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To: Board of Zoning Adjustment

From: Hugo A. Roell (hugoroell@aol.com)

Cc: Brianne Nadeau, Ward 1 DC Councilmember
DC Advisory Neighborhood Commission 1C

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Pages: 2 pages

Re: BZA Case Number 20521 - 2240 Ontario Road NW
Opposition to Special Exception Request for Lot Occupancy

I live at 2312 Ontario Road NW, which is about 6 feet out of the 200 feet zone within which the party requesting a zoning exception at 2240 Ontario Road NW would have to contact me. I am writing in opposition to the special exception for two reasons, as follows:

1. The DC Surveyor's plat prepared by the architect, dated 9-22-2021, shows a building that occupies 69.99% of the lot, not the 65% lot coverage requested by the exemption. The plat accurately shows the total building area measured at the ground level (see the DC Zoning Code definitions and rules for measurement below). My calculation is as follows:

Proposed building length = 11'-5 3/8" + 53'-10 3/8" + 11'-5 3/8" + 12'-10" = 89.59'
Proposed building area = 16.0' (lot width) x 89.59' = 1433.44 sq.ft.
Proposed lot occupancy = 1433.44 / 2048 (lot size) x 100 = 69.99%

The plat therefore needs to be corrected to reflect the 65% lot coverage exception requested, or if the applicant wants the 69.99% lot coverage exception, they should apply for this through the BZA process.

2. The 2200-2300 block of Ontario Road NW now has two completed buildings with plans that are very similar. The two completed buildings have created what are by my estimate 7 new "one bedroom units" that do not comply with the DC Building Code and DC Property Maintenance Code. The code violations result from the new buyers all using rooms as bedrooms that do not have the required window for emergency escape and rescue in the event of a fire (in single egress buildings) and for natural light (as required for habitable rooms such as bedrooms). The source of the problem is that instead of building the code-compliant bedrooms shown in the plans permitted by DCRA, the developers altered the plans during construction and built windowless rooms instead.

There is also a building under construction that has 6 units where DCRA approved the plans with the word “den” to describe what looks like the bedroom of the one-bedroom units. The windows in these dens are located in the party wall, and the DC Building Code Supplement, which allows these windows in the fire-rated party wall, states that the windows are not permanent (the next-door neighbors can block them off) and cannot be used for the natural light requirements. Hence the word “den” is used. The question is, will these “dens” be sold to new buyers to be used as bedrooms?

My concern is that this project at 2240 is asking the BZA for an exemption so that it can build 6 more units on this block that could also end up being built and sold as one-bedroom units that do not comply with the DC codes. Has the developer of this project, 10 Square Development, faced this issue in other projects?

I am not opposed to the increase in density allowed in our neighborhood by the 2016 DC Zoning Code changes, but I do not think the intention was for these kind of units to appear on the market that are dangerous for the life and safety of the occupants according to the DC Building Code. The real estate agents furnished some of the units as “one bedrooms” and sold them for over \$400,000 to DC residents. Some real estate agents added a disclaimer in the sales brochure that these were actually studio apartments with dens, as if this made up for the safety issues. Were the buyers aware of these safety issues, are they aware that using the dens as bedrooms is a violation of the DC Building Code and the DC Property Maintenance Code? Are they aware that they cannot rent the unit as a one-bedroom if they wish to do so because of these safety issues? Will these studio apartments with dens end up being “laundered” and sold as one-bedroom units to unsuspecting DC residents in the future?

DC Zoning Regulations definitions used for lot occupancy and rules for measurement:

- 100.2 - “Lot Occupancy: The percentage of the total area of a lot that is occupied by the total building area of all buildings on the lot.”
- 100.2 - “Building Area: The maximum horizontal projected area of a principal building and its accessory buildings. Except for outside balconies, this term shall not include any projections into open spaces authorized elsewhere in this title.”
- 100.2 - “Building: A structure requiring permanent placement on the ground that has one (1) or more floors and a roof supported by columns or walls. When separated from the ground up or from the lowest floor up, each portion shall be deemed a separate building, except as provided elsewhere in this title. The existence of communication between separate portions of a structure below the main floor shall not be construed as making the structure one (1) building.”
- 312.3 - “Building area shall be the maximum horizontal projected area of a principal building and its accessory buildings, measured at the ground level of the buildings and measured from the exterior faces of exterior walls and from the center line of walls separating two (2) buildings.”