

Public Comments

Jo Bennett

From: Kelly Perkins
Sent: Monday, July 27, 2015 1:13 PM
To: Jo Bennett
Subject: FW: HARC Application 818 Fleming Street
Attachments: Sec._122_32.____Additional_regulations..docx

From: Ginny Stones [mailto:ginny@keyslaw.net]
Sent: Monday, July 27, 2015 12:40 PM
To: Kelly Perkins; Ronald Ramsingh
Subject: FW: HARC Application 818 Fleming Street

Kelly:Ron;
I apologize for not including you and legal in the email recipient list.
Ginny Stones

Adele V. Stones
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221 Simonton Street
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From: Ginny Stones [mailto:ginny@keyslaw.net]
Sent: Monday, July 27, 2015 11:15 AM
To: 'Enid Torregrosa'; 'Thaddeus L. Cohen'
Cc: 'Bryan Green'; 'malexander1526@gmail.com'
Subject: HARC Application 818 Fleming Street

Dear Ms. Torregrosa:

I represent the owner of the single family residence at 6 Scheppens Lane, located directly south of the property under consideration for HARC Certificate of Appropriateness for construction of a "roof deck" proposed to be located over a double saw tooth addition on one of the historic structures located at #2 Scheppens Lane. (There appear to be 2 buildings under this address). My client objects to the placement of the new roof deck as directly in violation of HARC Guidelines for additions to contributing historic structures. Additionally, and more fundamentally, the proposed addition of 528 square feet to the historic structure violates City Code Section 122-32(d) which states:

"A nonconforming use shall not be extended, expanded, enlarged or increased in intensity. This prohibition shall include, but not be limited to the extension of a nonconforming use within a building or structure or to any other building or structure."

Although the guesthouse use for the business at 818 Fleming Street falls with the permitted categories of use for the Historic Neighborhood Commercial (HNC-2) district, the proposed roof deck is located on/in a distinct and separate building (1 of 5) utilized in the guesthouse operation.

The building at 2 Scheppens Lane is located within the boundary for the Historic Medium Density Residential district. Transient use is prohibited in that zoning district and is allowed on this property ostensibly as a legal, nonconforming use, predating the current Land Development Regulations. The addition of the roof deck to this property would directly increase the non conforming use of the guesthouse property by providing an outdoor living room, sundeck, recreation and party venue for increased activity associated with the transient use and occupancy of the property.

Based upon the direct prohibition of the expansion, enlargement and increased intensity represented by the addition of the proposed roof deck, this application should be removed from consideration by the HARC Board in advance of tomorrow evening's meeting.

Thank you for your attention to this matter.

Ginny Stones for Margo Alexander

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Sec. 122-32. - Additional regulations.

- (a) A nonconforming use, nonconforming density or a noncomplying building or structure may be continued, subject to this article.
- (b) A casual, intermittent, temporary or illegal use of land, building or structure shall not be sufficient to establish the existence of a nonconforming use, nonconforming density or noncomplying building or structure.
- (c) Should any noncomplying building or structure be moved for any reason from its location, it shall thereafter conform to the regulations or the zoning district of its new location.
- (d) A nonconforming use shall not be extended, expanded, enlarged, or increased in intensity. This prohibition shall include but not be limited to the extension of a nonconforming use within a building or structure or to any other building or structure.**
- (e) A nonconforming use of a building or structure may be changed to another nonconforming use if the planning board finds that:
 - (1) The new use is equally or more appropriate to the zoning district; and
 - (2) The change of use would not intensify the use of the premises by increasing the need for parking facilities; increasing vehicular traffic to the neighborhood; increasing noise, dust, fumes or other environmental hazards; or by having an adverse impact on drainage.
- (f) This article shall apply to signs, consistent with chapter 114.
- (g) Enlargement and extensions: Nonconforming structures which are used in a manner conforming to the provisions of this chapter may be enlarged or expanded provided that the existing nonconformity is not further increased, nor any new nonconformity created.

(Ord. No. 00-10, § 9, 6-6-2000; Ord. No. 08-04, § 26, 5-20-2008; Ord. No. 13-18, § 4, 10-16-2013)