

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

Appeal by B Monroe Ventures LLC

BZA Appeal No. 19613

**D.C. DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS’
PRE-HEARING STATEMENT**

The D.C. Department of Consumer and Regulatory Affairs (“DCRA”) respectfully requests that the Board of Zoning Adjustment (“Board”) deny this appeal for the following reasons:

Appellant B Monroe Ventures LLC alleges that the Zoning Administrator erred in his determination that the proposed building at 1844 Monroe Street, N.W. (“Building”) is required to provide a side yard.¹ The Zoning Administrator correctly determined that the Building is required to provide a side yard because it is a semi-detached building with a free-standing side on the western lot line.

Factual and Procedural Background

On April 26, 2017, Appellant submitted building permit application No. B1707642 (“Application”), which sought authorization for the following work at 1842 Monroe Street, N.W. and 1844 Monroe Street, N.W. (collectively, “Property”): “construct new three story, two family flat in conjunction with 1842 Monroe St.” (Exhibit 1 – Application B1707642, dated Apr. 26, 2017.) The Property is located in the RF-1 Zone (formerly called R-4 zone). In the instant case, 1844 Monroe Street, N.W. will be attached to the common division wall to be constructed on its east side with 1842 Monroe Street, N.W.² The proposed construction of 1844 Monroe Street, N.W., has 1844 Monroe Street’s west wall up to the property line.³ However, the property to the west of 1844 Monroe Street, N.W., 1850 Monroe Street, is a detached building with a side yard of approximately 25 feet along the western lot line of 1844 Monroe Street, N.W.⁴

On May 26, 2017, Appellant submitted a written request to the Zoning Administrator asking whether 1844 Monroe Street, N.W. would require a side yard because the zoning

¹ BZA Appeal 19613- Exhibit 4B

² BZA Appeal 19613- Exhibit 4B

³ BZA Appeal 19613- Exhibit 4B

⁴ BZA Appeal 19613- Exhibit 4B

reviewer commented that 1844 Monroe Street, N.W. would need a side yard since it is not attached on the west side.⁵

On July 28, 2017, after a careful review of the submitted plans, the Zoning Administrator determined that, in accordance with 11-E DCMR § 307.1 and 11-B DCMR § 100.2, the proposed Building is required to provide a side yard on its west side because it is a semi-detached building and shares no common division wall with the property to its west, 1850 Monroe Street.⁶ Following the Zoning Administrator’s determination, Appellant filed this appeal on August 21, 2017.⁷

On November 15, 2017, the co-owners of 1850 Monroe Street, N.W. (“Intervenor’s Property”), which abuts the west side of 1844 Monroe Street, N.W., filed their Request for Intervenor in Opposition.⁸ The Board granted Intervenor Status Request on May 2, 2018.⁹

Argument

Appellant alleges that the Zoning Administrator erred in his interpretation of the plain meaning of 11-E DCMR § 307.1 when the Zoning Administrator determined that the Building must provide a side yard. The Zoning Administrator correctly determined that the Building is a semi-detached building, which is required to provide a side yard on its free-standing western side.

The Property consists of two unimproved vacant lots, on which Appellant plans to construct two buildings – 1842 Monroe Street, N.W. and the Building. (Exhibit 2 – architectural plans submitted to ZA as part of the Application, dated Apr. 26, 2017.) The proposed property at 1842 Monroe Street is an attached building. An attached building is a building that abuts or shares walls on both side lot lines with other buildings on adjoining lots.¹⁰ As depicted on the plans, the proposed building at 1842 Monroe Street, N.W. shares a common division wall with 1840 Monroe (an existing neighbor’s house) to the east and 1844 Monroe to the west.¹¹ Therefore, 1842 Monroe Street, N.W. shares a common division wall on both sides and a side yard is not required.

⁵ BZA Appeal 19613 Exhibit 4A - Exhibit Tab A - Question to ZA

⁶ BZA Appeal 19613- Exhibit 4B

⁷ BZA Appeal 19613 Exhibit 2 – Appeal Statement

⁸ BZA Appeal 19613 Exhibit 23 - Request for Intervenor in Opposition from Donna Murphy and Keenan Keller

⁹ BZA Appeal 19613 Exhibit 33 - BZA Memo re: Granting Intervenor Status

¹⁰ BZA Appeal 19613 Exhibit 33 - BZA Memo re: Granting Intervenor Status

¹¹ BZA Appeal 19613 Exhibit 33 - BZA Memo re: Granting Intervenor Status; 11B DCMR § 100.2.

In contrast, the proposed Building, 1844 Monroe Street, N.W., is required to have a side yard because it is a semi-detached building. A semi-detached building is “a building that abuts or shares one (1) wall, on a side lot line, with another building on an adjoining lot and where the remaining sides of the building are surrounded by open areas or street lot lines.”¹² The Building, 1844 Monroe Street, has a common division wall on only one side—the side abutting 1842 Monroe Street, N.W. The property to the west of 1844 Monroe Street, N.W., 1850 Monroe Street, is a detached building with a side yard of approximately 25 feet along the western lot line of 1844 Monroe Street, N.W.¹³ Since there is no existing wall along the property line between 1844 Monroe Street, N.W. and 1850 Monroe Street, N.W., 1844 Monroe Street must have a side yard.

Appellant’s arguments fail to mention that the Zoning Administrator has to consider the character of the neighborhood and the zoning definitions. According to Appellant, the block where this construction is to occur is located in the Mount Pleasant Historic District and consists primarily of lot-line to lot-line row dwellings.¹⁴ Appellant further argues that after 1842 Monroe Street, N.W. is built, the Building, located at 1844 Monroe Street, N.W., would share a common division wall and therefore, 1844 Monroe would not be subject to the side yard requirement.¹⁵ Appellant’s argument simple ignores the fact that the proposed Building is considered a “semi-detached” building rather than a “row dwelling.”

Any possible change in the Zoning Administrator’s interpretation of when a building must provide a side yard likely stems from the new definitions found in the 2016 Zoning Regulations. Under the 1958 Zoning Regulations, a “row dwelling” was defined as “a one-family dwelling having no side yards.”¹⁶ Based on this definition, the Zoning Administrator reviewed proposed plans based on *where the building was located in relation to its own lot lines*. The 2016 Zoning Regulations, however, changed the Zoning Administrator’s analysis when it created definitions for attached buildings and semi-detached buildings. Specifically, these definitions changed the analysis **from** *where the building is located in relation to its own lot lines* **to** *the building’s relationship to the neighboring buildings*.

¹²Title 11-B DCMR § 100.2. Semi-detached building is written as “Building- Semi-detached.”

¹³ BZA Appeal 19613- Exhibit 4B

¹⁴ BZA Appeal 19613- Exhibit 2

¹⁵ BZA Appeal 19613- Exhibit 2

¹⁶ Title 11-1 DCMR § 199

Second, 11-E DCMR § 307.1 requires a side yard on the western lot line of the Building because the Building’s west side wall is a free-standing wall. Per 11-E DCMR § 307.1, “when a new dwelling or flat is erected that does not share a common division wall with an existing building or a building being constructed together with the new building, it shall have a side yard on each resulting free-standing side.” Here, the Building should have a side yard on its west free-standing side because the western side of the Building neither shares a common division wall with an existing building nor with a building being constructed together with it. The Building’s free-standing side abuts a side yard along the property line of the Intervenor’s Property. Contrary to the Appellant’s assertion, the plain meaning of the language of 11-E DCMR § 307.1 requires the Building to provide a side yard on its western lot line. Therefore, the Building should have a side yard because, first, it is a semi-detached building with a free-standing wall on its western lot line and, second, the western free-standing side does not share a common division wall with either an existing building or a building being constructed with it.

Conclusion

For the foregoing reasons, DCRA respectfully requests that the Board (1) affirm that the Zoning Administrator correctly determined that 1844 Monroe Street, N.W. must provide a side yard pursuant to the Zoning Regulations; and (2) deny this appeal.

Respectfully submitted,
ESTHER YONG MCGRAW
Interim General Counsel
Department of Consumer and Regulatory Affairs

Date: 6/6/2018

/s/ Adrienne Lord-Sorensen
ADRIANNE LORD-SORENSEN (DC Bar # 493865)
Assistant General Counsel
Department of Consumer and Regulatory Affairs
Office of the General Counsel
1100 4th Street, S.W., 5th Floor
Washington, D.C. 20024
(202) 442-8401 (office)
(202) 442-9447 (fax)

CERTIFICATE OF SERVICE

I certify that on this 6th day of June 2018 a copy of “DCRA’s Pre-Hearing Statement” was served via electronic mail to:

Martin P. Sullivan
Alexandra Wilson
Sullivan & Barros
1990 M Street, N.W., Suite 200
Washington, D.C. 20036
msullivan@sullivanbarros.com
awilson@sullivanbarros.com
Counsel for Appellant

Yasmin Romero-Latin, Chair
Advisory Neighborhood Commission 1D
3145 Mount Pleasant Street, N.W.
Washington, D.C. 20010
1D04@anc.dc.gov

Kennan Keller and Donna M. Murphy
1850 Monroe Street, N.W.
Washington, D.C. 20010
Murphy.keller@verizon.net
Intervenor

Jack McKay, Single Member Advisory
Neighborhood Commissioner, ANC 1D03
3200 19th Street, N.W.
Washington, D.C. 20010
1D03@anc.dc.gov

/s/ Adrienne Lord-Sorensen
Adrienne Lord-Sorensen

EXHIBIT 1

Menu Save Reset Cancel Help

Record Detail (This section is required.)

Permit No. B1707642 Permit Type Building/Construction/New Building/NA Status Review In Process

Description of Work CONSTRUCT NEW THREE STORY, TWO FAMILY FLAT IN CONJUNCTION WITH 1842 MONROE ST.

Total Fee Invoiced 1,435.50 Total Paid 1,435.50 Balance 0.00 Opened Date 04/26/2017

Address (This section is required.)

Search Reset Clear Get Parcel & Owner Address Locator XY GIS Locator

Address form fields: Street # (1844), Street Name (MONROE), Street Type (ST), Quadrant (NW), Unit Type, Unit #, Street # (end), Start Fraction, Zip Code, Cluster, Neighborhood, Ext, Zone (ANC), Premise Phone Number, Primary (Yes).

Parcel (This section is not required.)

Search Reset Clear

Parcel form fields: SSL (2614 0849), Lot (0849), Ward, Primary (Yes).

Owner (This section is not required.)

Search Reset Clear

Owner form fields: Name (B MONROE VENTURES), Primary (Yes), Address Line 1 (1120 PARK ROAD NW), Phone, Address Line 2, Mail City (WASHINGTON), Mail State (DC), Mail Zip, Country (United States), Cell Phone, Email (DIXONCLIFFORD@GMAIL.COM).

Professionals (This section is not required.)

Search Reset Clear

Professionals form fields: License #, First Name, Middle Name, Last Name, License Type, Business Name, Phone 1, Primary, Address Line 1, Phone 2, Address Line 2, City, State, Zip Code, Email.

Agent for Owner (This section is required.)

Search As Owner As Lic. Prof As Contact

Agent for Owner form fields: Type (CLIFF), First Name (CLIFF), Middle Name, Last Name (DIXON), Relationship (CLIFF DIXON), Full Name, Primary, Organization Name, Address Line 1 (2120 SPOLLARD ST), Address Line 2, Address Line 3, Phone 1 ((202) 705-1453), Phone 2, Fax.

City State Zip Code
 Email

App Specific Info

LANAGUAGE PREFERENCE

Language Preference Other

GENERAL INFORMATION SECTION

Q-Matic Number Plans submitted Yes No Job classification Number of plans File Room Bin No Expiration Date Related to Stop Work Order Yes No

Existing use of building or property Proposed use of building or property

Proposed number of stories of building Proposed Stories Plus Proposed Stories Penthouse Proposed number of dwelling units
 Existing number of stories of building Existing Stories plus Existing Stories Penthouse Existing number of dwelling units

Completion date of work Construction start date

Number of Footings or Columns Size of Footings or Columns Wall Check Completed Yes No Wall Check Required Yes No

Application Comments

DDOE SECTION

Method of moving construction debris (Other) Specify

Type of construction material Other (Specify type of material) Does the proposed work involve disturbing the earth or razing a building

(A) Is the area of disturbed earth more than 50 sq. ft. (B) Soil erosion control methods (C) Area of offsite drainage SQFT

NEW BUILDING SPECIFIC SECTION

Fire suppression Specify (Other) Booster Pump Plans certified by engineer Total Lot - Area

Present gross floor area of the building SQFT Proposed gross floor area of the building SQFT Floors involved with this permit Lot area percentage - Building

Is projection beyond building line (A) Number and type of projection (B) Distance of projection FT Lot area percentage - Greenery

(C) Width of projection FT (D) Width of building frontage FT (E) Street width FT Lot area percentage - Paved Area

ADDITIONAL INFO SECTION

Water or sewer excavation Yes No Driveway construction Yes No Sheeting or shoring necessary Yes No New or repair elevator

Elevators involved Yes No No of Elevators

FEE CALCULATION SECTION

Estimated cost of construction Length FT Width FT Height FT Total Number of Floors

Volume of new building or addition CU FT Total Valuation Cost Retaining Wall construction cost

DOH Plan Review Square Feet Required for Plan Review Fee SQFT DOH Plan Review Type

GREEN BUILDING SECTION

Green Building Yes No Public Financing Yes No Project Type Total Area for Green Building Fee

Owner Type Green Building Standards

LEED Certification Level Energy Star Rating (1-100) Is the Project Substantial Improvement Yes No

AUTHORIZED AGENT

Is an Agent Authorized Yes No

CONTRACTOR

Is Lot Vacant? Yes No Is General Contractor Information Available? Yes No

DOEE ENVIRONMENTAL QUESTIONS

Work performed involve the installation, removal, close-in-place now, or repair of UST system

Yes No

Work performed involve assessm./clean-up of groundwater assoc. w/release of material from an UST

Yes No

Does work involve drilling of well using air rotary drilling or method discharging gas/dust in air

Yes No

Does project involve constr. of facility involv. handling of solid/medical waste/recycl. material

Yes No

Does project involve constr. affecting aquatic/terrestrial biota and their habitat/water quality

Yes No

Does project result in arial discharge of gases/dust or the creation of any objectionable odors

Yes No

Does the building contain asbestos

Yes No

Is project interior reno./add. & assessed value of structure is > 50% of the total constr. cost

Yes No

Is project within a Special Flood Hazard Area or 100-year floodplain area

Yes No

Does project result in constr./installation of any other stationary pollution emitting equipment

Yes No

Date

04/26/2017

Work performed involve assessm. of soil/soil-vapor/cleanup assoc. w/released material fro

Yes No

Will proposed work involve install/drilling of wells other than for purposes in above questio

Yes No

Does project involve generation/treatm./storage/disposal/transport of hazard. chemicals/sul

Yes No

Does project involve constr. result. in discharge to/withdrawal from/disturb sediment in wat

Yes No

Does project site contain a species of plant or animal that is federally protected

Yes No

Was the building built before 1978 (Lead paint may be present).

Yes No

Does the project disturb 5,000 square feet or greater of land

Yes No

Does project's total cost exceed 100% of structure's assessed value, AND is zone other than

Yes No

Will project result in the install of fuel burning equip/boilers w/input ratings >5 million BTU/l

Yes No

Signature

CLIFFORD DIXON (Text)

ENVIRONMENTAL INTAK FORM

Is this project a residential structure within R-1 through R-5-A zoning districts

Yes No

Is this project an accessory structure, such as a garage, patio, pool, or fence

Yes No

Is project in an Economic Development Zone, defined in DC Official Code 6-1501 (DC Law 7-177)

Yes No

Project involve only repair, minor alt. of public facility with minor or no expans. of existing use

Yes No

Do you plan to develop adjacent abutting property in next 3 years

Yes No

Is this project a solid waste facility

Yes No

Are you claiming an exemption from the requirement to submit an ESF under Title 20 7202

Yes No

For projects with a total cost of \$1.9 million or less, check all that apply from A thru G

Yes No

(B) Is within 100 feet of a pond, stream, lake, spring, or wetland

Yes No

(D) Project will produce, use, or dispose of hazardous substances, as defined in 20 DCMR 7299

Yes No

(F) Will require blasting

Yes No

Signature of Owner or Authorized Agent

CLIFFORD DIXON (Text)

Is this project a single family structure not built in conjunction with 2 or more units

Yes No

Is this project only an interior renovation with no building use or capacity change

Yes No

Is this project in the Central Employment Area, defined in DC Zoning Regulations

Yes No

Does the owner of this site own adjacent or abutting property

Yes No

Do you plan more development that requires permit(s) on any site in this square in next 3 years

Yes No

Have you prepared an EIS or a functional equivalent, as required by the NEPA act of 1969

Yes No

Is the total project cost more than \$1.9 million, including site preparation and construction

Yes No

(A) Contains threatened or endangered plant or animal species

Yes No

(C) Project will produce emission of odorous, other air pollutants (from any source, including VC

Yes No

(E) Will be built on land where the water table depth is less than 3 feet

Yes No

(G) Will generate medical, infectious, radioactive, or hazardous waste

Yes No

Date

04/26/2017

General Information

Is this Project being submitted for a 3rd Party Review

Yes No

Select all floors involved in proposed construction

[Empty selection box]

FP Condition

--Select--

Is area of disturbed earth more than 5000 Sqft

--Select--

Total work area affected by proposed construction

[Text input field]

Elevation Certificate Required

Yes No

Flood Proofing Certificate Required

Yes No

Do you have a completed Flood Hazard Development Form

Yes No

Slab or Lowest floor EC/FC Certificate Review

--Select--

Final Completion of the Project EC/FC Certificate Review

--Select--

ZONING DATA SUMMARY

Existing Number of Dwelling Units

[Number input field]

Proposed Number of Dwelling Units

[Number input field]

Existing Number of Parking Spaces(9x19)

[Number input field]

Proposed Number of Parking Spaces(9x19)

[Number input field]

Existing Left Side Yard Setback

[Number input field]

Existing Right Side Yard Setback

[Number input field] FT. (Number)

Proposed Left Side Yard Setback

[Number input field]

Proposed Right Side Yard Setback

[Number input field] FT. (Number)

Existing Rear Yard Setback

[Number input field] FT. (Number)

Proposed Rear Yard Setback

[Number input field] FT. (Number)

Existing Building Height (Feet) <input type="text"/> FT. (Number)	Existing Building Height (Stories) <input type="text"/> (Number)
Proposed Building Height (Feet) <input type="text"/> FT. (Number)	Proposed Building Height (Stories) <input type="text"/> (Number)
Existing Lot Area <input type="text"/> SQFT (Number)	Proposed Lot Area <input type="text"/> SQFT (Number)
Existing Gross Floor Area <input type="text"/> SQFT (Number)	Proposed Gross Floor Area <input type="text"/> SQFT (Number)
Existing Floor Area Ratio <input type="text"/> (Number)	Proposed Floor Area Ratio <input type="text"/> (Number)
Existing Building Footprint <input type="text"/> SQFT (Number)	Proposed Building Footprint <input type="text"/> SQFT (Number)
Existing Lot Occupancy <input type="text"/> % (Number)	Proposed Lot Occupancy <input type="text"/> % (Number)
Previous surface (R-1 through R-4) <input type="text"/> % (Number)	Green Area Ratio (R-5 and above) <input type="text"/> (Number)

Structures *(This section is not required)*

ID	Name	Group	Type	Status	Status Date	Land Use	Description	Record Status
0 records found								

Related Records

1

Record ID	Short Notes	Permit Type	Status	Opened Date	Priority	Street Name	First Name	Last Name	E-mail	Dir
17NEW-00000-06703		Building/Construction/New Building/NA	Review In Process	04/28/2017		MONROE	CLIFF	DIXON	DIXO	NW
17NEW-00000-06705		Building/Construction/New Building/NA	Review In Process	04/26/2017		MONROE	CLIFF	DIXON	DIXO	NW

1

Submit Cancel

EXHIBIT 2
