Angela Brackett

FA

From: hendry.five@verizon.net
Sent: Friday, November 11, 2011 10:49 AM
To: CountyBoard
Subject: WEBSITE COMMENT: Opposition to Use Permit Application (RPC #01-075- -- ATTN: countyboard

The following comment has been submitted from the Arlington County Website:

Name : James and Lorraine Hendry

Submitter's E-Mail Address : hendry.five@verizon.net

Subject : WEBSITE COMMENT: Opposition to Use Permit Application (RPC #01-075- -- ATTN: countyboard

Comments :

November 9, 2011

Christopher Zimmerman, Chairman
Arlington County Board
2100 Clarendon Boulevard, Room 300
Arlington, Virginia 22201

RE: Use Permit Application – N. Nottingham Street, Lot 7-D (RPC #01-075-004) - pipe stem.
Neighborhood Opposition

Dear Chairman Zimmerman:

We are one of several concerned neighbors surrounding the above-referenced Property, which is the subject of a pending Use Permit Application currently set for review on the County Board's November 19, 2011 agenda. Arlington Designer Homes, Inc.'s plans to build a large house on the nonstandard-sized lot immediately behind our property, if approved, would have a significant deleterious impact on our privacy, ability to enjoy our backyard, and the resale value of our home and property. We believe that the builder's request for a modification of the setback requirements for Lot 7-D is unreasonable, and we urge you to refuse the request.

We have lived in our house since 1983, adding a second story to the existing ranch-style house in 1993, as did our neighbo,r Elizabeth Fadeley, in 1996. Since that time, we have seen the neighborhood change dramatically with the construction of much larger houses on a number of lots on our block and across 27th Street, including a large house on the other side of ours. These large houses reduced our privacy, but we did not consider them out of bounds because they were suitable for the size of the lots, they replaced existing houses, and the way the property was originally subdivided left relatively little space between the houses. And we still had our fairly large backyard, which was surrounded by similar backyards for the other houses on the block. The proposed construction on Lot 7-D would ruin the aesthetics and enjoyment of our backyard and reduce the sale price of our home should we decide to sell. Specifically, we have the following concerns:

- Violating the Purpose of the 2003 Change. In our view, it's clear that the Board changed the rules regarding construction on a pipestem lot precisely because of the concerns being raised by the neighbors of Lot 7-D, including building on too small internal lots, loss of privacy, and impact on the resale value of surrounding homes. We note that the pipestem lot was created in 1969 and deemed buildable, but given the dramatic increase in the size of new homes in general, what was "buildable" in 1969 is hardly comparable to today's requirements for new construction.

FHR/CB attach. 378242

- Setting a Bad Precedent. The lawyer working on behalf of the neighbors believes this is the first pipestem variance to come before the Board since the building requirements were changed in 2003 to restrict construction on pipestem lots. The is hardly an appropriate test case, given that the lot falls well short of meeting the setback requirements and has questionable "buildability" under a lot zoned R-6 (must be 60 feet wide). This lot is only 49 feet wide. Instead of the required 25-foot side yard setbacks, there would be only an eight-foot setback on our side and a 10-foot setback on the other side. This is more than a simple modification. Moreover, this is not a case of replacing an existing house with a much larger structure, but rather one of completely new construction.

- Loss of Privacy. The proposed house to be built on Lot 7-D, which is directly adjacent to our property, would be 8 feet from our back fence and tower over our property. Any trees planted to shield it from view would take years to grow and do little to ameliorate the loss of privacy. We would note that, when the pipestem lot was created in 1969, houses being built were much smaller than those being build today or the house that the builder plans to build.

- Inappropriate Infill. We would point out that nowhere else on the block is there another house that is on an interior lot. The proposed construction would reduce the privacy of almost every other house on the block. This sort of infill is not in keeping with the character of the community. The builder cites other pipestem construction in the broader neighborhood, but in the cases we know about the size of the pipestem lots and distance from other houses is much larger. We would have no problem with the builder combining the two lots he owns and building a very large house that fronts Nottingham Street, as has happened throughout the neighborhood.

- Damage to our property. Another concern is that excavating for the house on lot 7-D could destroy the roots of our trees close to the border of our property. The trees have been growing for over 40 years and have extensive roots; digging the foundation for the house 8 feet away could kill the roots and cause the trees to fall—on the new house or on our neighbor's. It could also require us to pay a substantial amount to have them removed or for damages to neighboring property if they fell. Moreover, we could lose the trees that we value.

Thank you for considering our concerns. We would appreciate the opportunity to voice our concerns at the County Board meeting on Tuesday, November 29, 2011 rather than at the Saturday, November 19 meeting.

Sincerely,
James J. Hendry

Lorraine J. Nolan Hendry

Thank you.

CHRONIS, LLC

FA

COUNTY BOARD OFFICE
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2011 NOV 16 A 11:50

ARISTOTELIS A. CHRONIS
1145 N. VERNON ST.
ARLINGTON, VA 22201
TEL: 703.888.0353
FAX: 703.888.0363
achronis@chronislaw.com

November 16, 2011

VIA HAND DELIVERY:

Christopher Zimmerman, Chairman
Arlington County Board
2100 Clarendon Boulevard, Room 300
Arlington, Virginia 22201

RE: Use Permit Application – N. Nottingham Street, Lot 7-D (RPC #01-075-020)
Supplemental History of Lot 7-D / Buildability Determination

Dear Chairman Zimmerman:

Per my previous correspondence, this law firm represents several concerned neighbors surrounding the above-referenced Property which the subject of a pending Use Permit Application currently set for review on the County Board's November 19, 2011 agenda. As stated in my earlier correspondence, concerns have arisen regarding the buildability of not only the subject pipe-stem Lot 7-D but also Lot 4 which fronts the pipe-stem as both lots fail to meet the minimum lot width of 60 feet required in the R-6 Zoning District. Through the course of my research into Lot 4, I recently discovered, as further explained below, that Lot 7-D was possibly never meant to have been created as the 10 foot wide "stem" portion of what is now Lot 7-D was possibly meant to have been later dedicated to and resubdivided with Lot 4 to provide the necessary 60 feet of minimum lot width that is required in the Zoning District per the Variance that created Lot 4 in 1952. While this fact may have been overlooked and Lot 7-D may have been mistakenly allowed to be created as a pipe-stem in 1969, the plan for the neighborhood likely never contemplated a separate building lot to have been created where Lot 7-D now lies, as that parcel was likely never meant to have street access and otherwise would have been land-locked.

A review of the Zoning file for 2615 N. Nottingham Street (Lot 4) reveals that Lot 4 was created via Variance V-1053-52-1 approved by the BZA on February 5, 1952. This Variance permitted two lots on either side of Nottingham Street (Lot 3 and Lot 4) with a frontage of 51 feet instead of 60 feet as required by the Zoning Ordinance. The approval also stipulated that "at a later date when the area in the rear is developed, the 10 foot right-of-way will be added to the lot giving a frontage of 61 feet." Zoning Staff notes in a file memorandum that while the "area in the rear" is not specified, it appears to be what is now Lot 7-D. (See enclosed BZA Minutes and "2615 N. Nottingham St. Timeline" from the Zoning Office's Address file for 2615 N. Nottingham Street.) Such evidence points to the "stem" portion of Lot 7-D potentially needing to have been added to complete Lot 4 per the Variance Conditions, further pointing to the "pipe" portion of Lot 7-D never having meant to have been buildable. Regardless of what determinations may have come

HHR/CB Attach 378182

later, at a minimum this Board should recognize that building on an undersized pipe-stem lot is not in keeping with the character of the block as even the undersized building lots that were created in the block and surrounding neighborhood were never meant to have remained undersized. The overall pattern of development in the block and neighborhood pointed to a trend of saving outlots and other undersized parcels as open space when the houses in the neighborhood were built.

Please let me know if you have any questions or require any additional information.

Sincerely,

Aristotelis A. Chronis

Attorney for the below-referenced
Neighbors in Opposition

Property Owner	Property Address	Proximity to Subject Property/Properties
Michael & Christine Bloomquist	5827 N. 26th St.	Adjacent Property to 10' setback
Laurie Vikander	2612 N. Lexington St.	Adjacent Property to 10' setback
James and Lorraine Hendry	5822 N. 27th St.	Adjacent Property to 8' setback
Betty Fadeley	5826 N. 27th St.	Adjacent Property to 8'setback
Jeffrey and Barbara Benoit	2612 N. Nottingham St.	Across from Pipe-stem Entrance
Sara and Andrew Sullivan	2622 N. Nottingham St.	Across from Pipe-stem Entrance
Justin A. and Katrina R. Ivatts	2609 N. Nottingham St.	Adjacent to Lot 4 Proposed Construction
Betty Florence	2621 N. Nottingham St.	Adjacent to Lot 4 Proposed Construction/"stem" portion of pipe-stem.
Nancy Wilck and Glen Gulyas	2626 N. Lexington St.	In Block
David & Mary Jane Konstantin	5835 N. 26th St.	In Block
David and Joan Biehler	5819 N. 26th St.	In Block

Enclosures as Stated.

cc: Samia Byrd, Planning Division, DCPHD

Minutes of the Board of Zoning Appeals meeting held on February 5, 1952 at 4:00 P. M. in the County Court Room.

PRESENT: LAWSON WIMBERLY, Chairman
EDWIN P. GOUCHER
HARRY M. DYE

ALSO: C. L. KINNIER, Secretary

The following requests for Variances which had been regularly advertised were heard by the Board:

V-1052-52-1: Request of S. Kann's & Sons by Irwin Sofier, Agent, for a Variance to Section 20, subsection a-1 of the Zoning Ordinance to permit a driveway entrance of 32 feet wide instead of 25 feet as required by Zoning Ordinance on premises known as 3401 North Fairfax Drive.

Mr. Sofier, on behalf of Kann's Department Store was present to make this request. Mr. Sofier showed the Board the blueprints of the driveway entrances. Wider driveway entrances were needed for easier flow of traffic into the parking lot. There was no objection to this request.

Res. 930 UPON motion of Mr. Goucher to grant this request, duly seconded by Mr. Dye and unanimously carried, this request was granted. The granting of this request will in no way injure the surrounding property owners.

V-1053-52-1: Request of J. W. Harrill for a Variance to Section 6, Subsection C-1 of the Zoning Ordinance to permit two lots with a frontage of 51 feet instead of 60 feet each as required by Zoning Ordinance on premises located in the 2600 block of North Nottingham Street.

Mr. J. W. Harrill was present to make his request. He said that he was acquiring 12 feet of land making a total of 51 feet for his front setback. At a later date when the area in the rear is developed, the 10 foot right-of-way will be added to the lot giving a frontage of 61 feet. There was no opposition to this request. Mr. Harrill said the present restrictions prevent the sale of the lot.

Res. 931 UPON motion of Mr. Dye to grant this request, duly seconded by Mr. Goucher and unanimously carried, this request was granted.

The granting of this request will not injure in any way the surrounding neighborhood.

2615 N. Nottingham St.

Timeline

1. The subject property existed prior to the construction of Nottingham street (50' r.o.w.), and included approximately 26,000 square feet on both sides of existing Nottingham Street.

2. The subject property is shown on Plate 16 of the 1943 Franklin Survey Company Atlas of Arlington County as one parcel, with an existing dwelling fronting on N. Lexington Street. The Atlas shows that Nottingham Street has not been constructed, thus the parcel is not bisected by Nottingham Street.

3. The subject property is shown on Plate 12 of the 1952 Franklin Survey Company Atlas of Arlington County as a parcel bisected by Nottingham Street.

4. On February 5, 1952, the BZA approved V-1053-52-1 to permit two lots on either side of newly platted Nottingham Street (Lot 3 and Lot 4) with a frontage of 51 feet instead of 60 feet. each as required by the Zoning Ordinance on premises located in the 2600 block of North Nottingham Street. The approval also stipulated that "*at a later date when the area in the rear is developed, the 10 foot right-of-way will be added to the lot giving a frontage of 61 feet.*" It is noted that the terms "frontage" and "front setback" are used interchangeably in the minutes of the BZA meeting. It is further noted that the "area in the rear" is not specified, but appears to be what is now Lot 7D.

5. On April 5, 1952, the rededication and dedication of Lot 4 was recorded on Deed book Page 1047, Page 179.

6. On January 30, 1969, the resubdivision of Part of Lot 7, the Samuel Birch Estate, was approved by W.H. Kennedy, Zoning Administrator.

Angela Brackett FA

From: biehlerj@aol.com
Sent: Wednesday, November 16, 2011 11:19 AM
To: CountyBoard
Subject: WEBSITE COMMENT: Lot 7-D on North Nottingham St. Use Permit -- ATTN: countyboard

The following comment has been submitted from the Arlington County Website:

Name : David and Joan Biehler

Submitter's E-Mail Address : biehlerj@aol.com

Subject : WEBSITE COMMENT: Lot 7-D on North Nottingham St. Use Permit -- ATTN: countyboard

Comments : Subject: Lot 7-D on North Nottingham St. Use Permit

Dear Members of the Board:

We own property that, although does not directly abut Lot 7-D, is next to a lot that does and is affected by any construction on the subject lot.

Over the past decade we have observed the decline of the Arlington feel of a neighborhood with open spaces and greenery. We believe approval of the Use Permit would add to a congested atmosphere and devalue the existing properties.

With all due respect I would ask you - What is the strategic plan for Arlington? Do the zoning regulations support the plan? If so, why would applications for variances to zoning regulations be approved without careful analysis? What's the point of having a plan?

I understand that there may be a compromise which includes trees and privacy fences, Unfortunately these are not permanent structures and as time goes on their intent to protect the neighbors does not last. The same is true for drainage. Once a structure is completed, the neighbors must live with any adverse water problems caused by the new construction. I have observed this here on 26th St.

Thank you for your attention to this issue and I hope you will carefully consider the opinions of the residents of this community.

David and Joan Biehler
5819 North 26th. Street
Arlington VA 22207

Thank you.

HHR/CB 378259

FA

COUNTY BOARD OFFICE
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Leeway Overlee Civic Association

Arlington, Virginia

November 3, 2011

Mr. Christopher Zimmerman, Chairman
Arlington County Board
2100 Clarendon Blvd., Room 300
Arlington, VA 22201

Re: Use Permit Application: Lot 7-D,
Adjacent to 2615 N. Nottingham Street
(RPC # 01-075-020)
(U-3306-11-1, Arlington Designer House)

Dear Mr. Zimmerman and Board Members:

This letter is to advise the Arlington County Board that the Leeway Overlee Civic Association opposes the proposed use permit request to reduce the side yard setback requirements on a pipestem lot off of N. Nottingham Street. This proposed residential construction would require a significant reduction of the existing Zoning Ordinance requirements as regards minimum side yard widths for such a lot. Such a variance request is strongly opposed by neighbors who live near or whose properties abut this pipestem lot. Approval of the use permit request would be injurious to property and existing improvements thereon in the neighborhood. Thus the application does not meet the standard established in paragraph G.1. of Section 36 of the Zoning Ordinance by which the Board could grant the request.

Mr. Andrew Moore of Arlington Designer Homes, Inc. is seeking relief from the setback requirement in paragraph 16.a.(2) of Section 31 of the Zoning Ordinance. That paragraph requires a 25-foot side yard setback for residential construction in the "pipe" section of a pipestem lot. Mr. Moore seeks approval for side lots of only 8 feet and 10 feet respectively—less than half of the width required by the Zoning Ordinance.

So far as we have been able to determine, at the time Mr. Moore purchased lot 4 and lot 7-D in the 2600 block of N. Nottingham Street, lot 7-D was already at law an unbuildable residential lot. Lot 7-D was, we understand, created and recorded some years prior to 2003. Compared to most pipestem lots in Arlington County, it is a noticeably small lot areawise. In 2003 the County Board amended the Zoning Ordinance requirements regarding the future development of pipestem lots. The Board added a requirement for a minimum setback of

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25 feet on all sides of a residence constructed on the pipe portion of a pipestem lot. This was done in part because some developers building homes on pipestem lots were pushing the homes to within 8 feet of the back lot line of an existence residence nearby. Normally there should be a minimum 50-foot separation between the back of one home and any portion of a home to the rear.

The previous owner of the undeveloped pipestem lot back in 2003 failed to apply for a building permit to construct a home on that lot prior to the date the new side yard setback rule went into effect. His inaction rendered this pipestem lot thereafter unbuildable unless some future owner of the lot could convince the Board that it could be developed without any injury to nearby property owners or existing improvements in the neighborhood. Mr. Moore made a calculated business decision to purchase lot 4 (2615 N. Nottingham St.) and lot 7-D notwithstanding his knowledge that the pipestem lot was in effect unbuildable unless the County Board should grant him a use permit. Thus any economic harm he may suffer by the Board's failure to grant such a use permit is of his own making.

The civic association expects the affected nearby property owners to document to the Board that construction of a residence on the pipestem lot with the setback lines that Mr. Moore has proposed will be injurious to their properties and the improvements thereon or simply detrimental to the public welfare. Technically it appears to be Mr. Moore's responsibility to establish that building a home on this small pipestem lot with the setback lines he has requested will not injure in any way the nearby property owners.

The Leeway Overlee Civic Association does believe that this proposed infill development (1) will have a negative impact on the value of the nearby lots and (2) is likely to result in new or additional water problems in their basements due to the increase in periodic storm water flowing from the affected pipestem lot. Thus the civic association opposes the proposed use permit application.

Sincerely,

Karla A. P. Brown

Karla Brown, President
2300 N. Nottingham Street
Arlington, VA 22205