



January 16, 2023

700 Pennsylvania Avenue SE  
Ste. #2032  
Washington, DC 20003  
6B@anc.dc.gov

**OFFICERS**

Chairperson

*Edward Ryder*

Vice-Chair

*Chander Jayaraman*

Secretary

*David Sobelsohn*

Treasurer

*Frank Avery*

Parliamentarian

*Kasie Durkit*

**COMMISSIONERS**

SMD 01 Frank Avery

SMD 02 Jerry Sroufe

SMD 03 David Sobelsohn

SMD 04 Frank D'Andrea

SMD 05 Kasie Durkit

SMD 06 Chander Jayaraman

SMD 07 Vince Mareino

SMD 08 Edward Ryder

SMD 09 Matt LaFortune

Mr. Brian Hanlon  
Director  
Department of Buildings  
1100 4th Street, SW  
Washington, DC 20024

Mr. David Maloney  
Associate Director for Historic Preservation  
Office of Planning  
1100 4th Street, SW, Suite 650 East  
Washington, DC 20024

VIA Email: [brian.hanlon@dc.gov](mailto:brian.hanlon@dc.gov); [david.maloney@dc.gov](mailto:david.maloney@dc.gov)

RE: Illegal Construction at 516 Archibald Walk SE

Dear Director Hanlon and Associate Director Maloney:

At its regularly scheduled, properly noticed meeting on December 12, 2023, with a quorum of Commissioners present, Advisory Neighborhood Commission 6B voted 8-0-0 to support sending this letter to the Department of Buildings (DOB) and the Office of Planning (OP). This letter refers to illegal construction at 516 Archibald Walk, SE.

Archibald Walk is a historic, pedestrian-only walkway on Capitol Hill, a historic district. This illegal construction disrupts Archibald Walk's historic character and violates historic-preservation regulations.

The illegal construction consists of a fence that exceeds the scope of the applicable permit, and a patio built with no permit at all.

In August 2023, the owners of 516 Archibald Walk applied for a fence permit. In their application, the owners claimed they sought to replace their preexisting "7 ft. backyard wooden privacy fence with a new fence of roughly the same dimensions, materials and style." The owners also promised that "[t]he replacement posts for the new fence will be laid in the same places as posts for the existing fence." In support of their permit application, the owners submitted a plat that depicted the location of their previous fence. The previous fence was around 6 feet tall, set back at least a foot from their property line, and behind a century-old elm tree.

In historic districts, such as Capitol Hill, front-yard fences may not exceed 3 feet 6 inches in height. See 12A DCMR 3112.3.1.1. In 2022, DOB told the owners of a neighboring property, also facing Archibald Walk, that this regulation applied to them. Nevertheless, in September 2023, DOB issued a permit (#F2300847) for a new fence at 516 Archibald Walk. The permit required that “the replacement fence shall match the existing fence in that it shall be no greater than seven feet tall, of pressure-treated wood vertical butted planks, face on the common property lines behind the house, and with the posts and railings facing the inside of the property.” The Department of Buildings clearly contemplated that the new fence would replicate the previous fence.

The 516 Archibald Walk owners began building their new fence on September 15. Contrary to their permit application, the owners did not keep the replacement posts in the same positions as the posts of their previous fence. Instead, they dug holes for several new posts abutting their property line on the walkway. To do so, they demolished part of the walkway surface. An illegal construction report was filed on September 15 (reference #VEV-48TIE). The DOB inspection did not take place until September 22.

During that week, the owners continued to build their fence. But on September 26, having previously designated the property’s century-old elm tree a “special tree”; having noticed the harm already caused to that historic tree by the fence’s construction; and citing the owners’ failure to submit a tree-preservation plan, the DC Department of Transportation’s Urban Forestry Division issued a stop-work order. Urban Forestry lifted the order after the owners submitted a tree-preservation plan and modified their initial design. But the owners never submitted their new fence design either to DOB or the Historic Preservation Office.

The owners have now finished their new fence (see attached photos). Contrary to their permit, the owners’ new fence looks well over 7 feet tall from the surface of their new patio. It is clearly over 8 feet tall from the walkway surface. As a result, portions far exceed the height of the old fence and violate the building code. The fence also has many features not in the previous fence, including metal posts exposed to view and not in the previous post locations. These all depart significantly from the permit application. Moreover, violating their tree-preservation plan, the owners have affixed a tarpaulin to the tree to cover a gap in the tree.

The Department of Buildings has failed to justify allowing construction of the new fence when that construction clearly exceeds the limits of the fence permit. Although the 516 Archibald Walk owners proposed their new fence as a replacement for an existing fence and, therefore, the only permit application they submitted either to the Office of Planning or the Historic Preservation Office described a fence that simply replaced the existing fence, the fence they actually

erected differs radically from the previous fence.

Our ANC demands an explanation from the Department of Buildings, both of its failure to enforce the limits of its own permit, and of its inconsistent interpretation of its own regulations. We also urge the Historic Preservation Office to investigate the design of this new fence.

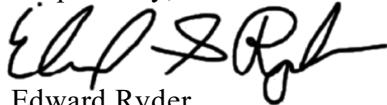
Along with building a new fence that exceeds the limits of its permit, the owners of 516 Archibald Walk demolished their preexisting patio and built a completely new one, without any permit at all. In terms of its proportions, appearance, and design, the new patio is substantially different from the prior patio. The new patio required extensive demolition, digging of trenches to lay drainage pipes, and pouring of new concrete (see attached photos). Despite the owners' lacking a permit--for construction activities that clearly require a permit--after an inspection on September 22, 2023, a DOB inspector found no violation. Over a month later, the DOB claimed that it allowed the patio construction without a permit because no one from public space could see the new patio.

But the construction code makes no exception for patios no one can see from public space. The code requires a permit for patio construction. It excepts only replacements in kind where the land disturbance does not exceed 50 square feet. See 12A DCMR 105.2.

We are concerned by the Department of Building's handling of both the clear departures of the fence design, as well as the lack of permit for the patio. We urge enforcement of the Department of Buildings' regulations with respect to this illegal construction. We also urge both OP and HPO to investigate and enforce regulations that cover this illegal construction in a historic district.

Please confirm your receipt of this letter. Thank you.

Respectfully,



Edward Ryder  
Chair, ANC 6B

Cc:

The Honorable Charles Allen, Ward 6 Councilmember  
Kate Mitchell, Ward 6 Councilmember Chief of Staff  
Todd Jones, Historic Preservation Specialist  
Crawford Hazel, Department of Buildings  
Mark-Anthony Tynes, Department of Buildings  
David Sobelsohn, Commissioner SMD 6B03

**516 Archibald Walk SE: Patio**  
Photo of Previous Patio





Photo of New Patio





516 Archibald Walk SE: Previous Fence







**516 Archibald Walk SE: New Fence**

















