

Gulizia, Andrew

From: Gregory J. Miner <gminer@batemanseidel.com>
Sent: Monday, February 1, 2021 2:08 PM
To: Gulizia, Andrew
Cc: Gregory J. Miner; Faye Weisler; vwbus@ckoon.org
Subject: Fwd: LU 20-134213 AD

Andrew-with your assistance I would like to submit the below comments and objections for the record and in advance of tomorrow's hearing on the Faye Weisler appeal.

I signed up to attend the hearing but not testify due to a conflict I have. Please submit this statement from my wife and me.

We believe we have a sound perspective on the character and scale of homes in our immediate block and neighborhood as 34 year residents of 1610 SW College Street. As all of the neighbors have stated on the record, we have no objection to Ms. Le constructing a home but rather object to the proposed 4 story tower rising two levels above Upper Hall street.

The existing homes are very different as rising one story or less; the proposed home at time of partition envisioned a street level height limit.

Mr. Cann's proposed development to the north shows a below and at level with driveway for the house.

Ms. Le can and should construct a house of one level above the street respecting the 7.5 feet limit or a modest adjustment of that.

We object to what has been approved as violating the character and the scale of the allowed height of houses in our neighborhood.

Thank you. Please confirm my statement will be submitted to the Adjustment Committee.

Sincerely,
Greg and Susan Miner

Sent from my iPhone

Begin forwarded message:

From: "Gregory J. Miner" <gminer@batemanseidel.com>
Date: February 1, 2021 at 10:34:57 AM PST
To: Faye Weisler <faye@jeffnet.org>
Cc: "Gregory J. Miner" <gminer@batemanseidel.com>, "vwbus@ckoon.org" <vwbus@ckoon.org>
Subject: LU 20-134213 AD

These comments address and object to the second proposed Zoning adjustment of applicant to increase the maximum Building height from 23 feet to 37.2 feet, a 14 foot increase(or 1.5 house levels or stories).

Appellant Faye Weisler submits this statement in support of her appeal.

The requested building height adjustment is now 5 feet lower than the original building design of

applicant after written concerns were presented by numerous neighbors.

The applicant now requests the highest part of the roof to be at 453.65 feet elevation, which is 21.7 feet above the elevation of SW Upper Hall Street pavement. That is more than 2 house levels or stories above the street and thus violates the maximum allowed height of the Zoning regulation and is contrary to the height of the existing homes both to the north and south and the character of homes in this neighborhood.

Based on the R-5 Zoning Code Section 33.110.215.D.1 the subject lot has a building height limit of 23 feet "above the average grade of the street".

The acknowledged past practice of BDS is to measure the building height on this sharply sloping site from the average elevation of the two front lot corners. Using this past practice the roof and highest point of the proposed new house can be up to 7.5 feet above the Upper Hall Street pavement. Thus 7.5 feet governs this downward sloping lot located 15.5 feet below the street. This regulation must be implemented.

Applying Zoning Code Section 33.110.215.D.1. and the past practice of measuring the average elevation of the two front lot corners, the maximum building and roof top height is 7.5 feet above Upper Hall Street. This as stated applies to this very steep lot located about 15.5 feet below Upper Hall street. There is no regulation which addresses allowing greater height above Upper Hall simply because the proposed house is to be built starting below the street level or because it is such a large house of 4 levels or stories, or that all of the 15.5 footage is to be added to the allowed 7.5 feet maximum to "make up" for and arrive at the 23' maximum.

Applicant purchased the below street grade property and is using the slope to construct a 4 story tower home. Adding 21.7 feet above the street allows for the 4 story tower and the unprecedented excess height above the street.

The appeal must be sustained and the December 17, 2020 BDS decision reversed such that the highest part of the roof and maximum building height is 7.5 feet above and not 21.7 feet above Upper Hall Street.

The plain meaning of this Code section and the correct application of the BDS past practice of determining the "average grade of the street" strongly warrant that the 7.5 feet above Upper Hall Street pavement be respected and maintained.

The height adjustment sought to triple this 7.5 feet to 21.7 feet violates the purposes of Section 33.110.215.A because:

- 1) tripling the height allowed does not promote a reasonable building scale and relationship of one residence to another as no two story residence nor building height of 21.7 feet above the Upper Hall Street pavement exists on the downhill side of Upper Hall Street and applicant has not demonstrated that the adjustment of tripling the height allowed is necessary to build her house;
- 2) the tower effect of 21.7 feet above Upper Hall Street does not promote privacy for neighboring properties since the 21.7 feet above the pavement plus the average elevation of the two front corners of 15.5 below the pavement means that applicant's request is truly 37.2 feet in height which is 30 feet higher than allowed by the Code Section and the past practice of BDS; and
- 3) the tripling of the 7.5 feet building height adjustment and the true 30 feet of "added building height" allowed, when considering the downward sloping lot, contradicts the single story character and scale of the existing two homes on the downhill side of this block.

No current home is two stories or more than two stories, as planned here, above the street pavement but rather were built at or well below a single story above the Street.

The 2002 land division approval creating this lot provided for a significantly lower house with almost all of the house to be built below Upper Hall street level.

The more recent 2018 Zoning decision on the lots directly next to and to the north of the subject lot is also relevant to this case, although not considered by BDS in this case.

In that Case LU 18-118430 AD,, BDS approved an elevated driveway structure access to theses next door lots from Upper Hall Street, as is approved here. The BDS decision stated:

"The proposed home is proposed to be below the driveway and at the same height as the driveway structure supports, creating an architecturally diverse home"(p. 12 and Exhibits A101 and A201 site plan and site access). The next door lots to the north are to be built no higher than street and driveway access level, not 21.7 feet higher.

This history demonstrates the ongoing concern of the neighborhood with excess building height and that the existing houses and ones to be built are at or modestly above like 7.5 feet as to Upper Hall street.

In conclusion, the prior history of this lot and the next door property to the north(the only remaining undeveloped areas on the downslope side of Upper Hall) establish the maximum building height level of this immediate area: a house can and should be built not more than the regulated level of 7.5 feet above street pavement.

Allowing the tripling of the building height to 21.7 feet(14.2 feet above 7.5 feet)by ignoring that the applicant chose to purchase the property which is located 15.5 feet below the street, provides applicant with over 30 feet more of building height which BDS has allowed in order to side step the allowed 7.5 feet of single story above the street and result in 21.7 feet or more than 2 stories above the street.

When the 15.5 feet below the street is ignored although applicant uses that footage to plan the 4 house levels, not 3 levels, BDS simply discounts the 15.5 feet below the street to triple the building height to 21.7 feet above Upper Hall.

Applicant has failed to show that a house cannot be built within the 7.5 feet of height allowed and so the extensive and unprecedented height adjustment up to 21.7 feet must be denied.

Gregory and Susan Miner
1610 SW College Street
Portland
503-758-0655

Sent from my iPhone