



GOVERNMENT OF THE DISTRICT OF COLUMBIA

Dupont Circle Advisory Neighborhood Commission 2B

October 20, 2014

Lloyd Jordan, Chairperson
Board of Zoning Adjustment
441 4th Street NW
Suite 210S
Washington, DC 20001
bzasubmissions@dc.gov

RE: Consideration of resolution to submit to Board of Zoning Adjustment on appeal (#18851) for the issuance of a building permit for a rear deck at 1536 T Street NW.

Dear Chairman Jordan,

At its regular meeting on October 8, 2014, the Dupont Circle Advisory Neighborhood Commission (“ANC 2B” or “Commission”) considered the above-referenced matter. With 5 of 8 Commissioners in attendance, a quorum at a duly-noticed public meeting, the Commission approved the following resolution by a vote of 5-0:

“Whereas an appeal (#18851) has been filed with the Board of Zoning Adjustment for the issuance of a building permit for a rear deck at 1536 T Street NW (permit #B1409246);

Whereas the appellant’s statement indicates that their basis for appeal includes all the grounds for opposing the granting of zoning relief at the same location (#18725);

Whereas ANC2B adopted a resolution in support of the zoning relief for this address on February 17, 2014;

Whereas the appellant’s statement lists one basis of their appeal to be “The Advisory Neighborhood Commission report supporting the proposed variances was a legal nullity because improperly noticed. Its recommendation was, therefor, a nullity.”;

Whereas ANC2B responded to several Freedom of Information Act requests in February and March of 2014 regarding the notice provided for ANC meetings in February;

Whereas ANC2B testified before the Board of Zoning Adjustment in March 2014 providing both support for the zoning relief and defending the proper notice of the February 17, 2014 meeting; and

Whereas the Board of Zoning Adjustment unanimously approved the zoning relief for this address and noted in their decision the following:

"The Party in Opposition argued that ANC 2B had not provided proper legal notice for its February 17, 2014 meeting at which the Applicant presented its request and the ANC voted to recommend approval. Whether that is correct depends upon an interpretation of the ANC statute and the bylaws of ANC 2B. Both the Chairman and the Vice-Chairman (also the SMD in this case) attended the BZA hearing and provided testimony that offered a reasonable interpretation that the ANC's recommendation in this case was duly and validly issued. This Board is only charged with interpreting the Zoning Regulations and will defer to the ANC with respect to the laws and bylaws that govern its procedures.

However, the Board also concludes that even if it had found the ANC's recommendation to not be valid, the Board would still approve this Application. The Board found that the Applicant met the burden of proof for being granted the variances independent of anything stated by the ANC, and therefore even if the ANC letter had never been received, the result would have been the same."

Therefore, be it RESOLVED that ANC2B maintains that it's meeting on February 17, 2014 was properly noticed and that the Board of Zoning Adjustment should continue to give great weight to it's resolution regarding this case."

Attached to this resolution is ANC2B's resolution from February 17, 2014 and the written testimony of Commissioners Noah Smith and Will Stephens to the Board of Zoning Adjustment on March 11, 2014.

Commissioners Noah Smith (noah.smith@dupontcircleanc.net) and Will Stephens (will.stephens@dupontcircleanc.net) are the Commission's representatives in this matter.

ON BEHALF OF THE COMMISSION.

Sincerely,



Noah Smith
Chairman

cc: richard.nero@dc.gov
sara.bardin@dc.gov