

June 2, 2021

Frederick L. Hill, Chairperson
Board of Zoning Adjustment
441 4th Street, NW, Suite 200S
Washington, DC 20010

RE: BZA #20382, Joint Parties in Opposition Response to Applicant's May 12, 2021 Supplemental Submission

Dear Chairperson Hill and Honorable Members of the Board:

The joint parties in opposition submit this statement in response to the Applicant's May 12, 2021 Supplemental Submission, which was intended to address the Board's requests during the April 14, 2021 public hearing as reflected in a Memo to File at Exhibit 65. The Applicant submitted responses to the following matters.

1. Address and clarify requirement for an area variance.

In its Supplemental Submission, the Applicant stated it had altered its plans to reflect the actual current status of the principal building as having only one residential dwelling unit and therefore was not including any variance request. It is not clear, however, that the Applicant has demonstrated that an area variance is not required. The parties in opposition assert that an area variance for lot occupancy is still required as follows.

The Applicant has not sufficiently demonstrated the intent that the property be a single family dwelling. The RF-1 zone authorizes 2-family flats, and the property has two separate electric and gas meters. The Applicant did not submit to the record the amendment to the existing building permit (B2007169), which still shows, in the principal building, a basement apartment with a kitchen. It remains unclear whether the 2nd level of the proposed garage addition will be an accessory dwelling unit using the separate gas and electric meters. Further, the measurements on the revised drawings and plat still do not match field conditions, as shown in our April 12, 2021 motion to strike.

The Applicant fails to address the issues raised in the motion to strike, and, accordingly, the parties in opposition reiterate their objection. The Applicant must request variance relief and further demonstrate that it meets the variance standard.

2. Address and respond to Party in Opposition's recent issues and concerns related to discrepancies on the plans related to the building height.

A. **Setback from the alley.** The Applicant alleges that the error in the original drawings was the incorrect placement of the adjoining garages. The parties in opposition, however, raised this incorrect alley set back of the adjacent garage several times with the Applicant prior to our

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motion to strike. It is not clear from the revised drawings how far the proposed 2-level garage addition will extend toward the alley and into the rear yard.

- B. Height measurement and rear elevations.** The Applicant also alleges that the difference between the correct and incorrect height differentials of the proposed 2-level garage and the adjacent structures “has no impact on the accuracy of the shadow study,” despite common knowledge that taller structures cast longer shadows/more shade than shorter structures and that the relative position of a structure also affects where its shadow/shade falls on an adjacent structure. The Applicant alleges that it did not modify the shadow study other than to reflect the position of the proposed 2-level garage in relation to the adjacent accessory buildings. If the Applicant did not adjust its shadow study to account for the differences in the actual heights, the shadow study is not accurate. Even so, the parties in opposition assert the Applicant’s shadow study is incomplete because the shadow study still does not show the shading during the sunniest part of the day in the Wilson’s rear yard—the hours after 3pm until sundown—and therefore it is not sufficient to allege that the proposed 2-level garage addition will not have an undue impact on the Wilson’s available sunlight.
- C. Other inaccuracies in the architectural plans.** The Applicant states that other errors in the architectural plans, which were identified in our April 12, 2021 motion to strike “have no relevance” to this case. All inaccuracies identified in our motion to strike should be corrected, or, if they have “no relevance” to this case, the inaccurate drawings should be removed from the record. The inaccurate drawings and information provided in this case are the same inaccurate drawings and information the Applicant has provided and is providing to other District officials (HPRB, DCRA permitting, DCRA neighbor notification).

Even in this submission, the Applicant incorrectly states that the principal building “is not being expanded in footprint,” despite that, without a permit, he excavated the rear of the basement apartment to extend it an additional 80 sq. ft. (by excavating the square footage under the principal building’s existing above-ground 2-level rear addition). The Applicant’s own revisions in this submission show the inaccuracy of the statement that nothing is “being expanded in footprint”—*i.e.*, the revision of the basement square footage on the cover sheet from “610 SF” to “690 SF,” which reflects the additional 80 sq. ft. in the basement the Applicant excavated without a permit (the excavation is not yet complete as it has been halted under a stop work order).

The use of the inaccurate drawings in this case continues to support inaccuracies that obfuscate the actual scope of work already completed by the Applicant (beyond the scope of the existing permits) and the Applicant’s intended scope of work.

In addition to the issues raised herein, we continue to raise the issues the Applicant has not sufficiently addressed as provided in our April 12, 2021 motion to strike and our March 15, 2021 initial response.

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CERTIFICATE OF SERVICE

I hereby certify that on June 2, 2021, an electronic copy of this response was served on the following:

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