

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT
441 4th Street, N.W.
Washington, D.C. 20001

Appeal of Advisory Neighborhood Commission 4C

BZA Appeal 19067

DCRA'S RESPONSE TO AND REQUEST TO STRIKE EXHIBIT 71

At its Public Meeting of January 19, 2016, the Board of Zoning Adjustment (“**Board**”) delayed deliberations and decision on this appeal and allowed additional time for the District of Columbia Department of Consumer and Regulatory Affairs (“**DCRA**”) to respond to the entry of Exhibit 71 into the record upon the Appellants’ request to reopen the record. Although the Board allowed for seven (7) days to respond to the entry of this exhibit into the record, DCRA requests that its Response be accepted notwithstanding the unavoidable delay that resulted from the closure of the District of Columbia Government on account of the inclement weather suffered by the Washington metropolitan area this past weekend.

On December 19, 2015, the Board ordered DCRA to prepare and submit Proposed Findings of Fact and Conclusions of Law in this appeal by January 12, 2016 for a decision at the Board’s January 19, 2016 Public Meeting. On December 22, 2015, the new owner (as of October 21, 2015) of 1117 Allison Street N.W. (“**Property**”) applied for Building Permit No. B1603100 (referred to by the Board in its January 19 Public Meeting as the “**December Permit**”). This permit was issued on December 24, 2015. DCRA’s Office of the General Counsel (“**OGC**”) was not aware of the application for or issuance of the December Permit prior to the submission of DCRA’s Proposed Findings of Fact and Conclusions of Law on January 12, 2016. Indeed, DCRA OGC was not made aware of the December Permit until the Board’s Public Hearing of January 19, 2016 because Appellants chose to not serve Exhibit 71 on DCRA OGC despite having served their Proposed Findings of Fact and Conclusions of Law that same day after close of business on January 12, 2016. For the following reasons, however, DCRA’s Proposed Findings of Fact and Conclusions of Law remain unchanged.

It is DCRA’s understanding that the new owner of the Property, perhaps not fully aware of the history of this ongoing appeal, as it acquired its interest in the Property in the midst of this appeal, perceived that the deck provided for in Building Permit Nos. B1505734 and B1600488

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(previously referred to as the “**May Permit**” and the “**October Permit**” respectively) was incongruous with the porches of neighboring properties – which incongruity may have, in part, informed the Appellants’ emphasis on the removal of the porch in both the May Permit and the October permit – and therefore sought to improve the harmony of the Property with the character of the neighborhood by revising the October Permit to keep the front porch and reduce the rear extension to comply with lot occupancy. Unfortunately, what appears to have been a good-faith effort to address the community’s concerns by retaining the existing covered porch proposed to be removed in the May Permit Approved Plat (Exhibit 51C), May Permit Approved Plans (Exhibit 65A Sheets A4 and A6), and the October Permit Approved Plans (Exhibit 51A Sheets A4 and A6) at the expense of construction at the rear of the Property appears to have muddied the waters of an otherwise clear appeal. Based on this concern, the new owner has chosen to cancel the December Permit, which cancellation will take effect upon completion of the administrative process, expected by January 28, 2016¹. Upon cancellation of the December Permit, the new owner is only authorized to build within the scope of the May Permit, as revised by the October Permit (the scope of which is coextensive, as the October Permit only sought to provide clarity to the May Permit and to correct scrivener’s errors). Therefore, DCRA asserts that the cancelled December Permit will not serve any probative purpose in the disposition of this appeal and should be stricken from the record as irrelevant to the Board’s consideration of this appeal.

Accordingly, DCRA requests that the Board strike Exhibit 71 from the record and render a decision on the basis of the Proposed Findings of Fact and Conclusions of Law submitted on January 12, 2016.

Respectfully submitted,
CHARLES THOMAS
General Counsel
Department of Consumer and Regulatory Affairs

Date: 1/27/16



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¹ DCRA will provide documentation of the December Permit’s cancellation upon completion of the administrative process.

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CERTIFICATE OF SERVICE

I hereby certify that on this 27th day of January 2016, a copy of the foregoing DCRA's Response to and Request to Strike Exhibit 71 was served via electronic mail to:

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