



GAYLE TROTTER
Commissioner, ANC 3D 09

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Mr. Lloyd Jordan
Chairman
District of Columbia Board of Zoning Adjustment
441 Fourth Street, N.W.
Washington, D.C. 20001

Re: Case 18573 Application of Kathleen M. Sullivan for Special Exception
Accessory Apartment 4463 Greenwich Parkway, NW

Dear Mr. Jordan:

The application before you concerns a rowhouse at 4463 Greenwich Parkway in the Foxhall Village neighborhood, which is part of my single-member district within ANC 3D 09. The application first came before the ANC at our June 5 meeting. Initially, the application began as a use variance to allow the house to be split into two units.

The Foxhall Community Citizens Association (FCCA) opposed the application because the applicant had failed to give proper notice and FCCA representatives believed that the application presented serious issues for the single family, low-density character of the neighborhood. The FCCA seeks to "preserve the quality of life and unique architectural character" of the Foxhall Village community and played an instrumental role in the recent designation of the Foxhall Village Historic District.

After deliberation, the ANC voted to encourage the homeowner and the neighbors to discuss ways to improve the application so the applicant could achieve her goal in compliance with applicable law and without adversely affecting the neighborhood.

After considerable discussion, the applicant amended her application to request a special exception under Section 202.10 of DCMR 11-202, rather than a use variance. The applicant again failed to post any notice within the prescribed period, and posted the notice of the June 25 hearing only on June 18 by posting the orange notice sign on the front door of the property.

Members of the FCCA board of directors have communicated to me that, due to insufficient notice, the FCCA has not had enough time to gather pertinent information about the application. The FCCA has requested that the BZA delay its decision until all relevant facts can be ascertained with respect to the application.

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Section 202.10 enumerates eight requirements governing a BZA exception to permit the addition of an accessory apartment within an existing one-family home and provides that the BZA “may modify or waive not more than two (2) of the requirements.” However, the owner-occupancy requirement may not be waived and any approved modifications must “not conflict with the intent . . . to maintain a single-family residential appearance and character in the R-1, R-2, and R-3 Districts.” Foxhall Village is zoned R-3.

The applicant demands an exemption purporting to rely on two waivers, the maximum permitted under Section 202.10. The first waiver is based on house type (the property is not detached, as required). The second waiver is based on minimum lot size (the lot area is below the 4,000 square-foot minimum lot size).

However, the application fails to indicate that the applicant would require four waivers, which would violate the two-waiver maximum permitted under Section 202.10:

(1) The applicant claims that the property’s gross floor area is 2,044 square feet. Section 202.10 requires the dwelling to have at least 2,000 square feet of gross floor area, exclusive of garage space.

(2) The applicant claims that the accessory apartment unit would occupy 512 square feet, exactly 25% of the dwelling’s claimed gross floor area. Section 202.10 requires the accessory apartment unit to occupy no more than 25% of the dwelling’s gross floor area.

Both of these representations rely on the applicant’s claim that her attic space represents 288 square feet of gross floor area. However, the applicant’s attic cannot count toward gross floor area because 11 DCMR 199.1 defines “gross floor area” specifically to exclude attic space with structural headroom of less than 6.5 feet.

Representatives of FCCA have determined, based on a visual evaluation of the front and back of the property as well their inspection of the interior attic space of a structurally identical house nearby, that the applicant’s attic clearly does not satisfy the requirement of 6.5 feet of structural head room. In my conversation with the applicant, when asked about the structural headroom in her attic, she represented that she did not know and could not guess. She did, however, indicate that her attic is accessible only via ceiling access panel and that the attic is not habitable space.

Given that the property’s attic by law cannot count toward gross floor area, the applicant fails to satisfy the requirement in Section 202.10 for the dwelling to have at least 2,000 square feet of gross floor area. Similarly, the applicant also fails to satisfy the requirement that the accessory dwelling unit represent no more than 25% of the property’s gross floor area. As a result, the application would require a waiver of four of the eight requirements in Section 202.10, exceeding the maximum number of two permitted waivers.

Four waivers from Section 202.10 would require the BZA to treat the application as a use variance rather than a special exception. My understanding from Stephen Cochran is that, in that case, the BZA would ordinarily delay its decision on the application until the application is properly revised to seek a use variance rather than a special exception.

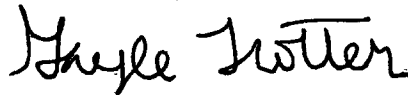
Allowing four waivers in this case would have a detrimental effect on the neighborhood and also detract from the efficacy of our zoning laws.

The architectural schematic accompanying the application does not indicate whether the attic's structural headroom is at least 6.5 feet, as required to count toward the minimum gross floor area (2,000 square feet) and maximum accessory dwelling size (25% of gross floor area) in addition to the maximum number of two waivers already demanded under the application. Whether the attic's structural headroom in fact satisfies the applicable legal requirements is a material fact in the BZA's consideration of this application and could readily be verified through an architect's certification, visual inspection or photographic evidence submitted by the applicant or other interested parties, such as the FCCA.

The residents of my single-member district elected me to represent their views and interests in matters of concern to our unique neighborhoods. The residents of Foxhall Village, together with representatives of the FCCA, have repeatedly and passionately expressed to me their deep concerns over this application and the deleterious effects that would result from the grant of a special exception not permitted by applicable law or, even more problematic, from a use variance that would change the unique character of the Foxhall Village Historic District.

As someone who resided in Foxhall Village for 13 years, I am acutely sensitive to their concerns. I ask that you make every effort to take their views into account and to ensure that any actions that the BZA takes will fully comply with applicable law.

Very truly yours,

A handwritten signature in black ink, reading "Gayle Trotter". The signature is written in a cursive, flowing style.

Gayle Trotter
Commissioner, ANC 3D 09