by the application are truly exceptional, as they plainly are not in this case.

(c) The addition and the associated brick party wall would have critical impact on air circulation and ventilation in this confined setting.

The most compelling reason to withhold support for the application is that it would result in a further restriction of sight lines and ventilation where these are already compromised to a critical degree. As noted, the site is near a boundary with North Carolina Avenue. The three storey west side wall of the large house fronting North Carolina borders on the alley and extends to the southern edge of my property line. A deck projects even further. The alley has a width of under 36 inches. This constricts and reduces air flow and light from the east and south. On the west side of the alley, two pre-1958 additions at 456 and 458 New Jersey extend all the way to the alley and entirely block surface air flow from the south. The addition at 456, adjacent to my property, is a single storey structure, while the larger addition at 458 extends into the third storey envelope. This means my property is walled off to the south. The only remaining opening or vista for 454 is to the north, in the direction of 452, the applicant's property. Under the proposed plan, this would be blocked to a height of 6 feet by a solid, unvented, brick party wall extending to the alley. This party line had been fenced with vented, woven, fencing for over 50 years.

As a field inspection would confirm, the combined impact of the nonconforming rear yards, nonconforming additions, and a new solid party wall would create a severely compromised ventilation environment for the adjacent property. Neither the addition or the party wall would not be essential to the applicant's other goals, or to the usual and reasonable use of the property in the future. They would, by contrast, substantially diminish the livability of my property, and by extension, its market value. For this reason, I submit, it would fail to meet the requirement of Sec. 223.2(b) that a permitted degradation must not be "undue."

III. The proposed permanent barbecue pit underscores the applications's impingement on ventilation and air quality

The application as filed shows a permanent barbecue pit carved out of the existing rear yard and located below grade. I do not know whether this constitutes a further reduction in rear yard area under the zoning regulations and I do not object to it on that ground. I do object to the installation of a permanent facility for a use that is designed to produce cooking fumes and vent them into the already-compromised common airspace. In our experience, outdoor cooking in these yards almost always results in cooking and combustion emissions that linger in the rear yard and penetrate our dwelling in offensive concentrations. Our yard, constituting the pocket or dead zone in the ventilation pattern, is particularly vulnerable. Again in our experience, backyard cooking has been rare because other owners have acknowledged the problem and have desisted out of neighborly comity.

Installing a new source of emissions as a permanent masonry structure in this rear yard area would constitute a direct and continuing encroachment on the use and enjoyment of our property. Placing it below grade would only lengthen the elimination period for emissions and increase their concentrations at the main floor and patio levels. This installation would be an avoidable mistake: it should not be overlooked and endorsed just because it is a small component of a much larger application.

IV. The application provides insufficient protections for the adjacent structure at 454 New Jersey Ave., S.E. Favorable Board action should be conditioned on submission of a Damage Avoidance and Control Plan

The application proposes to demolish both front and rear walls and to undermine the rear yard area to a depth of over six feet. I believe this would be the most extensive demolition of a masonry building bordering a residential structure the 400 block of New Jersey Ave, S.E. in over 50 years. 452 and 454 are part of a seven-house row built as a development in the early 1870's. They have common facade walls and these may be interlocked or bonded. As constructed, the outer veneer on the front facade is composed of finished bricks, laid in runner courses with very narrow pointing. The two inner wythes are laid as common bond and these are not visible. We repointed front and back walls at 454 in the 1970's and they appear to be essentially intact. However, it is undetermined whether the 2011 earthquake caused structural damage that is not evident.

For these reasons, I believe these structures should be treated as requiring special care in any demolition as sweeping as the one proposed. The application as presented falls short of showing how this will be done. It provides engineering detail on soil erosion control, but nothing on the important matter of support for the structure at 454 itself. Until this is remedied in explicit detail by a written damage avoidance and control plan, the project will pose a present and continuing risk that materially compromises our use and enjoyment of our adjacent property. I request that any action by the Board that approves the demolition phase of this application be accompanied by a requirement that a damage avoidance and control plan be provided, with a level of engineering detail at least equal to the soil erosion control plan submitted with the application.

V. This Application Relies on a Bad Precedent and Only Perpetuates It.

As noted in point II, above, the extension to the rear wall at 450 in the 1980's is similar to the one proposed here. The principal zoning issue at that time was the impact of the extension on sight lines, light, and ventilation. A less tangible concern, which was raised then as now, was that such an extension would represent a "tipping point," encouraging and even forcing other owners to make similar applications in self defense. I believe that is now unfolding and can hardly be expected to end with this application. If the proposed extension is built, no principled grounds will exist for denying permits to the owners of 454 and 448 to do the same thing. When that happens, small back yards that already had marginal light and ventilation will begin to resemble the light shafts seen in dense housing and commercial quarters. Admittedly, this will be in large part due to building additions that preceded current zoning rules. But these are the facts on the ground, and they call for strict application of the rules to ameliorate the impact of non-conforming legacy structures. It should be stressed that all post-1958 purchasers, including myself and Mr. Crain, were aware of these constraints when they acquired their properties.

VI. In conclusion: Stepping back and scaling down the project

It is fair to ask whether the magnitude and cost of this application shows that the applicant is making the site bear more than it can or should. Granting that space needs may have changed since the 1870's, the present interior space of 452 is not abnormally small for domestic family occupancy. This, after all, is the meaning of R-4 zoning. It is certainly not under-sized in the

present housing market, witness the continuing practice of carving out basement income units in Capitol Hill row houses and in this block of New Jersey Avenue.

I submit that the proposed addition and rear yard treatment constitute what is too much like a zero-sum reallocation of value from my property to Mr. Crain's. This contravenes what I understand to be a cardinal purpose of zoning regulation. Some other elements of the project largely avoid this pitfall once provision is made to protect my property during demolition and construction. I would ask the Board to keep this distinction in mind in its consideration of the application.

In passing on these comments I emphasize that we acknowledge Mr. Crain's desire to have an enhanced residence for himself and his family. We, too, have felt the constraints that accompany life in an historic home at a desired location. We hope that his aspirations can be achieved in ways that do not impinge on others as this proposal does in its present form.

Thank you for giving these comments your consideration.

Sincerely yours,

Thomas P. Alder