

**District of Columbia
Board of Zoning Adjustment**

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Reed Cooke Neighborhood Association,	)	
	)	
Appellant	)	
	)	
v.	)	Appeal No. 17746
	)	
District of Columbia Department of	)	
Transportation,	)	
	)	
Appellee	)	

**OPPOSITION TO MOTION TO DISMISS WITH
INCORPORATED MEMORANDUM**

The Reed Cooke Neighborhood Neighborhood Association (RCNA), appellant in the above referenced action, opposes the Motion to Dismiss with Incorporated Memorandum, submitted by the appellee, The Department of Transportation to the Board of Zoning Commission for the following reasons: (1) RCNA contends that the BZA has jurisdiction to hear this grant of appeal; and (2) The public space permit does violate zoning regulations specifically the Reed Cooke Overlay.

I. Jurisdiction

We believe, along with our ANC, ANC1C, that the BZA should hear this case since according to Chapter 31 of the Zoning Regulations contains the BZA's "Rules of Practice and Procedure". Section 3100.2 of that chapter, which governs appeals, states that "The Board, pursuant to the Zoning Act, shall also hear and decide appeals where it is alleged by the appellant that there is error in any order, requirement, decision, determination, or refusal made by any administrative officer or body, including the Mayor, in the administration or enforcement of the Zoning

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Regulations, Title 11.” The Zoning Act in Section 6-641.07 of the DC Code, Subsection (f) states:

“Appeals Appeals to the Board of Adjustment may be taken by any person aggrieved.. by any decision of the Inspector of Buildings granting or refusing a building permit or granting or withholding a certificate of occupancy, or **any other administrative decision based in whole or in part upon any zoning regulation** or map...”. (emphasis added).

The decision does involve a cut curb cut at the property, but the underlying reason for the curb cut is to provide **additional** parking for a residential building in the Reed Cooke Overlay District. Title 11 Chapter 31 Section 2101 of the Zoning Regulations which clearly the BZA has jurisdiction over states”

2101.1 On and after May 12, 1958, all buildings or structures shall be provided with parking spaces as specified in the following table:

... Apartment House or multiple dwelling:

...R-5_B, C-2-A, C-3-A	1 for each 2 dwellings
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Since the landowner in this case has clearly exceed the requirements for the dwelling and the administrative decision effects this regulation, the BZA has no choice but to hear this case.

II. The Reed Cooke District

The Reed Cooke Neighborhood Association is striving to promote a pedestrian friendly neighborhood. Reed Cooke is centrally located - we have several major bus lines serving the area and is within walking distance of 2 metro stops - Woodley Park and Columbia Heights. We have

a very lively nightlife area - 18th street of Adams Morgan and within walking distance of the U Street Corridor and the new mall at Columbia Heights.

The main purpose of the Overlay is to control density and protect residents from damaging traffic and promote pedestrian safety. In fact, the Overlay states that the BZA may grant exceptions to Overlay requirements subject to certain criteria. Specifically, one of the criteria is “vehicular access and egress shall be designed and located so as to minimize conflict with pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic condition.”

We contend that DDOT’s public space permit does in fact violate this criteria. Ample parking to conform with the requirements of the Title 11 Chapter 13 is provided by an easily accessible back entrance that will not endanger traffic or pedestrian safety. This curb cut located at the front of the project and fronting on Champlain Street is a wholly **unnecessary addition** to the project and does create dangerous and objectionable traffic conditions by crossing a pedestrian sidewalk in a very densely populated area. As we strive to promote pedestrian safety in this very densely populated area, DDOT’s granting of the curb cut sets a precedent for all other developments to apply for unnecessary public space permits and to further erode the The Overlay.

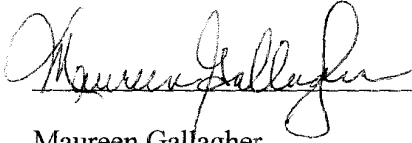
In addition to the the above, the Public Space Committee has offered no explanation or criteria as to why this curb cut was permitted. RCNA has asked for a written explanation as to what criteria was used to grant the curb cut, but to date has not received any documentation or explanation.

Conclusion

In conclusion, the BZA should grant hearing of this appeal based on the foregoing argument and

also, repeal the decision by DDOT's Public Space Committee because it is wholly unnecessary and violates the Reed Cooke Overlay, for which the BZA has jurisdictional matters.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Maureen Gallagher", written over a horizontal line.

Maureen Gallagher

President

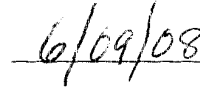
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A handwritten date "6/09/08" written over a horizontal line.

Date

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 9th day of June 2008, a copy of the foregoing Opposition Motion to Dismiss will be sent electronically and by first class mail, postage prepaid to the following:

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