BZA Case 17352 Testimony

of

Dana F Hubbard

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I reside at 1477 Harvard St. NW. The following statement concerns the Office of Planning (OP) Report and also my sworn testimony as to what I actually observed and experienced in this case. I will focus on two main points. The first is that the purpose of R5B zoning is not served if this variance is granted. The second is that the owners cannot claim that this is a hardship case. I will also be mentioning the difficulties I had in dealing with the zoning administrator's office.

1. In the testimony of the OP in this case, Mr. Travis Parker claims on page four in the paragraph entitled "Substantial Detriment and Integrity of the Zoning Regulations", that the proposed addition in the back will not have any negative impact on the surrounding neighborhood, and he says that the intent of the zoning regulations is served by the proposed terrace....

   I disagree with this as I am already subjected to the so called "advantages" of a raised terrace on the top of a garage. I submit a photograph, labeled A, of the outdoor terrace constructed by my neighbors to the west of my house on top of their garage. My husband and I bought our house in March of 1991. At that time the garage on my

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neighbors property existed but the roof was not developed. In 1997, and although I objected strongly, the zoning administration gave my neighbors a permit to build steps up to the roof of their garage and to erect a fence around the top of the roof with the result you see in picture A. From this roof they can look into my back yard and into my bedroom and dining room windows. Picture B was taken from my bedroom window.

I consider that this so called "garden" on the roof affects the value of my property adversely. No one wants to live where someone can look directly into their backyard and windows. Before they put this addition on the roof of their garage, we often used the back yard which is nicely gardened, but we cannot not do so any more. Given this logic, the property owner of the other side of my backyard could also build a garage with a terrace on it, increasing the FAR and the lot occupancy beyond tolerable limits.

I submit three more photographs, C, D and E. The first one (C) is of the roof top development by my neighbor to the west, taken from the alley behind my house. You will see to the right of their garage is another garage with no development on the roof. This garage belongs to 1481 Harvard St. Photograph D shows the condition of the backyards of my neighbors to the east. They have built a parking space, then a fence, and have a little garden inside. This arrangement does not attack my privacy or the attractiveness of my back yard which is surrounded by a stockade fence.

Picture E is of my backyard from the alley. As you can see my fence is covered with ivy and I have two trees. I consider that the intent and purpose of the R5B zone is attacked by the existence of roof additions on top of existing structures.

In view of the fact that the permit for the terrace next door to my house was issued based on scratching out a few choice words on the application and using deliberate language to mislead the reviewing clerk , I was immediately suspicious of the permit that was granted to the builders of 1464 Harvard St. It is for this reason that I also disagree with the paragraph on page three of the OP report, entitled: "Exceptional Situation". I find it difficult to believe that these builders, Bogdan Builders, who have numerous projects in Columbia Heights and Shaw, could possibly be ignorant of the rules. I contend that the intent was to skirt the rules and see if they could get away with it. This claimed misunderstanding could not possibly be construed as a hardship.

2. Neither I nor my mother, Mrs. Hubbard, or even the planning department, have ever been able to acquire copies of the building permits for 1464 Harvard St. or the demolition permits or the applications for the building permits or the plans that were actually used to build the building at 1464 Harvard St. Therefore I relate here my experience with the zoning administration's office, an experience which is very relevant to this case.

I am extremely familiar with the property at 1464 Harvard St. and with every other property on my street, because I am a member of Alley Cat Allies and visit the alleys in my immediate neighborhood practically every single night to tend to the cats. This includes a practically daily visit to the alley to the rear of 1464 Harvard St. Last fall, I noticed that the building at 1464 Harvard St. was being demolished. This building was originally a single-family house. It was a particularly attractive building, with a two story side porch, which was covered by a beautiful red tile roof. This building had a two story back porch as well. I submit picture F, of 1464 Harvard St. under construction. Where you see the building covered with yellow Tyvek paper was a lovely garden extending the full depth of the property from Harvard St. to the 20 foot alley. In this area there were three trees and the garden was lovingly kept up by Mr. Ed Edwards, who lives in the Park Plaza Apartments on Columbia Rd and was an employee of Mr. van Buren, who owned the house. 1464 Harvard St. was used as a rooming house. The tenants included people who worked at the World Bank, graduate students and other very nice people.

You will notice that in picture F, just to the west of the yellow building is a 7 foot wide walkway also extending the full depth of the property, from Harvard St. to the alley. This walkway is part of the property included with the small apartment building seen in picture F. The entrance to the apartment building is on this walkway and not on Harvard St. The full effect of the old arrangement was that the tenants of both 1464 and 1466 Harvard St. had the enjoyment of looking at the garden. The building at 1466 Harvard St has 11 units and was fully occupied until last week. I

was told by the president of the tenants' association that a majority of the tenants agreed to a $20,000 buyout per apartment, and her efforts to organize the tenants to buy the building were ended. This information is very pertinent because the tenants' association had successfully prevented Bogdan Builders from putting up the scaffolding needed to build the west wall of 1464 Harvard Street. Bogdan Builders claimed, in their presentation in this case, that the majority of the construction was completed before this variance case was presented to the BZA. This could not possibly be true. It is only because 1466 was sold, and therefore the tenants' association's approval was no longer necessary, that the scaffolding was put up and the west wall of 1464 was erected.

Last fall, when I noticed that the building at 1464 Harvard St. was being demolished, I called up the zoning administration office, on the advice of my mother, to find out if any application had been made for a building permit for a new building. I recorded in my notes that I made the first telephone call on September 17, 2004. I was unable to reach anyone in that office on the phone who could answer my question, and I was told to go the 941 North Capitol St. to look for myself. I say this to point out that I have tried to get copies of the building permits and plans since early last fall and have not discontinued my efforts. The permits at the construction site for 1464 Harvard St. are placed in such a way that they cannot be read from the sidewalk. I submit pictures G and H, which show the placement of the permits at the site. My mother informed me that we could not bring a case against the zoning administrator without a copy of the protested permit.

My mother and I both continued to try to get copies of the building permits, plans and other documents. However, the first time anybody, including the BZA office, has ever seen a copy of the permit, is on the 5th of July. The permit under consideration was not submitted to the BZA office until July 5 of this year. The original application in this case did not include the building permit in question.

Building commenced at 1464 Harvard St. in the fall of 2004 and we continued with our efforts to get copies of the permits and try to look at the plans. My notes show that I personally tried to see the plans three times, and each time the clerks were not able to give me copies of the documents I needed. I did have access to one file with the address 1464 Harvard St on it, but it only contained a copy of the demolition permit and two documents that pertained to other properties. Finally, through the good offices of my mother who had called the mayor's office and secured a telephone call for herself with Mr. Bello, the zoning administrator, I got an appointment for me and my husband for April 27, 2004. We had our meeting with Mr. Bello in his office and I voiced my concerns about the lot occupancy and the cheap construction, and also the possible FAR violations. Mr. Bello had promised me, before our meeting, that he would have the plans available for me to look at, but he did not have them. At our meeting he promised to find them and make them available within 10 days. He never delivered on his promise. We would have brought this case ourselves if we had not been obstructed by the zoning administrator's office. Furthermore, Bogdan

Builders has been aware since last fall of my objection to their building. They cannot claim ignorance in this matter.

In March, before my meeting with him, Mr. Bello, after discussions with my mother, and examination of his records, issued a stop work order on the property at 1464 Harvard St., after he sent inspectors and determined that the building being built was not according to the plans he had approved. I actually saw the stop work order affixed to the building and all the workers lined up in the back, sitting idle. This stop work order was removed a few days later.

It is my opinion, using the standard of a reasonable person, that the intentions of the owners of 1464 Harvard St. and Bogdan Builders was to skirt the rules, subvert the operations of the zoning administrator and see if they could get away with it. This could not possibly be construed as a hardship.