

Written Testimony

by Andrea Rosen, Ward 4 Resident

ZC Case 19-21

February 13, 2020

Six years ago, re: ZC Case 14-11 (approved 2015), I wrote testimony in support of amending the zoning regulations to, in the words of the Comprehensive Plan's Land Use Policy (2.1.7), "Protect the character of row house neighborhoods by requiring the height and scale of structures to be consistent with the existing pattern. . . . Upward and outward extension of row houses which compromise their design and scale should be discouraged." This passage was cited by the Office of Planning itself in its pre-hearing report for the case, in which it recommended reducing the matter-of-right height limit in R-4 (now RF1-3) zones to 35 feet.

In my earlier testimony, I argued that not only should the iconic rooftop architectural features that define Washington neighborhoods of a certain era be protected, but that the beleaguered inhabitants of these neighborhoods must be protected from the encroachment of new "pop-arounds" on their enjoyment of their homes, their safety, and their solar panels.

The regulations that were approved by the Zoning Commission in 14-11 ostensibly delivered those protections--but in a welter of escape hatches. The BZA was authorized to waive the obligation of a redeveloper to preserve rooftop architectural elements (provided in Sections E-206.2 and E-5203.3) when the redeveloper was seeking to exceed the new height limit (E-5203.2) or when a residential rowhouse was to be converted to an apartment house (U-320.2). These contradictions have functioned as poison pills, given that the purposes of the regulations were to both set a sympathetic height limit and protect architectural character. The BZA, on the recommendations of the Office of Planning, has made ample use of special exceptions to revoke those protections even in cases that did not fall within the two categories just mentioned.

In 2015, the Zoning Commission noted that the effectiveness of 14-11 should be assessed in the future. With ZC Case 19-21 before you, re-examination has become imperative.

The Setdown Report for ZC Case 19-21 promulgated two significant protections for solar panels and a modification of how impingement on solar panels is measured. I applaud extending the solar regulations approved in 14-11 to semi-detached and row buildings in all R zones and to new construction and additions. I am not equipped to determine whether measuring interference in the functioning of solar panels by shading is superior to measuring a decrease in energy production; similarly, the Zoning Administrator probably lacks the expertise to assess or establish such standards. These responsibilities would be better left to BOEE.

But the Hearing Notice for tonight's Case 19-21 hearing is only tenuously connected with these concerns. It is hard to see how the Zoning Commission can condone such bait-and-switch conduct, giving residents little time to react in their own interest. The Notice focuses on advancing what seems to be a new policy of weakening the existing protections against removal or alteration of original architectural elements in RF zones. While it is true that 14-11's signature protections have proven easy enough to circumvent through special exceptions in two types of situations—"relief" from the height limit and conversions and even in other cases—protection is the default. It is terribly cynical of OP to essentially open all projects to special exception (5206).

Additionally, I would urge the Zoning Commission to reject the amendment that would exempt roof top architectural elements on "properties subject to review by the Historic Preservation Review Board or the U.S. Commission of Fine Arts" from protection in the Zoning Regulations. All RF properties deserve equal protection.

I reserve special outrage for the proposal to eliminate the existing prohibition [in present regulations at E-206.1(b) and E-5203.1(b)] on construction impeding the functionality of a chimney on a neighboring building. This strikes at the heart of residents' right to enjoyment of, and safety in, their own homes.

Thank you for your consideration.

Submitted on 2/13/2020 by:

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ZONING COMMISSION
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