



ADVISORY NEIGHBORHOOD COMMISSION 4C

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LETTER OF SUPPORT

FOR

BZA CASE NUMBER: 18991 – 1521 VARNUM STREET, NW

PART I

August 12, 2015

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To the Board of Zoning Adjustment:

I am writing on behalf of and with the authority of Advisory Neighborhood Commission 4C, (ANC 4C), its Single Member District Commissioner, (4C03), and the residents we serve, to request that the Board of Zoning Adjustment (BZA) revoke the permit to build seven apartment units to replace the one-family dwelling located at 1521 Varnum Street NW. The property at 1521 Varnum Street NW falls within ANC 4C, and the legal and policy issues in this case implicate the entire ANC.

ANC 4C is a local government body representing approximately 20,000 citizens and approximately 7200 households. In our analysis, Zoning Administrator Matthew LeGrant erred when he granted permission to build a seven unit apartment complex in place of the current dwelling, where a reasonable interpretation of the facts shows that the construction does not constitute a mere conversion.

As a separate but related issue, the decision in this case violates the zoning framework adopted by the citizens of the District of Columbia and our elected representatives, reflected in this instance in the nature of the R-4 zone.

The preamble to the R-4 section of the Zoning Regulations indicates that apartment houses are specifically discouraged in the R-4 District. The zoning framework, and the nature of a neighborhood zoned R-4, reflect policy choices about the types of development that are appropriate in a particular neighborhood. The 20,000 stakeholders of ANC 4C have concerns that applications for development, such as this one, are not being viewed with close attention to issues of:

1. Sustainability,
2. Impact on third parties,
3. Absorptive capacity, and
4. Preservation.

In that environment, we urge the BZA to require Zoning Administrators to adhere closely to the underlying purposes of the relevant statutes and regulations, and to ensure that the public policy purposes underlying R-4 zoning are kept in the forefront as each Zoning Administrator evaluates a permit.

On the face of the decision concerning 1521 Varnum Street NW, neither was the case here, and we therefore urge a reversal of the decision taken by Mr. LeGrant.

Background – Neighborhood and Proposed Development

The property at issue is 1521 Varnum St. NW; Washington, DC 20011 (“subject property”) and is located in the northwest quadrant of the District in the Sixteenth Street Heights neighborhood. The subject property is in Ward 4 and in the R4 zone. It is a semi-detached row house at the western end of four contiguous row of homes, and the present use is a one-family dwelling.

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Zoning Adjustment
District of Columbia
CASE NO.18991
EXHIBIT NO.71

The Sixteenth Street Heights neighborhood is a quiet, established residential neighborhood of row houses, streets lined with mature trees, well-maintained front and back yards, and quiet neighbors, many of whom have lived in their homes for decades.

Residents relied on the nature of the neighborhood, enforced by the R-4 zoning district, in deciding to invest hundreds of thousands of dollars to purchase homes in our neighborhood. Residential properties surrounding 1521 Varnum Street, NW are primarily one-family row houses with a basement, first floor, and second floor. There is a consistent design and size to each row house that fits with the character of the neighborhood. Each row house generally occupies less than 50% of the lot size. The construction of the two buildings, housing seven apartments, at 1521 Varnum Street, NW, would be dramatically out of scale and character with existing row homes on the block and in the neighborhood

On December 31, 2014, the Department of Consumer and Regulatory Affairs ("DCRA") issued a building permit to convert the single-family house at 1521 Varnum Street NW into seven (7) apartments of approximately 1350 sq. ft. each. In his building permit, the owner called this change an "*interior demolition and renovation*," but the permitted plans show that the changes are much more extensive.

1. The only part of the current house that will be left standing are portions of two side walls and the front wall;
2. The front building will extend significantly beyond the original footprint of the house and will have four apartments;
3. The slab will be removed, and the ground will be dug out to extend the original structure's footprint;
4. A basement dwelling unit and an additional floor will be created, to allow 4 new apartments of 1350 sq ft each;
5. This degree of alteration goes significantly beyond any plain reading concept of interior demolition and renovation;
6. In addition, another structure beyond the footprint of the original house will be constructed;
7. This second building will have three apartments and will be marginally connected to the front building by a new staircase and roof top trellis; and
8. It is on this minimal connection that the owner supports the legal fiction of this development being one building.

In place of a single-family home that was occupied until just before being sold, the owner will:

1. Add six additional homes – thereby increasing the density of the block by twenty percent (20%);
2. Each of the seven apartments to be built on the property in question will consist of two bedrooms, a den, and 2.5 bathrooms – adding 21 toilets, 28 sinks and 14 bathtubs/showers in place of the existing dwelling;
3. The plans presented by the owner/developer significantly change the look of the house by adding balconies to the three apartments facing Varnum Street – no other house on the street has a balcony; and
4. Entry to all of the existing houses, as well as all of the basement apartments, on this block of Varnum Street, is through a door facing the street, but the plans for 1521 Varnum Street have people entering the apartments in the backyard from a stairwell between the two structures.

Analysis of Law and Policy

The Interpretation of Law in this Case Violates R-4 Zoning

The result of the Zoning Administrator's decision is to significantly increase the density of the 1500 block of Varnum Street and neighborhood. This interpretation of the law puts it in conflict with the purpose of the R-4 zone and the constraints on development that R-4 zoning imposes. The decision is incorrect because this apartment project is so large that it goes beyond the scope of allowable development in an R-4 zoned neighborhood. As the law states, "*The primary purpose of the R-4 District shall be the stabilization of remaining one-family dwellings.*"

The R-4 zoning district is not intended to be "*an apartment house district*;" and since the R-4 zoning regulations do not address many of the zoning issues relating to a high-density zone (i.e., R-5), new construction of apartment buildings on R-4 lots is prohibited by the zoning code. (*See, generally 11 DCMR §330.3 – 330.5; BZA No. 18181 at 7 (AMM Holdings Inc.) ("a new residential structure with more than two dwelling units cannot be constructed in an R-4 District as of right") (2011); BZA Order No. 17657 1231 Morse St., Inc. December 4, 2007, and January 8, 2008).*)

The Zoning Administrator's decision allows an end-run around the kinds of protections and requirements that the exact same project would have to satisfy if it were being proposed in a R-5 zone.

A R-5 zone allows more and larger development, such as apartment buildings, while an R-4 zone is more restrictive – but ironically, the owner/developer is facing far fewer restrictions in building this proposed project in an R-4 zone than the project would face elsewhere. **This violates the purpose and letter of R-4 zoning and the differentiated zoning frameworks adopted by the District.**