



ADVISORY NEIGHBORHOOD COMMISSION 3E
TENLEYTOWN AMERICAN UNIVERSITY PARK FRIENDSHIP HEIGHTS
CHEVY CHASE WAKEFIELD FORT GAINES
c/o Lisner Home 5425 Western Avenue, NW Washington, DC 20015
www.anc3e.com

RESOLUTION NOT OPPOSING PUBLIC SPACE APPLICATION #339585

WHEREAS:

1. In 1870, Congress designated certain right-of-way owned by the federal government but next to private property in DC as park areas to be maintained by the adjacent property owner, designating the space as “public parking”¹ (thus, the term “parking” refers to parks rather than a place to park automobiles). Public parking, although under the care and keeping of the adjacent landowner, is supposed to benefit the public at large.
2. Accordingly, much of what residents think of as “their” front yards, and side yards for those with corner lots, is in fact public space.
3. Because DC law places public parking under the care and keeping of adjacent landowners, the law permits landowners to install fences up to 42 inches of height that are also of “open design of at least 50%”² around the parking. This permits owners to exclude third persons physically from their land, but makes the green space in the parking visually available to all passers-by while creating an open feel.
4. The extensive greenspace visible around private properties in DC is a defining characteristic of our city.
5. Where some compelling rationale exists, however, landowners may apply for permission to build fences higher than 42 inches
6. The residents of 3848 Harrison Street NW (“Applicants”) have applied for permission to build a 6-foot wooden fence utilizing overlapping boards in public space in their side yard parallel to the sidewalk but recessed in 12 feet along 39th Street to enhance their privacy. Because theirs is a corner lot, the public space in question directly abuts a sidewalk and street.
7. If ANC 3E supported applications for overheight fences for every resident who sought to install such fences to enhance their privacy, the exception would swallow the rule.

¹ The District of Columbia subsequently acquired additional right of way, some of which landowners technically own subject to easement, and which may not be strictly termed “public parking.” Because DC law treats such space identically to public parking, for convenience we here refer to all public space attached to residential lots as public parking. See generally “The City Park Outside Your Front Door,” *Forest Hills Connection*, <https://www.foresthillsconnection.com/home-front/the-city-park-outside-your-front-door/>

²

https://ddot.dc.gov/sites/default/files/dc/sites/ddot/publication/attachments/ddot_public_realm_design_manual_2011.pdf section 4.5.1

NOW THEREFORE BE IT RESOLVED:

1. Because the Applicant has amended his application and proposes to now locate his fence 12 feet from the sidewalk instead of immediately abutting the sidewalk as previously proposed and because two other adjacent properties on 39th Street have fences and a wall of trees much closer to 39th Street ANC 3E believes in the context of this location the applicants proposal is a reasonable compromise that retains the intended open feel of the public space laws and therefore ANC 3E does not oppose this application.

The resolution passed by a vote of ___-___-___ at a properly noticed meeting held on June 18, 2020, at which a quorum was present, with Commissioners Bender, Hall, McHugh, Quinn, in attendance.

ANC 3E

by Jonathan Bender
Chairperson