



October 30, 2022

921 Pennsylvania Avenue SE
Washington, DC 20003-2141
6B@anc.dc.gov

Mr. Frederick Hill, Chairperson
Board of Zoning Adjustment
District of Columbia Office of Zoning
441 4th Street NW, Suite 200/210-S
Washington, DC 20001

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Corey Holman

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- SMD 09 Vacant
- SMD 10 Denise Krepp

VIA: Interactive Zoning Information System Filing - IZIS

RE: BZA 20798: 117 12th Street SE; Special Exception to raze an existing shed and construct a new, detached, two-story principal dwelling unit in the RF-1 zone (Square 989, Lot 807).

Dear Chairman Hill:

At a regularly scheduled, properly noticed, meeting on October 11, 2022, with a quorum present, Advisory Neighborhood Commission (ANC) 6B voted 9-0-0 (9 yes /0 no/ 0 abstentions) in support of the above referenced request.

In regard to the Applicants’ request for relief related to C§306.3, E §5100.1(c) and E§5100.1(e), our Commission’s support is straightforward.

We draw the Board’s specific attention to our Commission’s discussion with the Applicants relating to requested relief from E5100.1(d). ANC6B’s support for this relief relies on the assumption that the Applicants, under present conditions, and in the future, have vehicular access to a 15-foot-wide alley adjoining the western side of Lot 807. The alley in question is, as per the DC Office of the Surveyor’s plat, only 10 feet wide (BZA exhibit 1). The visible paved surface of the alley however is wider due to DDOT’s paving a portion of what is legally part of adjoining lot 804, Sladen’s Park. Lot 804 was deeded to the District of Columbia by nearby residents in 1910 limiting use to “park purposes”. Applicants have stipulated in public testimony to our ANC (10/11/22) that if the accessible width of this alley section is at any point in the future reduced, they voluntarily agree not to utilize the western-facing garage door included in the plans for vehicle access or egress. ANC6B asks the Board, if it approves the relief requested by the Applicants, to consider an appropriate way to reflect this agreement in its final Order. The background and rationale for ANC6B’s position is provided as an annex to this letter along with a copy of the deed for lot 804.

Separately, ANC6B notes for the Board the presence of a capped vent pipe visibly imbedded in concrete on Lot 807, potentially indicative of the presence of an

underground storage tank (UST). While this is an issue which will appropriately be addressed during the construction permitting process, the Applicants have committed to the ANC that they will inform both surrounding residents and ANC6B in a timely way if subsequent investigations confirm the presence of a UST on Lot 807 and, in the event of confirmation of a UST/LST, share details and timeline of any subsequent mitigation measures undertaken.

In closing, our Commission expresses its appreciation to the Applicants for their responsiveness to several of the key concerns raised by ANC6B and by multiple neighbors during initial review of the application and their willingness to make significant changes in their design accordingly. The changes reflected in the revised plans filed with the Board on October 12 have resulted in the Applicants' withdrawal of one of special exceptions originally requested and have improved the project permitting our ANC to support relief for three of the Special Exceptions requested and to support the fourth Exception with the condition noted in paragraph 3 above.

Please find attached a completed copy of Form 129.

Steve Holtzman, SMD Commissioner for this property is authorized to represent ANC 6B in front of the Board on this matter.

Please contact Commissioner Corey Holman, ANC 6B Chair, at 301-664-4132 or 6b06@anc.dc.gov if you have questions or need further information.

Sincerely,



Corey Holman
Chair, ANC 6B

Applicant/Architect: Eric and Elizabeth Paisner/Alexandra Wilson
P&Z Committee Chair: Corey Holman
SMD Commissioner: Steve Holtzman

Attachments: Form 129
Appendix One: Background and History for 117 12th Street SE
Appendix Two: Copy of Deed – 117 12th Street SE



**BEFORE THE ZONING COMMISSION AND
BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA**



FORM 129 – ADVISORY NEIGHBORHOOD COMMISSION (ANC) REPORT

Before completing this form, please review the instructions on the reverse side.

Pursuant to §§ 3012.5 and 3115.1 of Title 11 DCMR Zoning Regulations, the written report of the Advisory Neighborhood Commission (ANC) shall contain the following information:

IDENTIFICATION OF APPEAL, PETITION, OR APPLICATION:

Case No.:		Case Name:	
Address or Square/Lot(s) of Property:			
Relief Requested:			

ANC MEETING INFORMATION

Date of ANC Public Meeting:	D	D	/	M	M	/	Y	Y	Was proper notice given?:	Yes	<input type="checkbox"/>	No	<input type="checkbox"/>	
Description of how notice was given:														
Number of members that constitutes a quorum:		Number of members present at the meeting:												

MATERIAL SUBSTANCE

The issues and concerns of the ANC about the appeal, petition, or application as related to the standards of the Zoning Regulations against which the appeal, petition, or application must be judged (*a separate sheet of paper may be used*):

The recommendation, if any, of the ANC as to the disposition of the appeal, petition, or application (*a separate sheet of paper may be used*):

AUTHORIZATION

ANC		Recorded vote on the motion to adopt the report (i.e. 4-1-1):	
Name of the person authorized by the ANC to present the report:			
Name of the Chairperson or Vice-Chairperson authorized to sign the report:			
Signature of Chairperson/ Vice-Chairperson:	<i>Corey Holman</i>	Date:	

**ANY APPLICATION THAT IS FOUND TO BE INCOMPLETE MAY NOT BE ACCORDED "GREAT WEIGHT" PURSUANT TO
11 DCMR §§ 3012 AND 3115.**

INSTRUCTIONS

Pursuant to 11 DCMR §§ 3012.6 and 3115.2, the Zoning Commission and Board of Zoning Adjustment shall give “*great weight*” to the written report of the affected Advisory Neighborhood Commission (ANC), as required by the Comprehensive Advisory Neighborhood Commissions Reform Amendment Act of 2000.

1. All ANC reports shall be made pursuant to this form. If additional space is necessary, use separate sheets of 8½" x 11" paper to complete the form.
2. Present this form and supporting documents to the Office of Zoning at 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001.
3. Submission deadlines are as follows:

For Zoning Commission:

- a. ANCs must file this form at least seven (7) calendar days in advance of the hearing, if they wish to participate in a contested case under § 3022.
- b. ANCs may file this form as long as the case record is open, if they wish to participate in a rulemaking case under § 3021.

For Board of Zoning Adjustment:

- a. ANCs must file this form at least seven (7) calendar days in advance of the hearing.



If you need a reasonable accommodation for a disability under the Americans with Disabilities Act (ADA) or Fair Housing Act, please complete a Form 155 - Request for Reasonable Accommodation.

District of Columbia Office of Zoning

441 4th Street, N.W. Ste. 200-S, Washington, D.C. 20001

(202) 727-6311 * (202) 727-6072 fax * www.dcoz.dc.gov * dcoz@dc.gov

Appendix One: Background related to BZA 117 12th Street SE request for relief from E5100.1(d).

The western side of lot 807 borders a 10-foot public alley (BZA exhibit 1) whose roadbed has been, for an unknown period of time, effectively expanded by a further 5 feet in width, resulting in a field-measured alley width of 15 feet. The alley was at some point in the past paved to include this 5-foot section. More recently, in 2019, DDOT included the full 15-foot width in their repaving of the alley in red brick. We have no knowledge of whether DDOT and/or its contractors, in this or any previous paving, acted with any intent or, in fact, were/are even aware of the property line issue.

Legally, this 5-foot-wide section of de-facto roadbed has been, and appears to remain, part of lot 804, (symbolically named by DC Council in the 1980's as "Sladen's Park" to honor a nearby resident who worked to maintain the park. At the same time, the surrounding alley was similarly symbolically named as "Sladen's Walk").

Lot 804 was deeded to the District in 1910 by 4 residents of Square 989 (transcript of deed below. Original deed attached). The deed does not give unfettered control of the property, requiring that the District use the lot "for park purposes" and that it not "build thereon or use the same for storage or dumping". It also explicitly does not require that the District maintain the property. Lot 804 has, for over 100 years, been used as a children's park and during most of that time has been maintained solely by informally organized groups of nearby residents of Square 989. The Applicants themselves, as residents of the 1100 block of East Capitol Street SE share this space and recently spearheaded a collective investment in improvements in the park. The lot is not in DPR's inventory, nor do they appear to be aware of its existence.

Most of the area of the park is surrounded by a small curb constructed in 1916. The 5 feet of the lot which has been repaved by DDOT is outside of this curb perimeter. At the same time, it is also clearly a part of lot 804 raising the possibility that this 5-foot section, currently treated as part of the alley roadbed, could in the future revert to a park use. The owner of the lot (the District) could, at some point, decide, either independently or through a request of a neighboring resident, that that the usable park area be expanded to recapture these 5 feet, despite the presence of the curb, or could alternatively conclude that the 5-foot area beyond the curb be treated as a protective buffer and made unavailable to vehicular traffic. A review of the use of this portion of the park, if it were to occur, could conclude that its use as a roadbed is not deemed a "park use" and is inconsistent with the terms of the deed which transferred this land to the District. The applicants point out that these scenarios seem unlikely. They may be correct. There is no indication that District government is even aware, in any material sense, that it controls this parcel. However, if any of these scenarios were to occur, the usable roadbed of the alley on the western side of lot of 807 would, in practice, coincide with the Surveyor's plat listed 10-foot width.

There are certainly examples of other portions of historic alleys on Capitol Hill which are 10 feet in width including instances where structures are built to the property line. Our Commission's, to be clear, concern is not with supporting an exception to E5100.1(d) for *any* structure bordering a 10-foot wide alley but rather with supporting *this* exception in relation to the specific design of *this* plan which: (i) incorporates a second garage door to enable vehicles to enter/exit the building via this side alley combined with (ii) an interior space plan which requires 90 degree turns for vehicle access/egress onto what, without inclusion of the 5 foot extension of the roadbed, would become a 10 foot wide alley fronting on a children's park and the undue adverse impacts to the users of this public park which this situation could result in.

The Applicant has suggested that the use that is enabled by a particular design, in this case, the inclusion of a garage entrance at a particular location, is not relevant to the criteria for review of a special exception and that, in any event, they would require, and be requesting, the same relief to permit the viability of the

other elements of the structure design whether a garage were positioned in this location or not. Our understanding is that the totality of the impact of a design is appropriately reviewed in this context.

ANC6B has no objection to relief in this context for a structure without this second garage door. We also have made clear that our Commission has no objection to this relief *with* the garage access as long as the alley that that access flows into is 15 feet wide and can be fairly expected to remain in that condition. Our Commission, however, did express significant concerns on supporting this exception if the bordering alley were only 10 feet wide. The Applicants proposed that they would voluntarily stipulate that if the vehicle-accessible alley were, in the future, to be reduced to 10 feet, they would commit to halt any access/egress of vehicles from this west side of the property and solely utilize the other, south-facing garage door for this purpose. ANC6B agreed to this.

TRANSCRIPT OF 1910 DEED transferring lot 804 to the District of Columbia (copy of original deed attached as Appendix Two)

Wm P. Lockwood et al to District of Columbia recorded June 2, 1910 at 9.01 AM. Know all men by these presents, that William P. Lockwood, Walter E. Wright, and C.I. Parker, trustees under a certain deed in trust from Samuel E. Stonebraker dated the 30th day of November AD 1909 and recorded among the Land Records of the District of Columbia in Liber No. 3327 No. 219 of the District of Columbia, for and in consideration of the public good and the sum of ten dollars (\$10) current money of the United States of America to them in hand paid, the receipt whereof, before the sealing and delivery of these presents is hereby acknowledged, do hereby rent and convey to the District of Columbia lots numbers eighty eight (88) eighty nine (89) ninety (90), and ninety one (91) in the Washington real estate company's subdivision of lots in square numbered nine hundred and eighty nine (989) as per plat of said subdivision on file and recorded in the Office of the Surveyor of the District of Columbia, in Liber No. 18, folio 50 for park purposes, it being expressly agreed and understood that the District of Columbia will not build thereon or use the same for storage or dumping, and it being further expressly agreed and understood that the said District of Columbia, by accepting the said lots, pieces and parcels of land for park purposes, does not obligate itself, nor does any of the said District officials obligate themselves, to establish a park of said lots, pieces or parcels of land or to favor any appropriation for the improvement of said lots, pieces or parcels of land to that end. In testimony whereof, we have hereunto set our hands and seals in this 18th day of March AD 1910, G.J. Easterday, William Lockwood, Walter E. Wright, C.L. Parker.

Appendix Two: Copy of Deed 117 12th Street SE

RECORDER OF DEEDS
WASHINGTON



This is to certify that the pages attached hereto constitute a full, true and complete copy of
 A DEED GRANTED BY AND BETWEEN WILLIAM P. LOCKWOOD, ET AL., GRANTORS, AND
 THE DISTRICT OF COLUMBIA, GRANTEE, DATED THE 18th DAY OF MARCH, 1910, AND
 RECORDED ON THE 2nd DAY OF JUNE, 1910, AT 9:01 A.M., IN LIBER NO. 3327,
 FOLIO 220.

In the same office of record in this office.

An Testimony Whereof,
 I have hereunto set my hand and caused
 the seal of this office to be affixed, this
 the _____ 1910 day of _____
 A.D. 1910.

John R. Dancy,
 Recorder of Deeds, D. C.


 Deputy Recorder of Deeds, D. C.

Wm. P. Lockwood et al.) No. 2. Recorded June 2, 1910
 to) Deed at 9:01 A.M.
 District of Columbia

KNOW ALL MEN BY THESE PRESENTS, That William P. Lockwood, Walter E. Wright and C.L. Parker, Trustees under a certain deed in trust from Isaac E. Schenbraker, dated the 30th day of November A.D. 1899 and recorded among the Land Records of the District of Columbia, in Liber No. 3327 No. 219 of the District of Columbia, for and in consideration of the public good and the sum of Two Dollars (\$2.00) current money of the United States of America to them in hand paid, the receipt whereof, before the sealing and delivery of these presents is hereby acknowledged, do hereby grant and convey to the District of Columbia, lots numbered Eighty-eight (88) Eighty-nine (89) Ninety (90) and Ninety-one (91) in the Washington Real Estate Company's subdivision of Lots in Square numbered Nine Hundred and Eighty-nine (889) as per plat of said Sub-division on file and recorded in the Office of the Surveyor of the District of Columbia, in Liber No. 15, Folio 50 for Park purposes, it being expressly agreed and understood that the District of Columbia will not build thereon or use the same for storage or dumping, and it being further expressly agreed and understood that the said District of Columbia, by accepting the said lots, pieces and parcels of land for park purposes, does not obligate itself, nor does any of the said District's Officials obligate themselves, to establish a Park of said lots, pieces or parcels of land or to favor any appropriation for the improvement of said lots, pieces or parcels of land to that end. IN TESTIMONY WHEREOF, we have hereunto set our hands and seals this 18th day of March A.D. 1910.

Wm. P. Lockwood (Seal)
 Walter E. Wright (Seal)
 C.L. Parker (Seal)