

**BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA
APPEAL NO. 19067 – 1117 ALLISON STREET, NW
PROPERTY OWNER’S RESPONSE TO APPELLANT’S SUBMISSIONS**

I. Introduction.

This Statement is being filed on behalf of Allison Street LLC (“Property Owner”), the owner of the property located at 1117 Allison Street, NW (the “Subject Property”), in response to the most recent submission by the Appellant made on October 22, 2015. Property Owner is automatically a party to this Appeal pursuant to 11 DCMR 3199.1.

It is important to note that the permit applicant, in an attempt to assuage the concerns of the Appellant, revised the original project by removing a planned third-story addition, even though that original project also complied with all Zoning Regulations. Despite this major concession, the Appellant decided to pursue a second appeal, and continues to pursue the Appeal, even though they now know that the Project complies with the lot occupancy and pervious surface requirements.

II. No Valid Allegation of Error.

The Appellant has based its entire case on two or three false premises: (i) that the original permit application did not contemplate demolishing the original covered porch; (ii) regardless of item #1, that a small revision to the porch, in any event, would cause the permit application to no longer be approved for a conversion as it was when originally issued; and (iii) that just because DCRA and the Property Owner decided to clarify the approved plans, for the purpose of facilitating BZA and Appellant review, that it means that the Zoning Administrator incorrectly found the Project to be limited a lot occupancy less than sixty percent (60%).

A. The Proposed Project has a Lot Occupancy under Sixty Percent (60%).

The Appellant’s own expert has determined that the current plans safely comply with the lot occupancy requirement, noting a lot occupancy of 56.97%. While the architect claims that the original plans showed a lot occupancy over sixty percent (60%), he mistakenly included the covered porch, which has been replaced with a smaller porch which even he now acknowledges does not count in the lot occupancy calculation. The architect’s calculation of the lot occupancy

for the original plans is not relevant or persuasive for two reasons: (i) it was made in error, believing the porch was included; and (ii) even if the porch has originally been included, and the building was proposed to exceed the maximum permitted lot occupancy, the permit applicant would have been free to revise the application to correct any area of noncompliance. The text amendment that applies to conversions, adopted effective June 26, 2015, would have no effect on such a revision, as Section 3202.4(b) only applies against the "amendment" of an application; not the entire application and not areas which were not altered by text amendment, such as the maximum permitted lot occupancy percentage. At any rate, the covered porch was never intended to be included in the plan and that is how the Zoning Administrator calculated the lot occupancy percentage when approving the application.

Contrary to the Appellant's claims, there never was any request for, or need for, a minor flexibility determination on the lot occupancy percentage. It has always been within the sixty percent (60%) limit.

B. The Project Complies with the Pervious Surface Requirement Under §412.

Based on the Appellant's architect's Zoning Peer Review Report, it appears that the Appellant now acknowledges that the Project safely complies with the pervious surface requirements of §412.4.

III. Conclusion.

The Project, by even the Appellant's own expert's report, safely complies with both lot occupancy and pervious surface. They cannot meet their burden to prove error when their own expert has found complete compliance. For this reason, the Appeal must be denied.

Respectfully Submitted,



Martin P. Sullivan

Owner's Response
Appeal No. 19067
October 26, 2015

CERTIFICATE OF SERVICE

I hereby certify that on this 26th day of October, 2015, a copy of the foregoing submission was served via electronic mail to:

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