



Advisory Neighborhood Commission 5E

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Board of Zoning Adjustment
441 4th Street NW, Suite 200S
Washington, DC 20001

RE: 2901 N. Capitol St NE (BZA Case #19729)

Dear Board Members,

On February 20, 2018, the ANC 5E Commission voted 8-0 to support a retroactive relief application for 2901 N Capitol St NE. I was one of the Commissioners who voted to support the project. However, I have since become aware of several misrepresentations by the applicant during his presentation to ANC 5E, detailed below. Had I been aware of these facts at the time, I would not have voted to support the application. (The video recordings of ANC 5E meetings are at <https://vimeopro.com/wogemedia/anc5e/>, and discussion for case 19729 starts at minute 57.)

Although I have shared this information with my fellow commissioners, ANC 5E has decided not to revisit the application due to the large number of neighbors who testified in support of the project. Consequently, I am writing this letter in my capacity as an individual commissioner to note the rationale behind my withdrawal of support for the application. My concerns are as follows:

1. During the presentation to ANC 5E, the applicant's attorney stated the building "was already constructed in conformity with permits issued by DCRA," and the applicant was only seeking retroactive zoning relief. The applicant himself also stated that there was a permitting error by DCRA, through no fault of his, which now requires BZA approval. However, that is not accurate.
 1. Per a stop work order dated September 7, 2017, the inspections division reported the property because the "previously approved plans show that the original rear porch structure was to remain, but it has been **completely rebuilt and expanded** to the rear and the side. The depicted foundation wall...has also been changed." (emphasis added)
2. The applicant introduced himself to the Commission as the new owner of the property, having bought the home only months before his application for zoning relief. I and others were left with the impression that he had nothing to do with the property prior to his purchase of it, and that he was now forced to seek retroactive zoning relief due to errors prior to his ownership.
 1. The applicant conspicuously failed to mention that he was the contractor/agent for the property starting in 2015, as evidenced by his name on the original permit requests. The fact that he has been involved in this project from the beginning means that he is, at least in part, responsible for the construction which exceeded the approved permits and resulted in the stop work order.
 2. Further, had I known the applicant had previously bought, sold, and renovated other properties in the District I would have been less sympathetic to his plea for retroactive support. Per records from the DC Recorder of Deeds, he renovated 24 Girard St NE (bought 2010, sold 2011) and 2 Girard St NE (bought 2013, sold 2014). The fact that he has prior

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- experience in building in the District makes the failure to adhere to zoning restrictions and building codes disconcerting.
3. The applicant and his attorney stated multiple times that the property had a public space permit for the now built structure, deck, and areaway projecting significantly into public space. The applicant also explicitly stated this project received approval from the Public Space Committee. While I understand that public space occupancy requests are outside the purview of the BZA, I find the breadth of these unpermitted encroachments and the applicant's attempts to deceive the ANC about them troubling.
 1. The property did receive a public space permit in 2016, renewed in 2017, for an areaway and small balcony (see attachment). However, the applicant has evidently built far beyond what was permitted:
 - i. The permitted areaway was 7'x39', but the completed areaway appears to be approximately 10.5'x45'.
 - ii. There was no permission for a first floor deck, which projects off the side of the property 31'x10.5', and off the back of the property 5'x12.5'
 - iii. A small, second floor balcony was permitted to project approximately 1' off of the existing building. Instead, the applicant built an 11'x5.5' second floor deck.
 - iv. It also appears that the applicant built a basement areaway in public space for which he did not request nor receive permission. Based on the drawings, it's roughly 6'x11'.
 - v. The rear addition to the house also projects into public space and at least a portion of it was not part of his original public space permit.
 2. There is no record of this project going before the Public Space Committee, despite the applicant's comments to the ANC.

From renovations I've done on my home in the District, I appreciate that getting building permits can be time consuming and frustrating. However, that is no excuse for disregarding the District's established permitting processes -- which are essential for the safety and orderly growth of our community -- and I have concerns about granting special exception and variance relief to an applicant who is cavalier towards the District's regulations and less than truthful in his interactions with the ANC.

Thank you for your consideration, and do not hesitate to contact me if you have any questions.

Sincerely,

Hannah Powell
ANC Commissioner 5E03
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CC:

Alyssa Bigley, Cozen O'Connor *via email*

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Bradley Thomas, ANC 5E Chair *via email*

Tiffany Tenbrook, DDOT *via email*

Karen Thomas, OP *via email*