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## **ANC 1D appeals for aid in discovery, more time to analyze, advises overturning the ZA.**

Resolved, ANC 1D enjoins itself to the Board of Zoning Adjustment (BZA) in the current appeal BZA Case # 18152 (Square 2595 Lot 830), and appeals that it be listed as an appellant. 1D further resolved the following major statements, including the "whys" as equal parts of this resolution, as are the appendices.

1] 1D designates Commissioner Gregg Edwards to be its representative in this case. He will present more detailed arguments and evidence at the hearing as more information that has been withheld becomes available.

2] 1D asks the BZA to obtain for itself and for 1D copies of all the current plans, emails and other correspondence that specify and explain the plans and rationales for the approval by the Zoning Administrator (ZA). 1D advises the BZA to require the ZA and the Office of Zoning to follow the ANC law to the degree it can do so.

3] 1D appeals for more time to discover and answer the rationales for the loss of the rear/side yards and the loss of normally required off-street parking.

4] 1D incorporates in this present resolution the points (see Appendix 1) raised in the 10 January 2011 unanimous resolution by ANC 1C in appeal, and by Gregg Edwards in his presentation to BZA on 11 January 2011, and asks that those points be considered as reasons for why the ZA's approval should be overturned. 1D further incorporates in this injunction and appeal all points and resolutions that were directed to the Office of Zoning - as noted in its "roll-up" resolution (submitted by Edwards to BZA on 11 January 2011), and asks that BZA give the resolution -- and its 148 points -- Great Weight.

### **Why**

Re: 2] above. The Zoning Administrator did not follow the ANC law and give proper notice to ANC 1D. Simply providing a copy of the approval letter to one commissioner is only a small part of proper and adequate notice. Indeed, aside from a few superficial responses from DCPL, none of the agencies to which 1D has addressed its resolutions have responded to its points, each in particularity as required by law. The plans in detail have not been provided, only rough sketches.

Re: 3] above. An adequate appeal now requires full disclosure. Similarly, the requests by 1C for details have not been fulfilled, contrary to law. This failure by the responsible agencies to fulfill the law places the burden of proving information on them, not on the ANCs. Yes, individual commissioners might have the burden of effort to seek release of information. However, when ANCs raise points and request information, DC law places the burden on agencies to expose the

information and explain why their evidence-based arguments are at least equal in persuasiveness to those raised by ANC's. Settled law specifies that this exposition must be for each point in particularity and from the perspective of the ANC, giving deference to the superior local knowledge of the ANC. In Ward 1 resolutions asking for response to points advising changes in the Library design have been passed by ANC's 1A, 1C, and 1D.

Examples of points where the local evidence vitiates the ZA's points include:

a) Normally, off street parking is required, perhaps six in this case. There are less than forty spaces in this block to residents. About 500 people live in buildings abutting this block. In addition, parking serves the abutting commercial corridor and the Parks and Recreation facilities and headquarters in the next block. Lack of parking spaces to the only branch library in Ward One is a serious loss, could hinder access to library facilities by the more than fifty educational programs - many using buses to transport classes - within a mile, and others restricted in mobility.

b) The ZA may not make changes that impact lot usage exceeding 10%. It appears that the actual figure is about double that amount. This is clearly a major encroachment on neighboring buildings, and exceeds the ZA's authority.

ANC-1D advises BZA to overturn the ZA's approval because the following Zoning Regulations have been breached.

(b1) DCMR 11-406 Courts

The proposed courts on the north-west side of the library do not meet zoning requirements as they are not wide enough.

(b2) DCMR 11-404 Rear Yards & DCMR 11-407 Minor Flexibility by ZA

In R-5-D Districts, rear yards cannot be reduced or omitted and must be provided. The natural rear yard was reduced and omitted arbitrarily and capriciously by the Zoning Administrator who did not have the authority to do so. This short-sighted decision tightens the area behind the library, overcrowding the land, preventing adequate protection, and stifling light and air of surrounding properties.

(b3) DCMR 11-3202 Building Permits

The plans submitted by DCPL did not include a parking and loading plan or a basis for computing those plans.

(c) Thus 1D advises, in accordance with DCMR 11-3100.4, BZA to "reverse or affirm, wholly or partly; or may modify the order, requirement, decision, determination..." and in this case revoke the building permit which threatens to adversely affect surrounding neighbors and those who are frail, elderly, and disabled.

## **Appendix 1**

The points raised by ANC 1C in its unanimous resolution of January 10, 2011 are, directly quoted:

### 1) DCMR 11-404 REAR YARDS

According to 11-404.1, there must be a minimum rear yard measuring not less than 15 feet from between the back of the actual building to the rear lot line. DCPL's proposed addition would all together eliminate the rear lot. The addition extends out and widens from the back of the original building all the way to the rear lot line. (see attachment 1, 2, 3, 4)

Since the Mount Pleasant Library does not abut or adjoin any lot lines along a public open space, recreation area, or reservation, the rear yard requirements may not be reduced or omitted.

### 2) 11-406 COURTS

DCPL architects have created an open court along the north-west side of the library building. At some points, the court is 15 feet wide and other points less than 8 feet wide.

According to 11-406.1, for all R-5-D structures in DC, any open courts must be at least 10 feet wide and as wide as 3 inches per foot of height of the court. Parts of the court comply at 15 feet wide, but most of the court is less than 8 feet wide.

## **Appendix 2**

Decisions by the ZA and review by BZA must follow the dictates of law, including statements of intent. These are parts of the law, not decoration. While not as easily administered as the more detailed specs, they are almost all addressed in specific points raised by 1D in its resolution and highlighted in 1D's roll-up resolution of April 20, 2010.

Therefore, both the ZA and the BZA by this resolution are advised to give Great Weight to all the points raised in the 1D rollup resolution.

According to DCMR Title 11 Chapter 1 of the Zoning Regulations, the provisions of the Zoning Regulations are designed

"to promote the public health, safety, morals, convenience, order, prosperity, and general welfare of the public."

To reach these objectives the Board seeks development in the District of Columbia that

"- provides adequate light and air

- prevents undue concentration of population and overcrowding of land, and

- provides distribution of population, business and industry, and use of land that will create conditions favorable to transportation, protection of property, civic activity, and recreational, educational, and cultural opportunities, and that will tend to further economy and efficiency in the supply of public services."

*Passed by 4 to 0 vote at the legally noticed, public meeting of ANC1D on January 18, 2011, with a quorum present. Voting "yes": Commissioners McKay, Edwards, Scott, Romero. Abstaining: Commissioners Terrell, Wilson-Phelan.*