



Greenwich
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Society for
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Preservation

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TESTIMONY OF THE GREENWICH VILLAGE SOCIETY
FOR HISTORIC PRESERVATION
REGARDING PROPOSED
DEPARTMENT OF BUILDINGS RULE 105-03
March 6, 2009

Good afternoon, my name is Andrew Berman, and I am the Executive Director of the Greenwich Village Society for Historic Preservation. GVSHP is the largest membership organization in Greenwich Village, the East Village, and NoHo, and works to promote sound planning and preservation practices. GVSHP has been involved in several challenges of DOB permit approvals, and many of our members have also individually been involved in such challenges.

Standardizing the process for challenging DOB permit decisions can be useful, and the proposed requirement that zoning diagrams be made available on-line is a helpful and long-overdue step in the right direction. However, there are some very fundamental problems with the proposed rule change, as well with the details of its proposed implementation, which we strongly believe must be addressed before any changes should be implemented.

First, we question whether the Department of Buildings has the authority to make a rule such as this, which would impose a deadline for the consideration of legitimate challenges to DOB permitting decisions, and seemingly absolve the Department of the obligation to revoke such a permit even if it was issued in error or violates the law. The only recourse then open to the public would be to file an appeal with the Board of Standards and Appeals, an expensive, time-consuming, and onerous process which is not a realistic option for most members of the public. Instead, the Department must not be able to ignore a valid appeal from the public. It is unclear if such a sweeping change in the process as herein proposed can be made by DOB, or if it more appropriately should go through a legislative process, or if it can even be made at all.

A second basic flaw in the proposed process is that anyone who does not regularly monitor the Department of Buildings website is essentially excluded from the process, and their opportunity to potentially challenge an inappropriately approved permit is thus eliminated. Without regular monitoring of the DOB website, there is no reason to believe that a member of the public would even be aware that a permit has been applied for, much less approved, before the 30-day challenge period ends.

Even for those who are aware, the 30-day period is woefully short. For even seasoned community and civic groups, the issues involved in zoning are complicated and often require a level of outside expertise beyond that which they have. Accessing such expertise, and a fully completing the new standardized challenge form, may not always be possible within the 30 days allotted, especially given that under the current proposal much of the information necessary for adequately challenging a permit will not be provided. The 15-day period for appeals leaves even less room.

Thus while we welcome a standardization of the challenge system, we believe that several very important changes must be made to the proposal:

- The 30-day period allotted for challenges and 15-day period for appeals should be significantly expanded, or eliminated entirely.
- Building plan schematics should be posted on-line starting when application is filed, not when it is approved, as is proposed.
- Zoning calculations must be included in the schematics the applicant is required to provide and which is then shared with the public; without such information, it is often virtually impossible to adequately discern whether or not there are issues with the approval or discrepancies between the proposed building and what the zoning text allows.
- DOB should provide the public with a mechanism for signing up to receive notices of when permits are being considered for certain locations, so the burden is not on the public to monitor and know when they have to consider filing a challenge.
- Work should not be allowed to proceed during any challenge period, which the proposed system does.
- DOB should require the posting of plans and diagrams and permit applications on the site, so that the public can see what is being planned/proposed, review those plans, and if appropriate, file challenges.
- It must be made explicitly clear that major alterations are included in this process, and changes to applications should trigger an entirely new round of review and opportunity for public challenges.

I urge the Department of Buildings not to implement any rule changes until these issues are fully addressed. Thank you for your consideration.