

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17973-A of the District of Columbia Public Library, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements of § 2101.1, in order to construct a new full-service neighborhood library in the R-2 District at premises 115 Atlantic Street, S.W. (Square 6172W, Lot 813).

HEARING DATE: September 1, 2009
DECISION DATES: October 6, 2009 and October 27, 2009
DATE OF ISSUANCE OF FINAL ORDER: April 9, 2010
DATE OF DECISION ON RECONSIDERATION: May 18, 2010

ORDER DENYING RECONSIDERATION

On April 19, 2010, Advisory Neighborhood Commission (“ANC”) 8D submitted a timely motion requesting reconsideration (“motion”) of the Board of Zoning Adjustment’s (“Board” or “BZA”) April 9, 2010 Order in Application No. 17973, which granted a parking variance to the Applicant, District of Columbia Public Library (“DCPL” or “Applicant”). ANC 8D had appeared as a party in opposition at the hearing on the application, and makes several allegations of error in its motion for reconsideration.

The Board deliberated on the request for reconsideration at its May 18, 2010 public meeting, and voted 3-1-1 to deny it.

The Merits of the Motion

The ANC’s request for reconsideration claims that any practical difficulty experienced by the Applicant is self-imposed. The ANC, however, made this argument at the hearing on the application and a reconsideration must be more than a re-hashing of already-presented arguments. The Board considered the argument, but disagreed, and disagrees still. *See*, BZA Order No. 17973 (“Order”) at 11.

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The ANC's motion reiterates the ANC's negative sentiment concerning the Applicant's design choice, resurrecting another argument made at the hearing – that the programmatic needs of the library do not require the “three-pavilion design” adopted by the Applicant. The motion also states that the space under two of the pavilions could be devoted to parking, instead of an amphitheatre and community gathering space, if a different design were chosen. There was no evidence in the record, however, that a different design would have eliminated the need for a parking variance, and even the former library design left room for fewer parking spaces than the 21 required. The Board has already addressed the issue of the library's design (see Order at 9), and declines to re-address it or to allow the ANC to re-argue it.

The ANC takes issue with the Order's Finding of Fact No. 4, which states: “[a]cross South Capitol Terrace is a parking lot located behind commercial buildings in a C-2-A zone district and fronting on South Capitol Street.” The ANC's motion asserts that “DCPL cannot assume the lot is available for use by library patrons.” (Exhibit 46 at 2). The Board did not “assume” that the lot would be used by library patrons, however. Finding of Fact No. 4 merely states the fact that the parking lot exists, but notes that it is a commercial lot. The Order goes on to state that the existence of the lot would “reduce[] the use of on-street parking by drivers visiting commercial establishments.” (Order at 10). In other words, the commercial parking lot is significant because its existence will free up on-street spaces for library patrons and will reduce on-street parking congestion when the commercial establishments are open, not because library patrons are expected to use it.

The ANC claims that the Board did not have the correct information before it with regard to bus service in the area of the library and with regard to the likelihood that patrons would walk or bike to the library. Relying on the testimony of DCPL's land use expert, Finding of Fact No. 42 in the Order states that “[t]welve bus routes service the area.” See, Hearing Transcript of September 1, 2009, p. 160, lines 17-22 & p. 161, line 1. Finding of Fact No. 43 states that “many patrons are expected to walk or bicycle” to the library. (Order at 7).

In its motion, the ANC contradicts the above Findings of Fact, and posits that, although approximately ten bus routes “come within walking distance” of the library, most of them do not *stop* within walking distance of the library. The motion also states that the library is not particularly close to a Metro station, and that the surrounding neighborhood is more suburban in feel, with predominantly hilly terrain – a combination of attributes that, according to the ANC, make walking or biking to the library unlikely.

The ANC's arguments on this point go to the third prong of the variance test – whether there will be a substantial detriment to the public good or impairment of the zone plan. The ANC implies that there will be a substantial detriment to the public good with the granting of the parking variance. After reflecting on the ANC's arguments, however, the Board fails to see a substantial detriment to the public good. The library will have seven parking spaces and there is on-street parking available on both of its street frontages. An informal survey done by the Applicant

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showed that approximately only 30% of current library patrons drive to the destination (Order at 10, n.3), and statements in the record from local individuals support the fact that on-street parking spaces are readily available. (Order at 13). Further, according to the ANC's motion, the A4, A5, A8, and A9 bus routes service the area of the library. (Exhibit 46 at 4).

Throughout the proceedings on this application, the ANC made it clear that it preferred retaining and renovating or expanding the existing library building. According to the ANC, keeping the existing building would have eliminated the possibility of interfering with the retaining wall at the rear of the property and could have counted toward an improved LEED¹ rating for the library project overall. The ANC's motion states that the Board should not have dismissed this "option." Retaining the existing building was not, however, an "option" before the Board. The Board can only act on the application before it within the context of the Zoning Regulations, and the application before the Board was for a new building. It is not within the power of the Board to require DCPL, or any applicant, to retain a building which it intends to demolish.

For all the above reasons, it is **ORDERED** that ANC 8D's motion for reconsideration is hereby **DENIED**.

VOTE: 3-1-1 (Peter G. May, Shane L. Dettman, and Nicole C. Sorg to Deny; Meridith H. Moldenhauer to grant; No other Board member (vacant) participating)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of Board members approved the issuance of this order.

ATTESTED BY:

Jameson L. Weinbaum
JAMISON L. WEINBAUM

JAMISON L. WEINBAUM
Director, Office of Zoning

FINAL DATE OF ORDER: SEP 10 2010

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

¹ LEED refers to the standards of the United States Green Building Council's Leadership in Energy and Environmental Design.

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As Director of the Office of Zoning, I hereby certify and attest that on SEP 10 2010, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party who appeared and participated in the public hearing concerning the matter and to each public agency listed below:

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