

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT
441 4th Street, N.W.
Washington, D.C. 20001

Appeal of Advisory Neighborhood Commission 4C

BZA Appeal 19067

DCRA'S PRE-HEARING STATEMENT

Appellants allege that the Zoning Administrator (the “**ZA**”) erred in approving Building Permit B1505734, issued on May 27, 2015, revised to correct scrivener’s errors in the plans by Building Permit B1600488¹ (the “**Permit**”), for renovation and addition work to be conducted on the existing building (the “**Project**”) at 1117 Allison Street, N.W. (the “**Property**”), in the R-4 zone district.

Respondent, the District of Columbia Department of Consumer and Regulatory Affairs (“**DCRA**”), asserts that the ZA properly reviewed and approved the Permit as in compliance with the Zoning Regulations and that the Appellant’s allegations are without merit.

Therefore, DCRA respectfully requests the Board of Zoning Adjustment (the “**Board**”) to affirm the ZA’s approval as correct and deny this Appeal.

APPELLANT'S ALLEGATIONS

Appellants allege that the ZA erred in approving the Permit for the following reasons:

- 1) The Permit approved a lot occupancy that exceeded sixty percent (60%) allowed under Section 403.2 of the Zoning Regulations;
- 2) The Permit approved a pervious surface area below the twenty percent (20%) required by Section 412.4;
- 3) The plat associated with the Permit was inaccurate;
- 4) The Permit incorrectly approved the Project as a conversion under Section 330.5(e) instead of as new construction; and

¹ Appellant confuses the matter at issue by raising Building Permit B1409828, which was issued for a different project, has been revoked, and no longer exists. It is irrelevant to this appeal and only confuses the discussion. The only plans at issue are the plans approved by the Permit (the “**Approved Plans**”) challenged in this action (**Attachments A and B**).

- 5) The Permit approved work in an R-4 zone district that did not comply with the floor area ratio requirements of an R-5-A zone district under Section 402.4.
- 6) The front porch of the Project was removed in the revision to correct scrivener's errors.

ARGUMENT

I. The Permit provides a lot occupancy percentage for the Project within the lot occupancy area of sixty percent (60%) of the lot size allowed under 11 DCMR § 403.2.

The ZA reviewed and approved the Project's building dimensions for lot occupancy because the Approved Plans, according to which the Owner is required to construct the Project, reflect a lot occupancy for the Project of sixty percent (60%) of the lot size or less, satisfying the lot occupancy requirements of Section 403.2 for conversion of a building or structure to an apartment house. The ZA's calculations are as follows:

- Lot Size = 3126 square feet (sf)
- Lot Occupancy = 1768.2 sf (56.56% or 57%)

Indeed, Appellant's consultant calculates the lot occupancy under the Permit as 1781.4 sf or 56.97%, well within the 60% maximum permitted by the Zoning Regulations.² Therefore, Appellant's allegation is without merit.

II. The Permit provides the pervious surface area of twenty percent (20%) of lot size required by 11 DCMR § 412.

The ZA reviewed and approved the Project's building dimensions for pervious surfaces because the Approved Plans, according to which the Owner is required to construct the Project, reflect the provision of pervious surfaces of twenty percent (20%) of the lot size or more, satisfying the pervious surfaces requirements of Section 412 for a lot size larger than 2,000 square feet in the R-4 zone not used for public recreation or a community center. The ZA's calculations are as follows:

- Lot Size = 3126 square feet (sf)
- Pervious Surface = at least 700 sf (22%)

² BZA No. 19067 Exhibit 45 at page 30 (Appellant's Supplemental Statement, Exhibit 12, page 3)

Indeed, Appellant’s consultant calculates the pervious surface under the Permit as 34.74%, far exceeding the 20% minimum required by the Zoning Regulations.³ Therefore, Appellant’s allegation is without merit.

III. The plat associated with the Permit is accurate

Appellant erroneously provided an incorrect plat.⁴ The plat approved with the Permit (the “**Approved Plat**” provided as **Attachment C**) is accurate. The rear yard depicted on the Approved Plat is correctly scaled and the incorrect label of 63.8 feet was crossed off and therefore demonstrably not considered in the review and approval of the plat. Furthermore, the error was an understandable error based on the somewhat confusing Surveyor’s plat, which did not clearly indicate that the 15 foot building restriction line was included in the lot length of 156.30 feet. (See **Attachment D**.) Therefore, Appellant’s allegation is without merit.

IV. The Permit correctly approved the Project as a conversion under Section 330.5(e)

The ZA reviewed and approved the Project as a conversion as a matter of right under 330.5(e) because a significant portion of the original building was kept and an addition added to the rear in compliance with all other zoning requirements. Therefore, Appellant’s allegation is without merit.

V. The Permit approved work in an R-4 zone district that complies with the floor area ratio requirements of an R-4 zone district.

As Appellant indicates, the floor area ratio requirements of the R-5-A zone district do not apply in an R-4 zone district. The ZA correctly reviewed the proposed Project under the R-4 zone district rules. Therefore, Appellant’s allegation is without merit.

VI. The existing front porch was always shown as to be replaced by a roofless deck on both permit plans.

Contrary to Appellant’s assertions, Sheet A6 in the plans submitted in the application for Building Permit B1505734 shows that the existing front porch was to be removed and replaced

³ BZA No. 19067 Exhibit 45 at page 31 (Appellant’s Supplemental Statement, Exhibit 12, page 4)

⁴ BZA No. 19067 Exhibit 33.

by an uncovered deck that is six (6) feet deep, not eight (8) feet deep, as is the existing porch.⁵ The Approved Plat has the front deck labeled as “DECK”. Therefore, there is no material change between the earlier plans and those revised for scrivener’s error to make the plans clearer for the Board. There is therefore no amendment that would be subject to the new R-4 rules. Furthermore, even if there was a material change, it is only the amendment and not the underlying permit that would be subject to the new rules under Section 3202.4(b). As such, Appellant’s allegation is without merit.

CONCLUSION

For the reasons stated above, DCRA asserts that the allegations stated in the Appeal are without merit and that the Appeal fails to establish a valid reason to overrule the ZA’s approval of the Permit. DCRA therefore respectfully requests that the Board affirm that the Zoning Administrator correctly applied the Zoning Regulations to evaluate and approve the Permit, and therefore that the Board deny this Appeal.

Respectfully submitted,
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Date: 10/23/15



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⁵ BZA No. 19067 Exhibit 34 at page 10.

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Attachment A

Approved Plans for Building Permit B1600488 Part 1

Attachment B

Approved Plans for Building Permit B1600488 Part 2

Attachment C

Approved Plat for Building Permit B1505734

Attachment D

District of Columbia Office of the Surveyor Plat for Square 2918, Lot 59
(Subdivision Book 52, page 89)

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of October 2015, a copy of the foregoing Pre-Hearing Statement was served via electronic mail to:

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