

Minutes
ANC 6A Economic Development & Zoning Committee
7:00 - 9:00 PM, Tuesday June 18, 2024
Virtual Meeting via Zoom

Attending:

Committee members: Co-Chairs Joal Mendonsa and Mike Cushman, Ayisha Lockett, Becca Buthe
Commissioner Dave Wethington

7:00 pm Welcome/Introductions

7:01 pm Resolution of previously heard BZA/HPRB cases

Old Business

1. None

New Business

1. **1351 C Street, NE (BZA #21156): To construct a penthouse and roof deck to an existing, attached, two-story, flat with roof deck in the RF-1 zone. Special Exception The height requirements of Subtitle E § 203.2**
Detail: Height (Subtitle E-§203.2) allows a maximum of 35 feet. The existing structure is 32'-10". The proposed penthouse would increase the building height to 41'-10". This relief is being requested due to the Zoning Administrator's interpretation of Section C 1501.1 (b)(2)(3).

Joel Heisey, architect for the applicant, presented the details of the application and the challenges with the current sliding sunroof entry to the roof.

Comments/Discussion:

- Co-Chair Cushman clarified that the deck was fully usable for roof deck access right now. That if there were problems with the skylight these could be fixed by repairing it. Mike corrected the applicant's description of the adjacent buildings and the neighborhood building heights. The rowhouses on the east are two stories, the rowhouses on the west are one story. Mike expressed concern that the applicant's written description said the adjoining properties are two stories, and that the oral description in the meeting claimed they were both one story.
- Jose Manuel Silva Vela: The owner of property 1357 C Street NE, saw the posted notification on the property about the project and wanted to comment because his property has solar panels, and the proposed addition would impact his panel array. He noted that they experienced an impact when the first development (to add the third story) happened, which was by right, but adding a penthouse via a special exception would impose additional harm due to shading of his solar panels. His property is not adjacent, but it is separated by an 11-foot-wide building. He

believes the applicant structure and proposed penthouse is outside the norm of what they see on the block.

- Joel Heisey stated that he was not aware of solar panels on nearby rooftops, so they did not do a shadow study.
- Jose Manuel Silva Vela felt that it was inconceivable that the applicant was not aware of his solar panels. He stated that they are clearly visible in Google street view and also that there are pictures of the architect on the roof deck from which the solar panels are clearly visible.
- Rick Weinland: The owner of the property up for discussion, explained that the property has been rented for some time, but they plan to move in August. He clarified that people might think it is another whole story, but it is just a hatch to the roof.
- Co-Chair Cushman commented that there are no other penthouses around and that the applicant's first submission to the BZA included a highlighted section where the applicant suggested listing any other existing penthouses in the neighborhood. This highlighted section was removed in the subsequent submitted document which failed to list any other neighboring properties with penthouses.
- Co-Chair Cushman believes adding penthouse level beyond the allowed height limit runs counter to the purpose of zoning, which is to have a compatible neighborhood. He stated that the penthouse would be visible from the sidewalk all along C Street. He pointed out that they have an existing deck with full access and they are not denied full use and enjoyment of their property. The applicant said the existing skylight does not fully retract, that is it is broken. Co-Chair Cushman suggested fixing the skylight if necessary.

Next Steps:

- Co-Chair Mendonsa brought up the possibility of tabling the discussion while the applicant performs a shadow study. This would require that the applicant postpone the BZA hearing scheduled for July 31, 2024. Commissioner Wethington mentioned that the next BZA hearing is on July 31st and that they would need to agree to delay the hearing. He noted the next ED&Z meeting is on July 17, 2024 and that neither the ANC nor the BZA meets in August 2024, rescheduling the BZA hearing would push the hearing to September 2024 or later depending on BZA hearing date availability. Co-Chair Cushman brought up that outreach might not have been fully done, to which Mr. Weinland responded that they had two different people knock on doors and leave notices for the two immediate neighbors and the house across the street. Co-Chair Cushman added that they could also go to the BZA without a full ANC meeting.
- Joel Heisey asked if they could present at this meeting again before delaying the hearing and suggested voting if there is no impact on the neighboring house. He asked for the project to be held to the standard of 5% solar panel power loss as the appropriate measure of impact on solar panels. Commissioner Wethington stated that, other than general aesthetics, there are no other objections, but that there

were neighbors who objected to the special exceptions due to “esthetics”. Rick agreed to conduct the shadow study. Jose requested that the study be done by someone he trusts to ensure no conflict of interest. Mike suggested specifying the times of day and year noting that the standard 9:00 am, 12:00 noon and 3:00 pm would not accurately measure the harm to the solar power collection. Most solar is captured in the summer when the sun shines longest the sun sets north of due west. Co-Chair Cushman also requested that the applicant document any existing penthouses in the neighborhood.

Co-Chair Mendonsa tabled the issue until the July 17, 2024 ANC Economic Development and Zoning meeting to provide an opportunity for a shadow study and additional discussion.

- 2. 813 7th Street, NE (BZA #21145): To construct a detached, two-story accessory garage with accessory dwelling to an existing, attached, two-story with cellar, principal dwelling unit in the RF-1 zone.**

Special Exception The matter-of-right uses of Subtitle U § 301 Detail: Subtitle U § 301.1(e) requires an accessory building built after January 1, 2013, to not be used as a dwelling unit for a period of five (5) years after the approval of the building permit for the accessory building, unless approved as a special exception. Seeking a special exception to use the accessory building second floor as a dwelling unit once construction is complete and a certificate of occupancy is obtained.

Damarr Gordon, with Eustilus Architecture presented, representing Daniel Ritterpusch, the owner.

- Mr. Gordon showed renderings of the proposed ADU. Adjacent neighbors have been spoken to, and they provided letters of support from both adjoining neighbors. There is a light pole along the alley in the middle of the lot, and the applicants have already started the process to permit its relocation to the south side of the lot (still behind the applicant property but no longer blocking access to a garage).

Comments/Discussion:

- Co-Chair Cushman asked if it would be an Airbnb or rental unit. Mr. Ritterpusch said he is moving there with his wife once it is complete. They will rent out the streetside dwelling. Mike asked a follow up question regarding other dwelling units in the alley, Mr. Ritterpusch mentioned they are their own alley lots, not connected to the houses, and believes one and possibly both have someone living in them.
- Committee Member Buthe asked about the reason/rationale for the five-year restriction for occupancy for “new” ADUs. Co-Chair Cushman explained that prior to the 2016 zoning rewrite, ADUs were not allowed as a matter of right in “garage”/accessory structures. The zoning rewrite aimed to open up more housing opportunities but included a 2013 “set-down” date on accessory structures to prevent

a rush to construct alley ADUs. The 5 year wait for a certificate of occupancy would reduce the financial incentives to construct alley side ADUs since they would not be rentable until five years after the building permit was issued. There has not been a massive transformation of alleys into residential (rental) units. Co-Chair Cushman noted that on his alley there have been 3 garage/studio apartments constructed in the last four years where previously there were only garages but these units are used only by the owner and not continuously. He noted that the EDZ has approved other garage/office/studio construction recently but has always requested that access be from the principal dwelling unit's backyard with no doorways to the alley in order to prevent their expansion into AirBnB rentals. This is the first case before the EDZ which is intended to be an alley access unit. Mike expressed a desire to have the full ANC weigh in on expedited occupancy as rental space as this is the first case to come before the EDZ committee and thus precedent setting.

Committee Member Buthe made a motion of support. Co-Chair Mendonsa seconded. The final vote was 4 to 1, with Co-Chair Cushman opposed the motion in order to keep it off the consent agenda and to bring it before the ANC for discussion and vote at their July 11, 2024 meeting. This will still provide sufficient time for letters of support or opposition before the July 17, 2024 BZA meeting.

The meeting was adjourned at 8:21 pm.