ANC-5A REPORT ON CASE NUMBER ~~17312~~ 17321

The Advisory Neighborhood Commission–5A (ANC-5A) recommends that the Board of Zoning Adjustment (BZA) deny the requested area variances in the application of Mr. Darcy E. Flynn (Case # 17321).

ANC 5A considered this matter at its regularly-scheduled monthly community meeting on May 25, 2005. The meeting was properly-noticed by the posting of no less than 6 meeting announcement posters in each Single Member District of ANC 5A one week prior to the meeting. Seven members of the 12-member Commission constitutes a quorum; nine Commissioners were in attendance and voting. The vote of ANC 5A was 9-0 in favor of recommending denial of the application.

In arriving at this position, ANC-5A has reviewed Sections 201.1, 401, 403, 404, 405 and 3103.2 of the Zoning Regulations. The ANC-5A feels that the Zoning Regulations never intended to permit the building of a detached single family dwelling on such substandard lots. With respect to square footage, quite apart from its other shortcomings, the subject property (Square 3890, Lot 117, Taussig Place, N.E.) falls so far below the Minimum Lot Dimensions for an R-2 District (see Section 401) that we believe it should be deemed unsuitable for the construction of a detached single family dwelling.

The subject property is 2,242.5 square feet. The minimum lot area for an R-2 District Section (see Section 401.3) is 4,000 square feet. This makes the subject property less than 56% of the minimum required.

Section 401.2 provides useful guidance when considering variances to the provisions of Section 401.3.

> Section 401.2 Reads:
> Except as provided in Section 401.3, in the case of an unimproved lot in single ownership on November 1, 1957, that has a lot area or width of lot less than that specified in Section 401.3 for the district in which it is located and that does not adjoin another unimproved lot in the same ownership, a structure may be erected on the lot if both the lot area and width of at least eighty percent (80%) of the lot area and width of lot specified under Section 401.3; provided, that the structure shall comply with all the other provisions of this title.

It is important to note that under Section 401.2, owners who qualify in all other respects are still required to have a lot area of 3,200 square feet (80% of 4,000). It appears, that the authors of the code intended that a well-defined threshold for making an exception to minimum lot area, as specified under Section 401.3, is in the public interest. Consequently, ANC-5A believes that the subject property, given that it is less than 56% of the minimum, be denied the requested area variance.

Additional reasons for Denial of Requested Variances

BZA
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The alleged "hardship" of this substandard lot could be ameliorated. The abuts a second unimproved lot owned by the same seller of this subject lot. If the applicant had purchased this additional property with the lot that was purchased, the combined area would probably satisfy the minimum area requirement.

The applicant seeks to erect a "modular" dwelling. Modular dwellings have traditionally been associated with low-cost housing. There is no other modular dwelling on the block. The size of dwelling proposed would exceed the Percentage of Lot Occupancy (40%, see Section 403) specified in the Zoning Regulations. This is not the case with other dwellings in the neighborhood. Rear yard (see Section 404) and side yard (see Section 405) variances are also being requested. The assumption that the new dwelling will, just by virtue of its newness, enhance property values in the neighborhood is suspect. We believe that it is very likely that the new modular dwelling would have a negative economic impact on the property values of home owners in the immediate vicinity of the subject property. There is no doubt that the property owner at 1019 Taussig Place, N.E. (the home owner whose dwelling lies to the immediate West of the subject property), and others in the block, would be adversely impacted with respect to privacy, noise, light, air, and use.

ANC-5A been informed that both the applicant and his agent have disclosed that the applicant plans to build this dwelling for sale, he has no intention of living in the dwelling. The profit motive, and consequently the speculative nature of the purchase of the subject substandard lot, does not lend credence to the claim of hardship.

There are 45 entries in the Contact List filed with the application. Before the BZA, May 17, 2005 hearing of Case # 17321, the applicant or his agent repeatedly petitioned the owners listed and submitted 14 petitions in support of his application. Those petitions have been carefully analyzed (see Attachment 1). Below is a summary of the findings:

1. Of the 45 homeowners approached by the applicant or his agent, if all 14 petitions in support were legitimate (which is not the case as shown in items 2 through 6), 31 homeowners have refused to offer their support.
2. One signatory is the seller of the property and therefore irrelevant in accessing neighborhood support.
3. One property is out of the area. Therefore, the petition that lists this property address is invalid. This reduces the number in support to 13.
4. In one case, two petitions have been submitted for a single address. Therefore, this should count as only one support petition. This reduces the number in support to 12.
5. In one case, an individual who is not the homeowner has signed the petition. Therefore, this is an invalid petition. This reduces the number in support to 11.
6. Five (5) homeowners have rescinded their earlier support petitions . Attached are their new petitions requesting that the BZA deny the applicant's variance application. In general, those who have withdrawn their support seem to have been misinformed as to the applicant's detailed plans. This reduces the number in support to six (6).

Taken together, these facts are critical in evaluating whether the hardship claimed by the applicant rises to the level required to grant variances under the Zoning Regulations. ANC-5A believes that it does not.

Arguments Against Other Requested Variances

As required by the Comprehensive Advisory Commissions Reform Amendment Act of 2000, effective June 27, 2000, the BZA is required to give "great weight" to the report of the ANC (see Section 3115.2). In spite of this provision, in the event that the BZA chooses to ignore the opinion of the ANC-5A as stated above, approves the Minimum Lot Area variance and permits the erection of a detached single family dwelling on the subject property, the ANC-5A requests that the BZA require that the structure comply with all the other provisions of the Zoning Code (see Section 401.2). Specifically, the ANC-5A requests that the BZA require the applicant to strictly adhere to all restrictions relating to:

1. Percent of Lot Occupancy (see Section 403)
2. Rear Yards (see Section 404)
3. Side Yards (see Section 405)
4. Parking space (see Section 401.2)

The ANC-5A believes that it is possible to build a detached single family dwelling of adequate size that is compatible with the general character of other dwellings on the block without undue difficulty and without violating any other aspect of the Zoning Regulations.

In the next section, we provide relevant data on the dwellings in the block where the subject property is located. This is followed by brief discussions on the four (4) requested variances listed above.

Data on Dwellings in Block

Applicant's property is located in Square 3690, Lot 117, Taussig Place N.E. 20017

The block contains two types of dwellings, detached and duplex.
The north side of the block has a 15-foot-wide alley running to its north.
The south side of the block has a 15-foot-wide alley running to its south.

Number of dwellings on South side:	8	(side of subject property)
Number of dwellings on North side:	9	
Total number of dwellings on both sides:	17	
Total number of detached dwellings on South side:	4	
Total number of duplex dwellings on South side:	4	(in two physical structures)
Total number of detached dwellings on North side:	1	
Total number of duplex dwellings on North side:	8	(in four physical structures)

Table of Selected Features of Dwellings		
FEATURE	NUMBER OF DWELLINGS WITH FEATURE	PERCENTAGE OF DWELLINGS IN BLOCK WITH FEATURE
Front Porch	3	17.65% of all dwellings
Back Porch	1	6% of all dwellings
Front Stoop	14	82% of all dwellings
Side Stoop	0	0% of all dwellings
South-Side Garages or Parking Pads	6	75% of all South-Side dwellings
North-Side Garages or Parking Pads	8	89% of all North-Side dwellings

Percentage of Occupancy, Rear and Side Yard Variance Requests

At the May 17, 2005 hearing, the principal reason given by the applicant in seeking relief from the Percentage of Occupancy (see Section 403), Rear Yard (see Section 404) and Side Yard (see Section 405) Zoning Regulations is that he has chosen to construct a modular home, "*smaller in size than most other dwellings on the subject block.*" His plans called for dwelling with a primary footprint 24' X 28'. In addition, the structure would have an 4' X 8' side entrance, a 6' X 24' front porch and a 6' X 24' rear porch. There are several issues with these self-imposed constraint:

1. The specific dwelling the applicant has proposed is simple incompatible with the lot and assumes that all the requested variances will be granted. The constraints of the lot should be used to determine the footprint of the dwelling.
2. Modular homes are available in a wide variety of footprints that meet the Zoning Regulations. In fact, there are modular-home builders that specialize in narrow homes, some with widths as narrow as 15 feet. The Minimum Lot Width (R) in an R-2 District (see Section 401) is 40 feet. Such a lot would allow for a dwelling no wider than 24 feet. The subject lot is 39 feet wide. Allowing for eight (8) foot side yards (see Section 405), the applicant should be required to build a home no wider than 23 feet; just a foot narrower than that of a property of minimum lot width.
3. The modular home drawings that the applicant has obtained and included in this application are readily available at little or no expense, and no purchase commitment. Consequently, were the applicant to select a more suitable design or approach, the earlier selection would have negligible financial consequences.
4. The selection of a modular home is an unnecessary limitation that the applicant has fashioned. The large majority of homes built in the Washington D.C. Metropolitan Area are built on site using conventional building methods. These methods typically allow for great flexibility with respect to design and use of building materials.

5. The applicants claim that the proposed dwelling will be "*smaller in size than most other dwellings on the subject block*" (see BZA Application No. 17321, in the middle of Page 4), is false. In fact, the primary footprint of the dwelling of the abutting neighbor on the west side is smaller in both width and depth at 22' X 27'.

The ANC-5A contends that the principal question here is: "Is it feasible to erect a structure that meets the Zoning Regulations with respect to Percentage of Occupancy (see Section 403), Rear Yard (see Section 404) and Side Yard (see Section 405) on this substandard lot?" The answer in our opinion is a resounding YES.

Parking Space Variance Request

Residents of the block use both alleys described above. The north and south alleys service garages and driveways belonging to the dwellings on their respective sides of the street. In addition, an old garage still stands on the subject property. This provides additional confirmation that access from the south alley to the property is available. It is noteworthy that 75% of all South-Side dwellings and 89% of all North-Side dwellings in block have Garages or Parking Pads.

This being the case, the applicants request for relief from the parking requirement, as specified in Section 2101.1 of the Zoning Regulations requiring one parking space for a single family dwelling, should be denied.

At the May 17, 2005 hearing, Mr. John Moore, Development Review Specialist with the D.C. Office of Planning, testified that there appeared to be adequate street parking on the Taussig Place block in question. However, he was quick to point out that he had arrived at his judgment about the parking situation at 10:00 am, a at a time of day when most residents were away from their homes. The ANC-5A cannot over emphasize the extent to which the parking situation was distorted by the time at which the observation was made. Where we do not dispute that there is adequate street parking during the day when residents are out, at night, when residents have returned home, the situation is quite the reverse. At night, locating a parking spot is invariably a struggle.

Respectfully submitted,

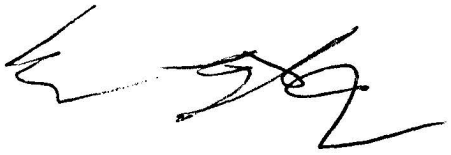
Joseph Bowser, Chairperson
Advisory Neighborhood Commission 5A

To the District of Columbia Board of Zoning Adjustment:

I, MARVIN LYTLE,
owner of property at 1030 Taussig Place, **N.E.**,
upon further consideration of variance application **Case # 17321**,
hereby **rescind** my support for the application.

I ask the Board of Zoning Adjustment to **deny** the variance application.

Sincerely,

SIGNATURE:  DATE: 5/2/05

To the District of Columbia Board of Zoning Adjustment:

I, William R. Myers
FIRST NAME LAST NAME

Owner of property at 1018 Taussig Pl. NE

Upon further consideration of the variance application identified as Case # 17321, herby rescind my support for the application.

I ask the Board of Zoning Adjustment to deny the variance application.

Sincerely,

William R. Myers
SIGNATURE

May 21, 2025
DATE

To the District of Columbia Board of Zoning Adjustment:

I, JULIA A. MYERS,
owner of property at **1018 Taussig Place, N.E.**,
upon further consideration of variance application **Case # 17321**,
hereby **rescind** my support for the application.

I ask the Board of Zoning Adjustment to **deny** the variance application.

Sincerely,

SIGNATURE: Julia A. Myers DATE: 05/21/05

To the District of Columbia Board of Zoning Adjustment:

I, HELEN L. WHITE,
owner of property at 1032 TAUSSIG PLACE, **N.E.**,
upon further consideration of variance application **Case # 17321**,
hereby **rescind** my support for the application.

I ask the Board of Zoning Adjustment to **deny** the variance application.

Sincerely,

SIGNATURE: Helen White DATE: 5-21-05

To the District of Columbia Board of Zoning Adjustment:

I, JULIUS ALSTON,
owner of property at **1006 ~~Monroe~~ Taylor, N.E.**,
upon further consideration of variance application **Case # 17321**,
hereby **rescind** my support for the application.

I ask the Board of Zoning Adjustment to **deny** the variance application.

Sincerely,

SIGNATURE: Julius A Alston DATE: 5/22/05