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August 5, 2015

**APPELLANTS' REPORT - BUILDING PERMIT NOS. B1505056 AND B1510351
67 V STREET NW, WASHINGTON, DC 20001 (LOT 76, SQUARE 3118)**

APPELLANTS

The appellants are the following property owners. All live within 200 feet of the subject property, 67 V Street NW, and are thus directly impacted by zoning regulation errors.

<u>Address</u>	<u>Names</u>
65 V Street NW	Richard Alan Seutter, Jr. and Susan T. Seutter
69 V Street NW	Katelijan van den Berg

BACKGROUND

The property at issue is 67 V Street NW, Washington, DC 20001 ("subject property") and is located in the northwest quadrant of the District in the Bloomingdale neighborhood, Lot 0076 Square 3118. The subject property is in Ward 5 and in the R-4 Zone District. The subject property is a single-family dwelling in the middle of a contiguous row of homes. The lot is rectangular in shape.

Throughout the application process for permit B1505056, Appellants submitted to District of Columbia's Department of Consumer and Regulatory Affairs ("DCRA") multiple code compliance and structural issues via correspondence, expert reports, and supporting documents laying out substantive technical objections. No formal or meaningful response addressing Appellants concerns was received by the developer or by DCRA. On June 18, 2015, Appellant Ms. van den Berg testified at the confirmation hearing of DCRA Director Melinda Bolling outlining a number of these technical objections and code violations. In response to her testimony, Councilmember Vincent Orange requested on the record that Ms. Bolling personally look into the issues with building permit application B1505056. Notwithstanding that directive, the very next day, on June 19, 2015, DCRA issued the building permit, B1505056 to WS HOMES 67 V ST LLC, five business days before Z.C. Order No. 14-11, consisting of new

amendments to Title 11 (Zoning) of the District of Columbia Municipal Regulations (DCMR) went into effect on June 26, 2015 prohibiting matter-of-right conversions of that scale ("new zoning regulations").

Building permit, B1505056 was issued to convert the subject property into a multi-unit (three) apartment building. This would be accomplished by building an additional story to the existing structure and a rear three-story addition measuring more than 45 feet long (including rear balconies and stairs). The subject property would be demolished except for the brick façade. The subject property would then be constructed to extend to the property line on the lateral sides. Unit one of the subject property would consist of two levels, two bedrooms and 2.5 bathrooms. Unit two of the subject property would consist of one level, two bedrooms and 2.5 bathrooms. Unit three of the subject property would consist of one level, two bedrooms and 2 bathrooms. In total, the subject property would consist of one cellar, three stories, nine toilets, thirteen sinks, seven bathtubs/showers and a roof deck. Each unit would have a rear balcony and rear stairs for egress. Two parking spaces would be provided at the rear of the lot. An existing basement would be excavated and underpinned to raise the ceiling height.

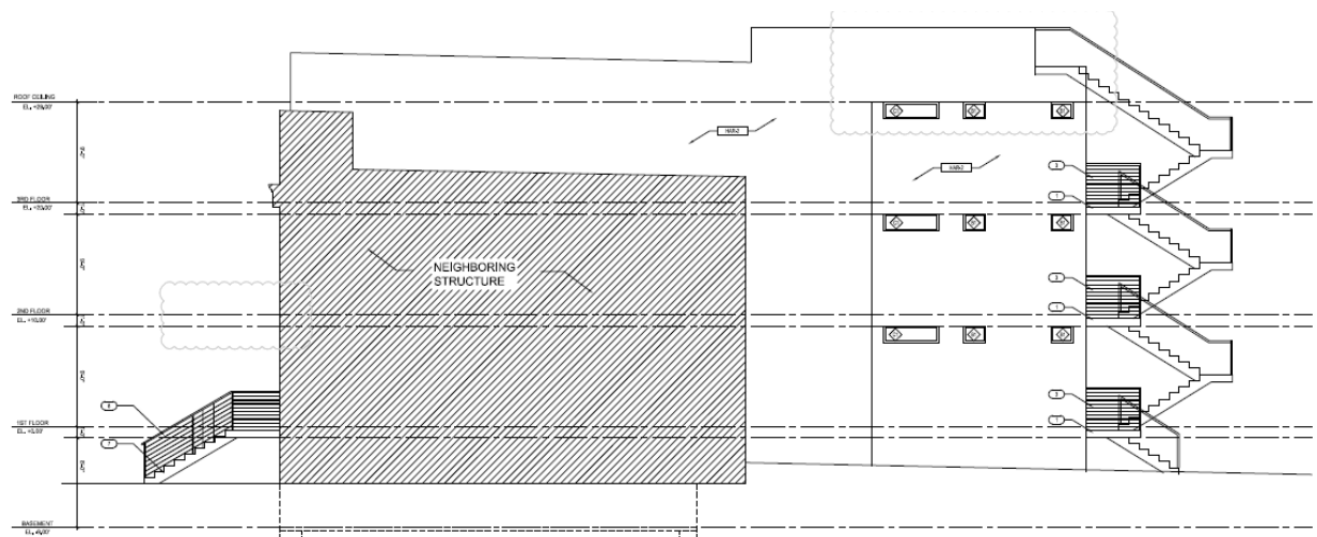


Image 1, depicts side elevation of the subject property and the neighboring structure (although, a front porch exists on 65 V Street NW, the plans call for its removal on 67 V Street NW).

On June 25, 2015, pursuant to § 112 of the District of Columbia Building Code (2013), as amended by the District of Columbia Building Code Supplement (2013) (12 DCMR A), Appellants filed with DCRA their Request for Review of the issuance of building permit B1505056. Appellants' Request for Review consisted of a 13-page letter attaching 169 pages of exhibits, including reports prepared by an architect and a structural engineer. On July 16, 2015, DCRA provided its two-page letter response to that Request for Review, failing to address the

majority of the issues raised by Appellants, declining to revoke the permit, and issuing a Stop Work Order "to allow the requisite thirty day review time." On July 22, 2015, DCRA notified Appellants via email that the Stop Work Order had been lifted and that on July 21, 2015, "a permit was issued, B1510351, to correct plan anomalies on the previously issued permit, B1505056. Specifically included in the new permit is the addition of an open, overhead trellis over the chimney cutout in order to satisfy zoning requirements. . . The Building Official has determined that the overhead trellis meets the spirit and intent of the code regarding chimney clearance."

On July 30, 2015, pursuant to § 112.2.1 of the District of Columbia Building Code (2013), as amended by the District of Columbia Building Code Supplement (2013) (12 DCMR A), Appellants filed a request for hearing to appeal the July 16, 2015 DCRA decision with the District of Columbia's Office Of Administrative Hearings ("OAH"). The appeal brief lists many violations and requests the following relief and any others apparent to the Administrative Law Judge, including but not limited to the record to be developed in the OAH case.

1. A hearing date, on an expedited schedule if the emergency order referenced below at number 2 is not granted;
2. An emergency ex parte interlocutory order suspending permits B1505056 and B1510351 to prevent irreparable harm and immediately preserve the status quo while the merits of this appeal are adjudicated;
3. Revocation of permit B1505056: Though plan reviewers have the latitude necessary to approve slight modifications of drawings after approval to deal with unforeseen conditions, it is not within their power to approve non-conforming plans in anticipation of their later improvement;
4. Revocation of permit B1510351 for either being ancillary to an improperly issued permit or, to the extent that permit B1510351 supersedes permit B1505056, for the failure of DCRA to review permit B1510351, which was filed and approved on July 21, 2015, under the new zoning regulations that went into effect on June 26, 2015; and
5. Appellants would like to reserve the right to request summary adjudication on the papers without a hearing, pursuant to Section 2819 of the OAH Rules, if the Administrative Law Judge and/or the parties deem it appropriate.

Meanwhile and despite Appellants best efforts in bringing the many code violations associated with building permit B1505056 and now building permit B1510351 to DCRA's attention, construction at the subject property is rapidly progressing. Other than the brick façade of the 100 year old row house, the property has been completely demolished.



Images 2 and 3 depicts the front façade of the subject property (before and during demolition).



Images 4 and 5 depicts the rear of the subject property (during demolition).



Image 6, depicts the rear of the subject property (in red and white, before demolition). To the left is 65 V Street NW and to the right is, 69 V Street NW.

NEIGHBORHOOD

The Bloomingdale neighborhood is a quiet, established residential row house neighborhood with mature trees, well-maintained front and back yards and quiet neighbors, some of whom have lived in their homes for decades. Properties in the immediate vicinity of the subject property primarily are 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 conversion of the subject property would be dramatically out of scale and character with existing row homes in the neighborhood. Unfortunately, an exception to the scale and character of existing row homes in the neighborhood, is the conversion of a single-family dwelling to a multi-unit building, located at 42 W Street NW, constructed by the same developer of the subject property.



Image 7, depicts the contiguous row of single-family homes on the unit block of V Street NW, the subject property is the fifth home shown in the image (counting near to far).



Image 8, depicts similar construction / conversion of row house in the Bloomingdale neighborhood at 42 W Street NW, (one block north of subject property).



Image 9, depicts similar construction / conversion of row house in the Bloomingdale neighborhood at 42 W Street NW, (one block north of subject property).



Image 10, depicts similar construction / conversion of row house in the Bloomingdale neighborhood at 42 W Street NW, (one block north of subject property).

The personal and property interests of the surrounding homes and property owners in Bloomingdale and ANC 5E would be adversely affected by the conversion of the subject property as approved by DCRA. The conversion of the subject property as described would negatively impact the air, light, privacy and property values of the surrounding homes. In approving these building permits, it does not appear that DCRA fully considered the many cited technical objections as well as the additional stress the conversion would add to the aging infrastructure in the neighborhood. DCRA's failure to implement proper zoning regulations has a substantial impact on compliance expectations for similar properties owned by developers in Bloomingdale which would fundamentally change the character of the neighborhood as a single family home district.

District of Columbia's Comprehensive Plan provides goals, objectives and policies for land use issues that impact the whole city, including row house neighborhoods. In fact, Policy MC-1.1.5: Conservation of Row House Neighborhoods, states:

Recognize the value and importance of Mid-City's row house neighborhoods as an essential part of the fabric of the local community. Ensure that the Comprehensive Plan and zoning designations for these neighborhoods reflect the desire to retain the row house pattern. Land use controls should discourage the subdivision of single family row houses into multi-unit apartment buildings but should encourage

the use of English basements as separate dwelling units, in order to retain and increase the rental housing supply.

The Comprehensive Plan recognizes the need to retain and create more family households and that family households with children are critical to preserving single family row house neighborhoods. "Family households with children need larger housing units with more bedrooms. Of the city's existing housing stock, only one-third of the units have three bedrooms or more. Eighty percent of recent new construction has been apartments, with fewer bedrooms." Comprehensive Plan, Housing Element, at 5-6.

CLAIMS

The subject property is in the R-4 Zone District. The primary purpose of the R-4 Zone District shall be the stabilization of remaining one-family dwellings.

After reviewing the drawings for the subject property, it has been determined that the drawings conflict with several sections of the District's Zoning Regulations, including but not limited to: (i) interpretation and application as well as definitions and general provisions; (ii) the density of the proposed project; (iii) incorrect designation of the lower level as a cellar rather than a basement; (iv) overcrowding of the lot; (v) non-compliant closed court on the third level (vi) size of roof structures; and (vii) incorrect determination of the pervious surface requirements. Accordingly, Appellants request Board of Zoning Adjustment review against the following provisions from Title 11 of DCMR:

11-101	Interpretation and Application
11-199	Definitions
11-330	R-4 Districts: General Provisions
11-400	Height of Buildings of Structures
11-403	Percentage of Lot Occupancy
11-406	Courts
11-411	Roof Structures
11-412	Pervious Surface

Appellants intend to prove their case through:

- expert testimony from an architect concerning the plans;
- analysis of the architectural plans and construction drawings; and
- photographic evidence.

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Respectfully submitted,

Dated: August 5, 2015

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