



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



November 30, 2010

Mr. Clifford Moy
Secretary of the Board of Zoning Adjustments
Office of the Board of Zoning Adjustments
441 4th St NW, Suite 210S
Washington, DC 20001

RE: Appeal of Building Permit No. B1010205

Dear Mr. Moy,

At a regularly scheduled and properly noticed meeting on November 11, 2010, Advisory Neighborhood Commission 6A voted 4-1-1 (with 5 Commissioners required for a quorum) to appeal the administrative decision of the Department of Consumer and Regulatory Affairs' Building and Land Regulation Administration to issue Building Permit No. 1010205 for the property at 138 12th St NE. A statement of the basis for the appeal is attached.

On behalf of the Commission,

Kelvin J. Robinson
Chair, Advisory Neighborhood Commission 6A

cc: Russ Williams, Appletree Institute
Jack McCarthy, Appletree Institute
Linda Argo, DCRA
Matthew LeGrant, DCRA

Before the

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

APPEAL OF:)
)
Advisory Neighborhood Commission 6A from the)
Administrative Decision of DCRA on)
DCRA Building Permit No. B1010205)
Renewal of Existing Building Permit)

Statement of the Applicant

Advisory Neighborhood Commission 6A (ANC 6A) hereby requests that the Board of Zoning Adjustment (the Board) GRANT the Appeal from the Administrative Decision of the Department of Consumer and Regulatory Affairs Building and Land Regulation Administration issuance of Building Permit No. 1010205 at 138 12th St NE and in support of its appeal states the following:

SUMMARY OF APPEAL

The Department of Consumer and Regulatory Affairs (DCRA) erred in its decision to grant the Building Permit No.1010205. The property, which is the subject of this appeal, is located at 138 12th St NE. It lies within an R-4 Zoning District. The Building Permit No. B1010205 was issued as a ‘Renewal of Existing Building Permit’. Because no construction was begun on the property within two years of when the existing building permit was issued, that permit lapsed on 10/26/2009. ANC 6A asserts that because the existing building permit was allowed to lapse any renewal or new permit for the property must comply with current zoning regulations. DCRA erred when it issued Building Permit No.1010205 because the proposed use for the property, as a ‘public school’ is a nonconforming use in an R-4 Zoning District under Title 11 DCMR.

DISCUSSION

The building permit referred to in Building Permit No.1010205 is Building Permit No. B89587. That permit was issued on 10/26/2007. However, during the period from 10/26/2007 to 9/17/2010, a period of more than two years (2) and ten months (10), no construction was begun on the structure at 138 12th St NE.

Title 11 DCMR § 3202.4 (a) which requires that ‘The permit holder shall begin construction work with two (2) years of the date on which the permit is issued’. ANC 6A asserts that since no work was begun on the structure within two years of the date the existing building permit (No. B89587) was issued it lapsed on 10/26/2009.

Additionally, ANC 6A also asserts that, since the original building permit was allowed to lapse, any new or renewed building permit must comply with current zoning regulations. The property is located in an R-4 Zoning District. The proposed use by the current owners is as a public charter school. This proposed use is not a matter of right use in an R-4 Zoning District because the property does not meet the lot size and lot width requirements of an R-4 District. Title 11 DCMR §401.3 stipulates that for a 'public school' to be a matter of right use in an R-4 district, the property must have a minimum lot size of 9,000 sq. ft. and a minimum lot width of 120 ft. This property is 4,230 sq. ft. in area with a width of 36 ft.

REQUEST FOR RELIEF

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

- 1) Declare that Building Permit No. B89587 (the existing permit) lapsed as of 10/26/2009, and
- 2) Revoke the Building Permit No. B1010205, because the proposed use of the structure does not comply with current zoning regulations.