Before Board of Zoning Adjustment

Appeal of J. Brendan Herron Jr. and Advisory Neighborhood Commission 3F ("ANC 3F") of DCRA's issuance of building permits at 2900 and 2902 Albemarle Street, NW, Washington, DC 20008 ("Permits")

Appellant's Statement

This is an appeal of a decision of the Department of Consumer and Regulatory Affairs ("DCRA") and other agencies of the District of Columbia involved in issuing of building permits ("Permits") the construction of two Single Family Residences at 2900 and 2902 Albemarle Street NW, (Square 2043, Lot 18 and 19) ("Subject Property"). DCRA issued said Permits, B446316, (2900 Albemarle Building Permit) and B446312 (2902 Albemarle Building Permit). The owner/developer of the Subject Property is Zuckerman Brothers, Inc. located at 2 Wisconsin Circle, Suite 550, Chevy Chase, Md 20815 ("Owner" or "Zuckerman"). Appellant, J. Brendan Herron Jr., an adjacent neighbor, residing at 2901 Albemarle Street, NW, is joined by the ANC 3F, the ANC where the property is located (jointly "Appellants").

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Reasons for the Appeal

Appellants believes that DCRA, other government agencies and the Owner made a number of errors or misinterpretations of the laws and regulations of the District of Columbia in applying for and issuing the Permits, including:

1. DCRA erred in issuing the permits in violation of DC Mun Regs. Tit 11-3202.5. This is an issue in this case because the Zoning Commission setting down for hearing (and thus putting into effect) more restrictive zoning ("Forest Hills Tree and Slope Overlay") for the Subject Properties on April 19, 2002. The application filed by the Owner did not meet the criteria spelled out in 3202.5 because:

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(a) The application failed to meet the requirements under DC Mun Regs. Tit 11-3202.2 and the DC Construction Code

(b) did not include all the required fees;

2. DCRA and the Office of the Surveyor erred in approving the subdivision on April 17, 2002 because the subdivision violated various zoning rules including the side yard provisions of 11 DCMR 405.9; and
3. DCRA denied ANC 3F the statutorily required 30 days notice to review the application and supporting documentation and denied to ANC 3F the statutorily granted opportunity that its views to be given "great weight" in DCRA decisions to issue permits.

The Appellants reserves the right to supplement this appeal as additional information is received from DCRA and the Owner.

This claim is before the Board of Zoning Adjustment ("BZA") pursuant to 11 DCMR 3100.2

> "The Board, pursuant to the Zoning Act, shall also hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision, determination, or refusal made by any administrative officer or body, including the Mayor, in the administration or enforcement of the Zoning Regulations, Title 11 DCMR."

and under DC Code § 6-641.07. (f) "Appeals to the Board of Adjustment may be taken by any person aggrieved, or organization authorized to represent such person, or by any officer or department of the government of the District of Columbia or the federal government affected, by any decision of the Inspector of Buildings granting or refusing a building permit or granting or withholding a certificate of occupancy, or any other administrative decision based in whole or in part upon any zoning regulation. . ." The appeal is being filed following a denial of an administrative appeal to the Director of DCRA, issued on October 23, 2002.

The Appellants intend to prove the case utilizing the plans and applications filed, as well as testimony of the parties.

Relief Requested

The Appellants hereby request that:

1. The Permits be revoked or that a Stop Work Order be issued.
2. The Owner be required to submit a new application for any desired improvements to the property subject to all existing zoning regulations at the time of the new submission.

Conclusion

For the foregoing reasons, Appellants respectfully request that the Board of Zoning Adjustment reverse the decision of the DCRA and grant the relief requested above.

Dated: December 19, 2002

Respectively Submitted,

J. Brendan Herron Jr.
2901 Albemarle Street
Washington, DC 20008
(202) 248-9837

ANC3F
Philip Kogan
Acting Chair
ANC3F
C/O Robert Maudlin, ANC Commissioner
2906 Ellicott Terrace
Washington, DC 20008

Certificate of Service

I hereby certify that a copy of the foregoing Appeal was delivered to the Board of Zoning Adjustment on December 19, 2002. A copy was mailed, postage prepaid on December 19, 2002 to the Owner at Ste 550, 2 Wisconsin Circle, Chevy Chase, Md 20815, to Owner's Counsel, John T. Epting, Esq., Shaw Pittman LLP, 2300 N Street, NW, Washington DC 20037 and to David Clark at DCRA at DC Department of Consumer and Regulatory Affairs, 941 North Capitol St., NE, Room 2200, Washington, DC 20002.

J. Brendan Herron Jr.