

March 25, 2022

Re Case 20661

Dear Board of Zoning Adjustment:

Our names are Phyllis and John Kokus. We own our house at 4720 45<sup>th</sup> St NW, well within the 200 ft area of BZA priority regarding the application for special exception requested by the owners of 4511 Chesapeake St.

We strongly oppose granting the requested relief for size of the proposed accessory building for 4511 Chesapeake St. We include below the opposition statement provided by Al Barr and Sarah Horsey to the Advisory Neighborhood Commission's March 9 meeting as this statement reflects accurately our views on why this special exception should not be granted.

Sincerely,

Phyllis Kokus   
John Kokus 

Statement of Al Barr and Sarah Horsey, 4510 Davenport St. to the ANC March 9, 2022 meeting regarding the Special Exception request for a two story Accessory building at 4511 Chesapeake Street.

We have very serious concerns about the proposed Special Exception sought by the Altens, owners of 4511 Chesapeake. We are strongly opposed to their proposal to construct a two-story Accessory Building that is larger than the matter-of-right size of 450 SF. To our knowledge there are many neighbors, both within 200 ft of that property (as we are) and slightly beyond, who also are opposed to the proposed Special Exception.

The proposal is 150% of the allowable area for a two-story Accessory Building. The proposed 660 SF two-story building is completely out of character with our neighborhood. Its size would set a terrible precedent for the neighborhood, and perhaps the entire ANC and beyond.

The concrete paving proposed to surround this building and extend to the property lines on three sides in addition to the proposed building adds about another 650 SF to the impermeable total for the lot. This is also unprecedented in our neighborhood and may raise potential water runoff as well as heat island effect issues. The entire rear 35 ft of this property, over its full 40 ft. width, amounts to 1,384 SF of land area that will be completely impermeable with no room for a blade of grass, a flower, a bush or a tree. This is not the kind of neighborhood we live in and want to continue to live in.

It is also noteworthy that the activity that will occur in the rear section of the property as has been the case for many years, will presumably continue to be construction business related and not residential in character. Neighbors should not have to police the accumulation of construction debris littering the property, and there is good reason for concern that the problem will be exacerbated by the Accessory building, which could easily and seems likely to be used to expand the construction business activity on site. The Applicant has said at various times he wants to use it for his business and storage of materials as he has in the past, a workshop, an office and also his large van. According to the Zoning regulations Subtitle U Section 251.2, a person is required to have a Home Occupation Permit to use an accessory building (or part of



the main house) for a business. The use of this humongous building seems extremely relevant to the current discussion. We still do not know if the Applicant has a Home Occupation Permit and we would appreciate the ANC asking him this question at this meeting.

Further the Zoning regulation [Subtitle U Section 253.8 (d)] stipulates: "An accessory building that houses an apartment shall not be used simultaneously for any accessory use other than as a private vehicle garage, an artist studio, or storage for a dwelling unit on the lot;" So if the Applicant wishes to have both an accessory apartment (ADU) in the Accessory Building and also use the Accessory Building for his business purposes, he will likely need another Special Exception. There is no mention in the Zoning Administrator's Referral Memorandum in the BZA file that speaks to this issue but that may be because the Applicant did not tell the BZA that he wanted to use the Accessory building for his business and for an accessory apartment.

With regard to the size of Accessory Buildings in the neighborhood, we surveyed and researched official records of twenty-two existing two-story Accessory Buildings in the area west of River Road (see previously submitted list of houses). None of them needed a Special Exception. The current Zoning Regulation size limit was carefully determined in the course of the 2016 Regulations rewrite to be sufficient to meet the needs of residents in this, the R-1-B zone. Why not 4511 Chesapeake Street as well? No extenuating circumstances to justify an exception have been set forth in the application, other than the desires of the applicant.

Furthermore it has been stated that the Applicants' proposed Accessory building is about the same size as the others two Accessory buildings on this block, at 4519 Chesapeake and at 4518 Davenport. This is a gross miss-statement. We had the other two buildings measured by a DC registered architect.

- The Applicant's proposed Accessory Building is 660 SF on the first and second floors or 1,320 total SF.
- 4519 Chesapeake measures 371 SF on the first floor, slightly larger (approx. 450 SF) on the second floor for a total of 821 SF or 65% the size of the Applicant's proposed Accessory Building
- 4518 Davenport measures 493 SF on the first and second floors for a total of 986 SF or 75% of the size of the Applicant's proposed Accessory Building.

The Altens have said they somehow got caught in the change of relevant laws in 2016 that effectively lowered the allowable size of an Accessory Building in the R-1-B zone. This is asserted, not demonstrated, and apparently wrong. We have confirmed with the Zoning Administrator's office that under the 1958 Zoning Regulations the size of an Accessory building was limited to 30% of the required rear yard, which is less than the current allowable size. In the case of R-1-B zoned 4511 Chesapeake, the required rear yard is 25 ft x 40 ft = 1,000 SF and 30% of 1,000 SF is 300 SF. Regardless, the earlier limit is beside the point. What could have been done in 2016 or earlier is irrelevant and no justification for relief from the current standards. It is like claiming entitlement to ignore the new rules and rely on the old rules without demonstrating any justification for such special treatment.

We also note that the proposed construction does not appear to fulfill the requirement of Subtitle D Section 5000.2 that "An accessory building shall be subordinate to... and secondary in size to the principal dwelling." The proposed two-story Accessory Building which is 22ft x 30ft = 660 SF is actually larger than the two-story portion of the Principal Dwelling which is 22ft x 28 ft = 616 SF. The Principal Dwelling or main house does have a front porch and a small one story rear addition which make the first

floor area larger than the Accessory Building first floor, but in terms of overall massing it is certainly arguable whether the Accessory Building is "subordinate to, ... and secondary in size to the principal dwelling".

The Altens' maintenance of their current property with its extensive impervious surfaces, un-maintained vegetation outside that area, and storage of construction materials for years all over the place is strongly indicative of their long-standing indifference to neighbors' views, interests and concerns. They have earned no special dispensation from the BZA, wholly apart from their failure to demonstrate entitlement to such relief.

The process we and many other neighbors have gone through over the last few weeks as this project has come into focus has been very burdensome. The burden of proof in such matters does not fall on neighbors to prove the shortcomings of the proposal but rather on the applicants to show why their application should be approved. The first step in this should be to provide the same accurate information to all. We have heard so many variations of what is being proposed, it is difficult to know exactly what is going on.

In conclusion to preserve the character of the neighborhood and the quality of life of the residents such as us who live near this property, we respectfully ask the ANC to express to the BZA the many issues and concerns we have about this application, which will require the BZA to give those issues and concerns "great weight" when the application is considered by the Board in April.

Thank you for your time and attention.