



District of Columbia Government
Advisory Neighborhood Commission 6A
Box 75115
Washington, DC 20013



December 12, 2005

Board of Zoning Adjustment
441 4th St, NW, Suite 210
Washington, DC 20001

Re: Letter of Authorization

Dear Board Members,

At the regularly scheduled and properly noticed meeting on December 8, 2005, Advisory Neighborhood Commission 6A voted unanimously to appeal the administrative decision of the Department of Consumer and Regulator Affairs Zoning Administrator to approve electrical, fire and mechanical and plumbing disciplines at 1124 E Street NE. Reference Building Plan Review Status Tracing Number 236 D 5.

Please be advised that Commissioner Fengler, Richard Luna and Commissioner Cody Rice are authorized to act on behalf of ANC 6A for the purposes of this appeal.

Sincerely,

A handwritten signature in black ink that reads 'Joseph Fengler'.

Joseph Fengler
Chair, Advisory Neighborhood Commission 6A

Before the

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

APPEAL OF:)
)
Advisory Neighborhood Commissioner 6A from the)
Administrative Decision of DCRA on)
Building Plan Review Status 236 D 5 on) BZA Appeal No. _____
Approval of Electrical, Fire, and Mechanical)
and Plumbing Disciplines)

Statement of the Applicant

Advisory Neighborhood Commission 6A (“ANC 6A”) hereby requests that the Board of Zoning Adjustment (“Board”) GRANT the Appeal from the Administrative Decision of the Department of Consumer and Regulatory Affairs Building and Land Regulation Administration approval of the Electrical, Fire, Mechanical and Plumbing Disciplines at 1124 E Street, NE, and in support of its appeal states as follows:

SUMMARY OF APPEAL

The Department of Consumer and Regulatory Affairs (“DCRA”) erred in its decision to grant Electrical, Fire, Mechanical and Plumbing Disciplines contained Building Plan Review Status Tracking Number 236 D 5. The property which is the subject of this appeal is located at 1124 E Street, N.E. The property is zoned R-4. The appeal is requested for three reasons: (1) if the proposed use is for multiple dwelling, then the proposed use in this case is not permitted in an R-4 district without a variance, and DCRA has not granted a variance in this case; (2) if the proposed use is for an apartment house, then number of units for the property exceeds the square feet per apartment or condominium requirement as defined by 11 DCMR sections 330.5(c) and 401.3; (3) the permit requests expansion of an already non-conforming use; and (4) DCRA granted construction permits in this case in violation of DCMR section 2100.2, because the current building plans do not show the number of parking spaces required by 11 DCMR sections 331.1(b) and 2101.1, and the plans do not show the dimensions required by 11 DCMR section 2100.2.

DISCUSSION

I. DCRA erred in approving work permits for the building construction of a six- unit building.

In an R-4 Residential District, the proposed use not permitted in an R-4 district without a variance. 11 DCMR § The proposed use for 1124 E Street, Northeast is either a “multiple dwelling” or an “apartment house” as defined by 11 DCMR § 199.1.

If the proposed use is a multiple dwelling, such as condominiums, then the proposed use is not permitted. The building plans for 1124 E Street, Northeast show a combined six dwelling or rooming units. Multiple dwellings are not permitted as a matter of right or with a special exception. See 11 DCMR §§ 330-335. DCRA has not issued a variance for a multiple dwelling at 1124 E Street, Northeast. Therefore, DCRA erred in issuing building permits in this case.

Similarly, if the proposed use is an apartment house, then the proposed use is not permitted. Applicable regulations permit matter-of-right conversion of a building or structure existing before May 12, 1958 to an apartment house only if the conversion satisfies two requirements. See 11 DCMR § 330.5(c). One of those requirements is that the minimum dimensions of a lot are determined by the number of units in the proposed conversion. See 11 DCMR §§ 330.5(c), 401.3. The building plans for 1124 E Street, Northeast show a combined total of six apartments. Therefore, applicable regulations require the lot for 1124 E Street, NE to be 5400 square feet. However, the real property assessment database for the square and lot corresponding to 1124 E Street, Northeast (square 984, lot 44) indicates that the lot area is only 1,710 square feet, or 3,690 square feet less than required. Therefore, DCRA erred in issuing building permits in this case.

In short, DCRA erred in issuing building permits regardless of whether the proposed use is a multiple dwelling or an apartment house.

II. DCRA erred in approving work permits under a nonconforming use.

The building had an approved use as a three unit apartment. Inasmuch as the apartment building predates the current zoning requirements of the R-4 District, the structure and the use of the structure have been grandfathered. Notwithstanding its grandfathered designation, the subject property and its attendant use constitute a nonconforming use within the R-4 District. The property is nonconforming because the apartment building does not conform to the minimum lot area of 900 square feet per apartment unit. The subject property is located in Capital Hill in Ward 6. This street is primarily developed with single family rowhouses.

The building plans approved propose to add three units to the building. The proposed addition increases the number of three units to six units. This proposed increase is detrimental to the intent, purpose and integrity of the zone plan. The R-4 District is not an apartment house district. The proposed additional units will not conform to the minimum lot area requirements and the proposed additional units would increase the population density of the site.

As the building permits currently approved by DCRA enlarge the nonconforming structure, this is not permissible under an R-4 District. The current zoning regulations do

not allow for apartment building in the R-4 District which do not have a minimum lot area of 900 square feet per apartment unit. Since any proposed construction should comply with existing regulations, it is the intent of the zoning regulations to have nonconforming aspects of property diminish over time. To allow the proposed construction to continue would enlarge, rather than eliminate, a nonconforming use.

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III. DCRA erred in the determination of the required parking spaces.

If the proposed use is a conversion to a multiple dwelling [or expansion of the existing use as an apartment house], then the regulations require the new use to provide for at least one parking space for every three units. 11 DCMR §§ 2100.4, 2101.1 (residential use in an R-4 Residential District). Furthermore, parking spaces must be 19 feet by 9 feet. See 11 DCMR § 2115.1.

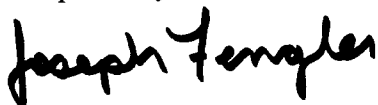
The building plans for 1124 E Street, NE do not show the dimensions of the parking spaces. Based on initial measurements, the parking spaces do not conform to the 19 feet by 9 feet requirement. Therefore, DCRA issued the construction permits in direct violation of the regulations.

REQUEST FOR RELIEF

The appellant requests that the Board ORDER the Department of Consumer and Regulatory Affairs to:

1. Revoke the Electrical, Fire, Mechanical and Plumbing disciplines and approved building and construction permits for Building Plan Review Status Tracking Number 236 D 5 for 1124 E Street, NE as the current plans exceed the 900 square feet per unit requirement of a R-4 District.
2. Deny the pending zoning and certificate of occupancy requests based on the fact that the permits expand a nonconforming use of an R-4 District.
3. Deny the pending zoning and certificate of occupancy requests based on the fact that the parking spaces do not comply with 11 DCMR § 2115.1.

Respectfully submitted,



Joseph Fengler, Chair
Advisory Neighborhood Commissioner 6A
815 F Street, NE
Washington, DC 20002



District of Columbia Government
Advisory Neighborhood Commission 6A
Box 75115
Washington, DC 20013



December 12, 2005

This statement is to provide proof of service of ANC 6A's appeal to the Board of Zoning Adjustment of the Zoning Administrator's approval of Electrical, Fire, and Mechanical and Plumbing Disciplines in Building Plan Review Status 236 D 5 for the property located at 1124 E Street, NE in the R-4 zoning district.

Today, I provided service to the following parties via first class mail, deposited in the United States mail, properly stamped and addressed:

Endalkachew Tesfaye
1124 E Street, NE
Washington, DC 20002-6308

Bill Crews
Zoning Administrator
941 N. Capitol Street, NE
Suite 2000
Washington, DC 20002

Regards,

Joseph Fengler
Chair, Advisory Neighborhood Commission 6A