ANC 6C Planning, Zoning, and Economic Development Committee Report

ANC 6C Commission Meeting: May 9, 2018

PZE Meeting Date: May 2, 2018 6:30 pm

Meeting Location: Northeast Library
7th & D Streets NE

Committee Attendees: Mark Eckenwiler (Chair)
Joel Kelty
Bobbi Krengel
Bill Sisolak
Dru Tallant

Other Commissioners Present: Scott Price (6C03)

Agenda Items

1. 222 8th St. NE aka 200 8th St. NE (HPA 18-300) – Application of Berkeley Square Capitol for concept approval for a rear addition. Representative: Frederick Taylor. Hearing on May 24, 2018. [6C03]


3. 732 4th St. NE (BZA 19742) – Revised application of Anthony Balestrieri, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, to construct a three-story rear addition to an existing principal dwelling unit in the RF-1 Zone at premises 732 4th Street N.E. (Square 777, Lot 34). Representative: Stephanie Erwin, Blue Star. Calendared for expedited review at BZA meeting on May 30, 2018. [6C04] (Application file; public notice of expedited review is at case exhibit 30)

4. 1125 7th St. NE – Discussion of potential BZA appeal of permit B1805207, issued on April 18. This is a revision to permit B1706219, for which ANC 6C has a pending appeal (BZA 19550) on multiple grounds. [6C06]

5. 310 E St. NE – Discussion of potential BZA appeal of permit B1806410, issued on March 27. [6C04]
**Agenda Item #1: Discussion and Recommendations**

222 8th St. NE aka 200 8th St. NE (HPA 18-300) – Application of Berkeley Square Capitol for concept approval for a rear addition. Representative: Frederick Taylor. Hearing on May 24, 2018. [6C03]

**Motion**  
*To recommend support with two conditions*  
(carried 4-1)

**Key Discussion Points:**

1. The applicant proposes to construct a rear two-story addition on the former rectory of St. James Church and convert the structure into two condo units.

2. Applicant provided sun studies showing modest shadow impacts on the church in certain winter months, but only in the 10am-noon time window. PZE members did not express concern about this impact.

3. The rear addition will not be visible from points SE on 8th St. There may be some visibility along the north façade of the rectory—that is, the space between the rectory and the church—but there is significant vegetation and tree cover mitigating any visual impact.

4. The rear addition is also clearly subordinate to and distinct from the original historic structure.

5. The church’s rector and senior warden attended, but did not offer comment other than to note that they had not yet had an opportunity to review the sun studies.

6. PZE members supported the concept with two conditions:

   a. that the proposed window wells be covered with flat grates at grade (as opposed to vertical guardrails), and
   b. that the utility meters be relocated to be less visible.
Agenda Item #2: Discussion and Recommendations


Motion To recommend conditional support (carried 4-0-1)

Key Discussion Points:

1. The PZE and ANC previously reviewed, and voted to oppose, a different proposal from this same applicant for the property in January 2017. The PZE likewise reviewed the initial version of the present application in April and voted to recommend opposition. The applicant sought a voluntary postponement from BZA in order to revise the materials.

2. The applicant presented revised drawings with a revised zoning summary sheet.

3. PZE members expressed several concerns about the project.
   a. Need for section drawing. Most importantly, the drawings do not include a section showing the relation of the 2nd-floor ceiling to the roof and proposed roof-deck. Inconsistencies and gaps in the information provided bear directly on the eventual height of the proposed third-story deck (and thus its visibility from the street). A proper section needs to be provided before the ANC meeting so that the plans can be properly assessed on this crucial point.
   b. Inaccurate/impossible aspects of proposal. Sheet A101 shows a face-on-line wall where the dogleg is to be filled in—but this is impossible, as there is a party wall (ergo, spanning the lot boundary) with the building to the south.
   c. Lack of south elevation drawing.
   d. Lack of public-space plan.
   e. Lack of detail. The drawings do not depict the material proposed for the trim on the rear (west) façade or for the portions of the north & south elevations to be covered in siding.
   f. Front window sills. The drawings do not show the existing stone window sills on the primary façade facing 4th St. These should be retained.
   g. The PZE recommends that sills for the new windows to be installed in the brick section of the north elevation match the front window sills in material and profile.
   h. The PZE recommends HardiBoard lap siding (and not panels) be used for the upper-story addition.
4. The applicant provided an updated set of drawings on May 8, after the PZE meeting. Unfortunately, several concerns remain unaddressed (no public-space plan, no detail for rear trim, inaccurate south wall description). A new section is provided, but it does not explain how the roof deck will be constructed above the roof surface or how water will drain from this area.
Agenda Item #3: Discussion and Recommendations

732 4th St. NE (BZA 19742) – Revised application of Anthony Balestrieri, pursuant to 11 DCMR Subtitle X, Chapter 9, for a special exception under Subtitle E § 5201 from the lot occupancy requirements of Subtitle E § 304.1, to construct a three-story rear addition to an existing principal dwelling unit in the RF-1 Zone at premises 732 4th Street N.E. (Square 777, Lot 34). Representative: Stephanie Erwin, Blue Star. Calendared for expedited review at BZA meeting on May 30, 2018. [6C04]

Motion To recommend conditional support
(carried 4-1)

Key Discussion Points:

1. The applicant’s BZA submission suffers from the same defects as the HPRB application because the materials are the same.

2. PZE members voted provisional support, conditioned on the promised section drawing and correction of other errors and inconsistencies.

3. That said, the defects in the drawings do not bear directly on the relief requested here (to exceed 60% lot occupancy) or the criteria for granting it.

4. Because this case was submitted for expedited consideration, in order to oppose summary approval the ANC would need to send BZA a letter pursuant to 11-Y DCMR § 401.8 requesting that the case be removed from the expedited calendar and scheduled for public hearing. That letter would state our intent to send a witness and provide a summary of the proposed testimony. The letter would be due by May 16.
Agenda Item #4: Discussion and Recommendations

1125 7th St. NE – Discussion of potential BZA appeal of permit B1805207, issued on April 18. This is a revision to permit B1706219, for which ANC 6C has a pending appeal (BZA 19550) on multiple grounds. [6C06]

Motion To recommend appeal on multiple grounds
(carried 4-0-1)

Key Discussion Points:

1. The PZE reviewed this new permit, which amends the permit currently under appeal before BZA.

2. Upon reviewing the revised plans, PZE members noted several apparent zoning violations, including
   
   a. Rear addition extending > 10' past adjacent dwelling rear wall.
      i. Permit is ineligible for vesting (grandfathering) provision owing to timing of issuance—does not qualify as an initial matter.
      ii. Even if vesting provision potentially applies, the exception for “substantial changes to application” since previous version render vesting unavailable in this particular case.

   b. Removal of section E 206 protected “rooftop element” (cornice) requires zoning relief

   c. Two principal buildings. As in the first appeal, the plans call for the construction of a second structure behind the existing (gutted) rowhouse, with a connector between them.
      i. Connection does not meet criteria for making a "single building"
      ii. Separate rear structure exceeds accessory bldg. height/story limits

   d. Third unit (rear cellar). As in the first appeal, the plans show at least one intended dwelling unit beyond the maximum of two.

   e. Plans lack required 1:1 setback of roof structure (rail and penthouse)

   f. Roof structure wall height is not uniform (required for all penthouses 4’ above the roof or taller)

   g. Exceeding 35’ height limit

3. Counsel for the owner did not argue on the substance of these conclusions, stating instead that BZA is the proper forum for resolving any disagreements.

4. Kevin Cummins, owner-occupant of 1123 7th St. NE, spoke in support of the proposed appeal.
5. The PZE voted to recommend appeal on all of the grounds described in paragraph 2 above.

6. After the PZE meeting, the PZE Chair reviewed the regulations consulted with OP and concluded that the 4’ penthouse (a stair overrun) cannot be built as a matter of right and instead triggers a need for special exception relief under 11 DCMR C 1500.4. (Like points 2.f and 2.g above, this provision do not apply to roof structures under 4’ tall.)

7. Accordingly, the Chair will recommend that the ANC include this consideration as a basis for appeal in addition to those expressly recommended by the PZE.

8. In addition, on May 9 the BZA voted to incorporate the revised permit into the pending appeal (as opposed to dismissing the current appeal and allowing a new appeal to be filed). Because this approach is procedurally irregular, in an abundance of caution the PZE Chair recommends that the ANC formally authorize appeal of the revised permit on the grounds described above.
Agenda Item #5: Discussion and Recommendations

310 E St. NE – Discussion of potential BZA appeal of permit B1806410, issued on March 27. [6C04]

Motion  
To recommend appeal, and to send a letter to HPO noting the defects in the application  
(carried 5-0)

Key Discussion Points:

1. On March 27, the property owner obtained a permit to replace the rear exterior access stairs and to repair the historic cast-iron front porch.

2. The drawings for the permit materially misstate numerous aspects of the existing structure—including the lot width, the depth of the garage—and imply that the rear stairs are being rebuilt to the same dimensions. But the current stairs are ~6’1” deep vs. the proposed 7’ depth.

3. The drawings also show non-existent balconies in the dogleg.

4. Because the property is already nonconforming (with a lot occupancy of ~79.8%), any increase in footprint, either by enlarging the rear stairs or constructing the non-existing balconies, requires a variance.

5. The owner’s contractor Lamar Miller spoke at the meeting, arguing that the rear stairs need to be deeper to comply with the building code. PZE members recommended that the owner seek a code exception as an alternative to requesting a variance.

6. DCRA thus issued the permit in error, and the PZE unanimously voted to recommend appeal. Because HPO approved the permit, PZE members felt it important to make the Office aware of the irregularities we observed, including the non-existent balconies.