

Board of Zoning Adjustment for the District of Columbia

Prehearing Statement from Frederick W. McCarthy III regarding 1835 Ontario Place NW

I. INTRODUCTION

The appellant is Frederick W. McCarthy III, the Manager and Member of 1837 Ontario, LLC – the owner of 1837 Ontario Pl NW (the “Appellant”). The Appellant lives immediately adjacent to the subject property, 1835 Ontario Place NW (the “Property”). The Appellant appeals the decision of the Zoning Administrator (“ZA”) allowing conversion of the existing single family dwelling at the Property into a four-unit condominium building pursuant to the issuance of Building Permit B1502005 on October 22, 2015 (“Building Permit”). The Appellant believe that the ZA’s decision made the following error: the ZA approved a Building Permit showing no Notification Form delivered to the current owner of 1837 Ontario Pl NW in violation of Section 3307A.

II. SUMMARY OF FACTS

On Wednesday, May 13, 2015, my wife, Patricia J. Karam, and I, Frederick W. McCarthy III, executed a Purchase & Sale Agreement on 1837 Ontario Pl NW, Washington, DC 20009 with the seller, Justin Oliver.

1837 Ontario Pl NW is the house immediately adjacent to 1835 Ontario Pl NW.

On Tuesday, June 9, 2015, we closed on the purchase of 1837 Ontario Pl NW (by then we had transferred the Purchase & Sale agreement to a limited liability company entitled 1837 Ontario, LLC. My wife, Patricia J. Karam, and I, Frederick W. McCarthy III, are the Managers and Members of 1837 Ontario, LLC.

On or about Wednesday, August 19, 2015 - my family and I moved into 1837 Ontario Pl NW.

In early October, I met Chris Bogdan and Hugo Camacho, both of Bogdan Builders, an affiliate of Ontario Holdings, LLC - the owner of 1835 Ontario Pl NW. Chris Bogdan and Hugo Camacho were distributing pumpkins to the neighborhood in advance of Halloween; they had just left a large pumpkin on my porch and I went out to retrieve it. I had a conversation with Chris Bogdan and Hugo Camacho in which we discussed the following, amongst other things:

- that I am the new owner of 1837 Ontario Pl NW;
- that they were doing a gut-renovation of neighboring 1835 Ontario NW, but at no time did they say they were making additions both vertically and horizontally; and
- Chris Bogdan specifically said he would need to send me an “underpinning agreement.”

On Friday, October 23rd, Chris Bogdan and Hugo Camacho rang the doorbell of my house. They were with their architect and wanted to see the view from my roof (specifically if I can see the Rock Creek Park), because they were contemplating putting a roof deck on top of their redevelopment. This is when I first learned about how high they were proposing to build. I did not let them in my house. (I later learned their visit to my house was literally the day after

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they received their zoning board approval and building permit, which did not include any roof deck.)

On Monday, November 16th, I met with Chris Bogdan, Hugo Camacho and neighbors Bryce Jacobs and Matt Meyers at their house at 1833 Ontario Pl NW. This is the first time Bogdan Builders ever walked me through their redevelopment plans – but not with the actually approved and stamped construction drawings, but rather with outdated plans dated 9/30/2014.

On Wednesday, November 25th, I filled an Illegal Construction Complaint Form at the DCRA due to lack of neighbor notification (please see Exhibit A).

III. SUMMARY OF ZA ERRORS

The ZA made the following error with regard to issuing permit B1502005:

Error 1: Lack of Neighbor Notification and Underpinning Agreement

The ZA approved a Building Permit application showing a Notification Form delivered to the previous owner of 1837 Ontario Pl NW in October 2014 – not the current owner. This is in violation of Section 3307A.

IV. SUMMARY OF ARGUMENT

On October 24, 2014, Bogdan Builders, an affiliate of Ontario Holdings, LLC - the owner of 1835 Ontario Pl NW, sent a Notification Form to the former owner of 1837 Ontario Pl NW, Justin Oliver (please see Exhibit B). Hence, Bogdan Builders knew of their Notification Requirement under Section 3307A.

In early October 2015, Chris Bogdan and Hugo Camacho, both of Bogdan Builders, met me at my home. They new at that time that I was the new owner of 1837 Ontario Pl NW. Chris Bogdan specifically said they would need to send me an “underpinning agreement.” But, he never did.

October 22, 2015, the ZA approved Building Permit B1502005. But, Bogdan Builders included in their building permit the old Notification Form sent to Justin Oliver a year earlier in October 2014, even though they new (i) I was the new owner of 1837 Ontario Pl NW and (ii) that they had never delivered to me any Notification Form.

On Monday, November 16, 2015, I met with Chris Bogdan, Hugo Camacho and neighbors Bryce Jacobs and Matt Meyers at their house at 1833 Ontario Pl NW. The day after, November 17th, I emailed Hugo Camacho requesting an underpinning agreement. On November 18th, Hugo Camacho responded to my email that he would forward the underpinning agreement to Bryce Jacobs and me “in the next few days” (see Exhibit C.) To date, no one from Bogdan Builders has sent me any notifications or underpinning agreements.

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V. Timeliness

The Appellant learned about the Building Permit being issued after October 22, 2015. Appellants are filing this ZA appeal within the required 60-day time period.

VI. How Appellants Will Prove Case

Appellants intend to prove their case through:

- Testimony; and
- Analysis of the Construction Code.