

**Report of the Economic Development and Zoning Committee of ANC 6A
Sherwood Recreation Center, 640 10th Street NE
January 18, 2017**

Present:

Members: Brad Greenfield, Missy Boyette, Stephanie Zimny, Jake Joyce

Commissioners: Mike Soderman, Stephanie Zimny

Brad Greenfield chaired the meeting.

Community Comment

None.

Status Reports

None.

Old Business

600 Ninth (9th) Street, NE (BZA #19355): Application pursuant to 11 DCMR Subtitle X, Chapter 10, for variances from the non-conforming structure requirements of Subtitle C § 202.2, the lot occupancy requirements of Subtitle E § 304.1, and the rear yard requirements of Subtitle E § 306.1, to permit the location of multiple decks over an existing rear-attached garage in the RF-1 Zone

Chairman Brad Greenfield reminded attendees that at the December 2016 ED&Z meeting, the Committee had asked the owners to explore the idea of seeking historic designation for the property. The owner stated that they reached out to the Capitol Hill Restoration Society (CHRS) and to someone at the DC Historic Preservation Office, but that pursuing historic designation does not look like a viable path forward, as there would need to be a notable person/event associated with the property and/or the designation would likely have to include the entire side of the street.

Mr. Greenfield explained that the letter from the Office of Planning stated that variances cannot be used to create an enclosed addition, but rather would be granted in perpetuity for the decks only. The Bureau of Zoning Adjustment (BZA) scheduled hearing date is March 15, 2017. The fear of future development was one of the main reasons that the idea of seeking historic designation was being pursued.

A community member/neighbor read comments that were provided via email by Joe Fengler. Mr. Fengler suggested deferring the case for a month, since there is time before the BZA hearing date. He also stated that, if a variance is granted, it should be clear that the variance applies to decks only. He mentioned that the Department of Consumer and Regulatory Affairs (DCRA) should not have held up the permit for interior work due to a zoning issue for an area not in the project scope. He asked that the ANC not support the variance before the issue is resolved with DCRA, and stated that he has calls in to DCRA regarding an application delay to resolve the issue.

The owner responded that, while he appreciates this position, he has been trying to resolve this issue with DCRA for over two years.

Mr. Greenfield agreed that he does not see that DCRA will resolve the issue, and he reminded attendees that the owner has come before the ED&Z committee for several months now. He feels that the ANC has an obligation to vote one way or another.

Ms. Jamie Lynch, a neighbor to the 600 Ninth (9th) Street property, stated that she has not seen anything in writing from CHRS or historic preservation office regarding their interpretation of historic designation potential for the property, and she has not seen anything in writing acknowledging that DCRA is holding up the interior renovation permit.

Ms. Lynch reiterated that, if a variance is granted, it would apply in a situation in which the decks collapse and the owner must rebuild them, so the issue is community support for the decks.

Commissioner Mike Soderman reminded attendees that according to his notes from the October 2016 ED&Z meeting, DCRA had placed an administrative hold on the property. The owner stated that he would have had to have done an administrative search on the property prior to purchasing, but he was unaware that this was an issue.

A community member suggested that the real dispute is between the owner and the bank, and that DCRA knew that the decks were illegal when the bank was doing work on the property.

Mr. Greenfield explained that the decks are likely there to stay, and that granting a variance does not give the owner the ability to build an addition; the owner will have an inspection done on the decks, and they appear to be safe, so owner will address the public good. Mr. Greenfield added that he would have liked to see some compromise between the owner and neighbors on some of the issues that have been brought up such as the location of the condensers on the decks. Regarding the BZA hearing, Mr. Greenfield stated that the BZA will want the ANC to weigh in.

Committee Member Jake Joyce reminded the attendees that the issue of the interior renovation permit hold will still be there regardless of the outcome of the variance.

A community member emphasized that the point of this meeting is to allow neighbors to weigh in on their viewpoints. Mr. Greenfield responded that, while the ANC gives great weight to opinions and voice of the community, if the applicant has made a reasonable effort toward the public good, the Committee will consider this in the vote. The owner of 600 Ninth (9th) Street NE added that there is neighbor support for the project, not just opposition. Mr. Greenfield reminded attendees that the existing garage, even without the decks, still takes the site to 100% lot occupancy.

Committee Member Missy Boyette inquired as to whether the owner should be obligated to let a future owner know about the lot occupancy and decks, should the owner decide to sell the property. The owner explained that, if the future owner wanted to add on to the existing house, the issue would be flagged when the owner submitted for a building permit.

Commissioner Soderman explained that he has a hard time seeing where a pre-existing situation that does not impact the interior renovation project is holding up receiving a building permit for the interior work. He stated that he believes the owner is trying to go about this process in good faith, the right way, and that the owner did not create this issue.

Ms. Lynch stated that Mr. Fengler's message pointed out that parts of the zoning issue relate to non-conforming situations and others to conforming conditions.

Mr. Greenfield made a motion to recommend that ANC6A write a letter to the BZA in support of the requested variance. As a side note, Mr. Greenfield will add language regarding the DCRA process forced on the owner and language stating that the neighbors are not all supportive of the variance. Committee member asked that language be added to state that no written record of DCRA's opinions on the issue have been circulated. Motion was seconded. Motion was approved 4:0, with one abstention.

Mr. Greenfield asked the owner to address noise/privacy issues related to the deck prior to the full ANC 6A meeting in February 2017.

Committee member stated that they first heard of this issue via BZA process. Mr. Greenfield added that this item has been on the ED&Z agenda for 4 months now.

The meeting was adjourned at 8:00 PM.

New Business

None.

**Next Scheduled ED&Z Committee Meeting:
Wednesday, February 15, 2017
7:00-9:00 pm
640 10th Street NE
Sherwood Recreation Center, Second (2nd) Floor**