

NEIGHBORS UNITED TRUST
4911 Ashby Street, NW
Washington, DC 20007

April 21, 2014

Mr. Lloyd Jordan
Chair
Board of Zoning Adjustment
441 4th Street, NW, Suite 220-S
Washington, DC 20001

**RE: Case No. 18738
4527 MacArthur Boulevard, NW**

Chairman Jordan and Members of the Board:

As a former Chair of ANC 3D, I write to inform the Board that this case, is not ripe for a hearing on April 29, 2014.

Title 11, Section 353. New Residential Developments (R-5-A)

Section 353 of the Zoning Regulations is intended to provide a degree of protection because it requires the applicant to file a special exception application and see approval from the Board of Zoning Adjustment (BZA). It allows the neighbors to weigh in on the application. Without this requirement it is impossible to know the outcome of the proposed conversion of a single family home to a five unit apartment building. An earlier case involving the single family home next door (Case No. 18553) was also the subject of a special exception. It is unfortunate the requirements of this section set a very low threshold for the applicant because that is exactly the manner in which the matter has been approached. All discussions have been held with the applicant's architect. The applicant, Siamak Kashani, has yet to appear and lists his residence as the address of the subject property – a vacant house. Yes, the applicant may have met the letter of the law in terms of the requirements of this regulation, but does the lack of transparency and unwillingness to meet with the ANC and neighbors meet the spirit of the law? That is a question the BZA must consider when deliberating the merits of this case.

Background

Since the initial receipt of notice to file an application in Zoning Case No. 18738, there has been a lack of open and transparent dealings by the applicant with the ANC and the neighbors. The applicant has yet to appear and has acted through his architect and agent, Mr. Ali Ajalli. The property was not properly posted prior to the original hearing date, April 15, and when informed of the requirement on April 8, Mr. Ajalli, appeared astonished there was such a requirement. The failure to post is confirmed by the statement at the bottom of Exhibit 29, “We will post the notice as soon as it is ready.”

Mr. Ajalli appeared before ANC 3D on April 2. Neighbors informed the ANC that they had not been able to meet with the applicant and were not in support of the proposed change of use of the single family home located at 4527 MacArthur Boulevard; and, it was disclosed that one of the agreements made at the time of sale was that the home would remain as a single family home and not be converted to an apartment building. (This agreement has subsequently been confirmed in a letter from Michel Chevalier, the son of the former owner.)

Following the ANC meeting, neighbors and I met with Mr. Ajalli on April 8 at which time Mr. Ajalli and neighbors came to consensus on the following seven points, which Mr. Ajalli agreed to present to the owner, Siamak Kashani, and return to the neighbors for further discussion:

- 1) Reduce the number of units;
- 2) Reduce the height of the building;
- 3) Determine the location of HVAC units;
- 4) Provide calculations of FAR and GAR;
- 5) Provide calculations on front setback;
- 6) Provide the neighbors with a construction management plan in the future;
and
- 7) Reposition the staircase leading to the top unit.

In addition, Mr. Ajalli agreed to seek approval from Mr. Kashani for a hearing postponement; and, acknowledged appreciation for moving forward to the BZA hearing with support from both the neighbors and ANC 3D. Exhibit 29, dated April 8, the same date as the meeting with neighbors, indicates a disingenuous effort was made to reschedule the hearing date. My personal check with Clifford Moy on April 9 indicated May 13 and May 20 were both possible hearing dates,

which would allow both the neighbors and ANC 3D to consider and comment on a revised proposal, and to hear from Mr. Ajalli on resolution of the above listed points of consensus.

Change of Neighborhood Character

The community along MacArthur Boulevard is witnessing a change of neighborhood character. Nothing at or around the intersection of MacArthur Boulevard and Q Street, NW has changed in decades where low rise apartment buildings have existed in harmony with single family homes in this R-5-A zone district. As a Hardy Elementary School student, I boarded the bus back home in front of 4527 MacArthur Boulevard. The same single family homes that existed in the early 1950s still exist today. Case No. 18533 approved conversion of the corner home to a four-unit apartment and the second home is the subject property.

Unfortunately the BZA was not sufficiently sensitive to the fact zoning is not supposed to change neighborhood character when it approved Case No. 18553 of Hashim Hassan on October 23, 2013 to convert a single family home to a four-unit apartment building, thus initiating change to the character of single-family home quadrant of the MacArthur Boulevard/Q Street intersection. At the time of the hearing, residents raised concern that this would begin the “domino effect” and other single family home conversions would follow. In less than a year the subject property next door to that considered in Case No. 18553 is up for a special exception to convert it to a five unit apartment building. This is proof that the prior zoning case did result in an objectionable outcome that will affect neighborhood character.

Office of Planning Report

The Office of Planning (OP) report, dated April 8, 2014, notes “The surrounding neighborhood includes predominantly multi-family buildings west of Q Street, and semi-detached and detached single family dwellings east of Q Street. The report has confused the direction as the semi-detached and detached single family dwellings are to the south of Q Street, the location of the subject property. The top photo on Page 3 of the OP Report shows some of the single-family homes in this block. The bottom photo shows additional single family homes in the same blockface. To imply that there is no impact to this blockface by converting single family homes to multi-unit apartments is ignoring the intensity of use that is proposed as well as a change of neighborhood character.

Page five of the OP Report states, “The proposed development is suitably sized for the property.” Did OP notice this tri-sectioned building is so large it must be turned away from the street or sideways on the lot and is the only building on MacArthur Boulevard that is so situated? Further down the page OP asks, “*Would the proposal appear to tend to affect adversely, the use of neighboring property?*” Unfortunately the only answer provided by OP is *that the subject property has frontage on MacArthur Boulevard with alley access along the rear property lines.* It fails to note that the subject property is the second domino proposed to fall to multi-family conversion where the majority of remaining homes in the same blockface are single family. This increase in density and use may well affect adversely the use of the immediate neighboring property and was noted by Gerald Bemis, the immediate neighbor, at the ANC meeting as well as the April 8th meeting between neighbors and Mr. Ajalli. He is justifiably concerned that he will have a five unit apartment building as his next door neighbor rather than the single family home that he was told would remain. He is also justifiably concerned that there will be a minimum of three new entrances along the side of his home as well as five parking spaces. Trash receptacles for five units will also be loaded at the rear of the proposed building and it remains unclear where the HVAC units will be located.

ANC Report

On April 2, 2014, ANC 3D voted 9-0 to recommend the BZA reject Application 18738 because the new development is not in harmony with zoning regulations and it adversely affects the use of neighboring property. The ANC letter and justification for its position is found at Exhibit 31 in the record.

ANC 3D also “encourages the BZA to defer action on this item until the applicant engages with neighbors with the goal of revising the plans, so the project does not have a negative impact on neighboring property and is in harmony with the intent of the zoning regulations for an R-5-A district.”

Burden of Proof

Both FAR and lot occupancy are maximized and greatly exceed what currently exists on the lot. FAR has been increased from .45 to .89 and lot occupancy has been increased from .27 to .37. The front of the building has been pulled forward on the lot to within two feet of the building restriction line. A significant portion of the rear yard has been repurposed with the required off-street parking spaces. A description of landscaping has been provided by the architect but no official plans

from a registered landscape architect are included in the submission. While the burden of proof is on the applicant, insufficient information is provided to demonstrate why these changes will not tend to affect adversely the use and enjoyment of the neighboring property.

Conclusion

The predatory actions of outside developers on this area of MacArthur Boulevard and the Foxhall Community will result in long-term objectionable conditions and bad precedent. Not only is the conversion of this property a change of use, but the use is being significantly intensified, which may result in objectionable outcomes for the immediate neighbors. The applicant has not presented sufficient or significant evidence to counter that objectionable conditions will not occur.

Mr. Ajalli has been unwilling to return to the ANC or disclose to neighbors the outcome of discussions with the owner on how the seven points of agreement from April 9 would be met. Rather, Mr. Ajalli sought a hearing date that would permit an end run around the ANC and neighbors, and directly submitted new drawings to the record.

This case is not ripe for a Board of Zoning Adjustment hearing on April 29.

Sincerely,

A handwritten signature in dark ink, reading "Alma H. Gates". The signature is written in a cursive, flowing style.

Alma H. Gates
Administrator

NB: Section 353 has been removed from the proposed Zoning Regulation Review. In the future single family home conversions will become matter of right. In addition, the current R-5-A zone district will become part of the new Apartment Zone, which will encourage more single family home conversion to apartments, greater loss of neighborhood character, higher density and increased intensity of use.