

NAYLOR DUPONT

Advisory Neighborhood Commission 7B



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July 4, 2009

MOTION for RECONSIDERATION or REHEARING

RE: BZA Application No. 17837 Hillcrest Homes, L.P.

2009 JUL -6 PM 12:17
U.S. OF DISTRICT OF COLUMBIA

The 7B ANC represented by the SMD Commissioner for 7B05 the impacted areas for this development, respectfully request reconsideration or rehearing of the BZA final order dated June 23, 2009 with regards to this application. (Note: the BZA Hearing date was November 18, 2009).

Pursuant to and in accordance with DCMR Title 11 Chapter 3126; specifically sections 3126.2 and 3126.4, this SMD Commissioner submits the following reasons for making this request:

I.

Observation

To be added to the record, is this Commissioner's opinion that some members of the BZA were not unbiased and impartial during the presentation and final ruling of this project as represented by the applicant's attorney, Mr. Quinn, for EYA Developers. To speak specifically and to give an example, Mr. Gregory N. Jeffries, the Zoning Board representative, exhibited more than familiarity with the attorney of record for the development team. When deciding party status, Mr. Jeffries excitedly excepted Mr. Quinn as being given party status; however then not showing the same reaction when the ANC requested party status for Mr. Fleishman, a directly impacted resident. His partiality was evident by his open and extremely comfortable, overly friendly verbal exchanges with Mr. Quinn

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throughout the hearing and by allowing Mr. Quinn more leeway for providing evidence than he was willing to grant to the ANC.

In my opinion Mr. Jeffries coaxed the Board to make a decision vs. allowing the Chair to bring the Board to its conclusions. For example, Mrs. Miller stated, she needed more time to make conclusions. In a bully and impatient manner Mr. Jeffries somewhat attacked her (and the other Board Members) for wanting to delay the decision. Continuing, in a pushy/bullying demeanor Mr. Jeffries more than insisted that a decision be rendered immediately.

Mr. Jeffries would not allow questioning of the ANC by Mr. Loud regarding the specific interest of those residents who testified on behalf of the applicant against the impacted Residents. He challenged Mr. Loud in his line questioning to the ANC of Mr. Spaulding's involvement in the project --asking whether such involvement was inappropriate. If the ANC had been allowed to address these questions, a truer light would have been placed on the real motives behind this project and the applicants motives for now requesting variances versus the original proposal brought forth to the community for a PUD.

Lastly, Mr. Jeffries exhibited inappropriate behavior by stating publicly to the ANC Commissioner (Commissioner Marlin) in sarcastic tone , "I can't wait to hear what you have to say". Again this pointes to his bias, his sarcasm and his predisposal to ruling in the Developer's favor even before the hearing began.

II.

Page 5 –Section: The need for zoning relief #28

The ANC disagrees with this statement in this section in that the purpose of the BZA granting the variance is so that the Applicant can have relief from the maximum lot occupancy of 40%. The ANC feels strongly that the developer has the opportunity to develop the land per the Zoning regulation by placing conventional single family houses on the standard lot size of 5,000 sq ft. Thus, there is not justifiable reason for the BZA to grant so many variances outside of the norm, which would be one (1) variance at a time. If a resident can place a modular home on a 5,000sq ft pieces of land in Hillcrest, certainly EYA (a company of is prominence and fortune) can do the same.

III.

Page 10 Section "No detriment to public good or impairment of zone plan". Additionally, page 7-- #44 and 45.

The purposed extension of Southern Avenue from Branch Avenue to Naylor Road was never discussed in the hearing. **This is a new factor in this application and thus needs to be addressed in a hearing. Actually, the**

discussion during the 11/18/09 BZA hearing of how the applicant would bring the residents into and out of the development centered around a alley, a street and making a U turn to enter and exit the new development in the same manner, not by way of creating an extension of Southern Avenue.

As a life long resident and someone who has 1st hand knowledge and experience of the traffic habits in this corridor, an extension will not “improve the street system in the District” as is written in the final decision nor will it improve traffic in this impacted area. I, the ANC Commissioner, have documentation that will show DDOT has no interest in making this extension. Proposing this extension is a blatant misrepresentation of the hearing discussions held in this matter.

It should be noted that once the new neighbors occupy these units, they too, just like the commuters have the same opportunity to cut through the adjacent neighborhood streets”. --This statement and its suggestion by the applicant is without thought, without being educated on the history of the traffic problems this neighborhood (Hillcrest) has endured and this statement is without sensibility. I do not know how anyone on the BZA or the OP could or would conclude this extension would be a benefit to the community.

IV.

Page 9 “Practical difficulties” #62 through #70

The ANC feels that variances are not needed if the Applicant is made to adhere to the letter of the law for R-1-B regulations for front, side and rear yards, so as to conform to the adjacent neighborhood of Hillcrest. Since the applicant has chosen to use the same name for his development for profiteering, what better way to fit into/sell into the neighborhood then to build a comparable housing development. Further, the number of variance being granted should not set precedence for a developer to be able to maximize his profits at the expense of a neighborhood’s cultivated integrity, serenity, and stability. A developer should not be able to waltz into any neighborhood and change that integrity just to be able to make a profit. Further the BZA has a responsibility not to perpetuate this kind of business from developers.

This applicant knew of the topography of the land when the land was purchased by him more than five (5) years ago. He knew of the topography when he was holding meetings outside of the ANC (as a whole) and choosing to hold clandestine meetings outside of the affected/impacted area of residents with (a) individuals who had personal gains and (b) who did not live inside the impacted area nor were they sitting ANC Commissioners.

V.