

DC's Board of Zoning Adjustment
441 4th Street NW
Washington, DC 20001
BZA Application No.18240

MOTION FOR RECONSIDERATION AND REHEARING

Pursuant to DCMR 11-3126, the parties below request the Director to file with the Board a Motion for Reconsideration and Rehearing of the Decision and Order of the Board, dated April 4, 2012, regarding BZA Application No. 18240.

Parties request a reconsideration of the matter to provide a full evidentiary hearing and more thorough analysis of the purported facts and written documentation on the record. The Decision and Order has failed to demand the evidence required to justify the Board's determinations in this case and thus the applicant has failed to meet the burden of proof required for complete relief from the rear yard setback protections offered by the zone plans and DC's Zoning Regulations.

One key point of contention is "institutional necessity" of the applicant's desire to build an addition to the existing historic Mount Pleasant Library which would completely eliminate the rear yard and bring the library addition all the way to the rear property line. This contravenes DCMR 11-101 to (a) Provide adequate light and air; (b) Prevent undue concentration of population and the overcrowding of land; (c) Create a condition favorable to the protection of property. By contravening these critical Zoning regulations, the Decision also does not "encourage the stability of districts and of land values in those districts" pursuant to DCMR 101.2(c).

The applicant says it's "Building Program" demands a level of "institutional need" to deserve complete relief from DC's Rear Yard setback requirements in part because of the "public input" at various stages. Let the record show that the Board has not been given the time nor chosen to engage in a full-evidentiary review of the "public input" by which some Board members developed prevailing positions found in Decision and Order.

Serious public input manifested through documents like alternative architectural building plans and renderings, expert fire safety reports, expert accessibility reports, videos and transcripts with City emergency officials, civic group letters, preservationists concerns, and more. These documents took alot time, expertise, money, and honest civic interest on the part of the public concerned about how the applicant's request for complete rear yard setback relief further endangers a community which has seen a great deal of death and destruction by very recent proximity fires.

Since the Board has made absolutely no reference to the petitioner's key submissions, a re-review of the record for this case is necessary for the Board to properly evaluate the balance of equities between the parties.

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18240

EXHIBIT NO. 61

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Board of Zoning Adjustment
District of Columbia
CASE NO.18240
EXHIBIT NO.61

Further, this case deserves reconsideration and rehearing because there exists factually incorrect statements in the Decision and Order and because of the Board's tendency to accept applicant assertions with absolutely no supporting evidence on the record.

To begin, the bar for full relief from the rear yard setbacks compels the applicant to prove that other plausible design plans could not be possible but the applicant could not and did not refute the petitioner's submission on the record of several potential expansion alternatives and hybrid-plan scenarios showing a ratio-mix of smaller rear and side additions.

Peculiarly, the Board limits its own evaluation of these several potential alternative architectural renderings provided by the petitioners, including hybrid expansion scenarios and/or by using other construction expansion techniques like digging the lower-level further down into the ground as other recent library renovations and expansions have done.

On page 9, paragraph 2 of the Decision and Order, the Board says, "strict compliance with the Zoning Regulations would favor location of the addition to the side of the existing building." This conclusion shows that a misunderstanding of the zoning regulations has improperly dissuaded the Board from even considering alternative plans.

So, when reading Page 9, fourth paragraph, "The Board concurs with the applicant that the proposed location of the new addition represents the best option for the expansion of the existing building," it is clear that not all design options were reviewed by the Board in a meaningful way and that the applicant has "merely shown the most desired of various options" to the Board without deeper analysis of alternatives in order to provide substantive judgment on the matter of public safety and welfare according to the Zoning regulations.

It also seems the Board has unflinchingly supported the applicant's argument that vehicular access to the side and behind of the library building "is not possible." The applicant called upon DC Fire officials to provide testimony supporting their one desired expansion plan. The applicant provided no scientific reports, tests, diagrams, fire safety response plans or any other evidence in writing to support verbal support of the library plan by the fire official.

In comparison the public, through ANC-1D, submitted an extensive expert fire safety report into the record. This detailed report elaborated in much detail about proximity fires and the efficacy of emergency vehicular access to the side and behind the library, yet this report was not referred to at all by the Board in any of their determinations. It would seem that the Board's decisions stand in stark contrast to the declaration on page 10, paragraph 5 of the Decision and Order where, "the Board has extensively discussed each issue of concern expressed by the ANC."

This case needs a rehearing because the applicant has not met its burden of proof to merit 100% complete relief of the rear yard requirements in a location marred by fires, surrounded by many low-flow or inoperable fire hydrants, and having the history of destruction and death of DC residents living on surrounding properties.

The Board simply did not investigate the verbal assertions made by City officials. The Board did not fully examine the many possible hybrid-scenarios of alternative expansion plans which better

protect neighbors light, air, and quiet as well limits overcrowding to provide a safer distance from surrounding properties pursuant to the public welfare purpose and intent of the Zoning Regulations. None of the meaningful analysis required to properly judge this case are in the Board's determinations found in this Decision and Order.

Further, the applicant has not met their burden of proof to show why they need to squeeze an "6,000 square feet" addition onto the historic Mount Pleasant library filling the entire rear yard of a property that the Office of Planning describes as "unusually small for its intended purpose" and that the Board notes is "relatively small for its present and intended future use as a public library" (Decision and Order, page 8 paragraphs 2).

The Board has not not fully examined any real evidence as to why the Mount Pleasant library, measured at "18,000 square feet of gross floor area," needs to be expanded to "21,900 square feet" and not to a more modest 20,000 square feet called for by the applicant's "Building Program"¹ or perhaps even a more limited expansion. Indeed, the Findings of Facts show that the applicant does not impose their self-mandated "building program" on all libraries in a uniform way and thus it would seem there is leeway for particular local circumstances.

For example, the Decision and Order says the applicant's building program incorporates "certain standards that DCPL... *attempts* to achieve in all neighborhood libraries"² and that, "DCPL has implemented the programs in its existing historic library buildings to *the extent possible*, sometimes through additions to the [existing] buildings."³ Sometimes DCPL has decided not to attempt imposing a 20,000 - 22,000 square foot building size as part of branch library renovation plans at all!⁴

The incorrect facts and the applicant's unsupported assertions demonstrate that the Board has not held a full evidentiary hearing to be able to forthrightly judge the merits of equities for each party, and thus the Board was not able to adequately balance public welfare and safety versus the applicants assertion that they must build an addition to the largest size possible, in their one desired configuration, onto a notably small lot requiring an unusual 100% rear yard request for relief.⁵

Given the sad history of fires in this residential corridor surrounding the library property, it is clear the Board should reconsider all of the important facts so far left out of the deliberations and provide a full review of key evidence in this case so to determine if the applicants request for a

1 DCPL Building Program – <http://dclibrary.org/node/616>

2 BZA Decision and Order dated April 4, 2012 – Page 6 Paragraph 1

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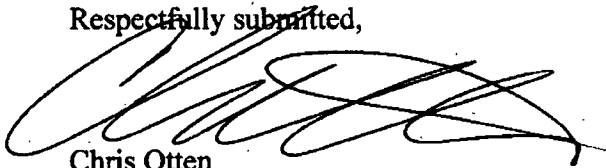
4 There are other libraries recently renovated, like the Takoma Branch, which also sit on small properties effectively making its expansion unusual and potentially dangerous. The historic Takoma Branch renovation plan did not include an addition and hence was not subject to what the applicant is referring to in this case as "programmatic requirements" which serve as an "institutional necessity" to expand the historic Mount Pleasant library at any cost to the public welfare. (Decision & Order, Page 8 paragraph 3).

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variance to build an expansion encompassing the entire rear yard of the subject property is a detriment to the public good and impairs the intent, purpose, and integrity of the zone plans and DC's Zoning Regulations.

The party below attempted to represent many of the directly impacted residents surrounding the library property, including the ANC Commissioner who represents the Single Member District where the library sits. This people were denied representation at this hearing but clearly they have standing and merit a reconsideration of this matter. Unfortunately, one cannot see these documents on the BZA website as there is nothing in the online docket, effective removing the public's ability to review the record.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Chris Otten', written over the typed name.

Chris Otten
1830 Belmont Rd NW
Washington, DC 20009



The Interactive Zoning Information System



DCOZ CASE REPORT

CASE INFORMATION

Applicant/Case Name : District of Columbia Public Library

Property Address : -

Case Number : 18240

Case Status : Active

Action Taken :

Hearing Date :

Case Description : Application of District of Columbia Public Library, pursuant to 11 DCMR § 3103.2, for a variance from the rear yard requirements under section 404, to allow an addition to the existing Mount Pleasant library in the R-5-D District at premises 3160 16th Street, N.W. (Square 2595, Lot 830).

CASE DOCUMENTS

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PROPERTY INFORMATION

*Attachment
* empty docket
Online BZA website
→ Case No 18240*

DC's Board of Zoning Adjustment
441 4th Street NW
Washington, DC 20001
BZA Application No.18240

CERTIFICATE OF SERVICE

I hereby certify and attest that on 4/17/12 a copy of this motion to reconsider was faxed to the Board of Zoning Adjustment and then mailed first class or by electronic mail to each party below.

Kinley R. Bray, Esq.
Arent Fox LLP
1050 Connecticut Avenue, N.W.
Washington, D.C. 20036

Single Member District Commissioner 1D06
Advisory Neighborhood Commission 1D
1845 Harvard Street, N.W., #606
Washington, D.C. 20009

Melinda Bolling, Esquire
General Counsel
Office of General Counsel
Dept. of Consumer and Regulatory Affairs
1100 4th Street, S.W., 5th Floor
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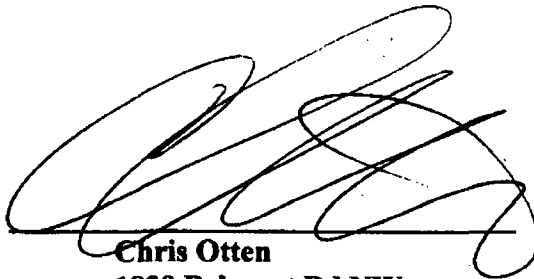
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Jeff Bonvechio
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901 G Street, N.W.
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Chairperson
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1380 Monroe Street, N.W., #117
Washington, D.C. 20010

Jim Graham, Councilmember
Ward One
1350 Pennsylvania Avenue, N.W., Suite 105
Washington, D.C. 20004

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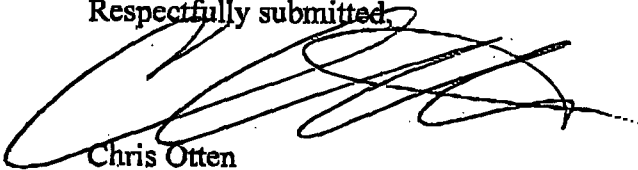
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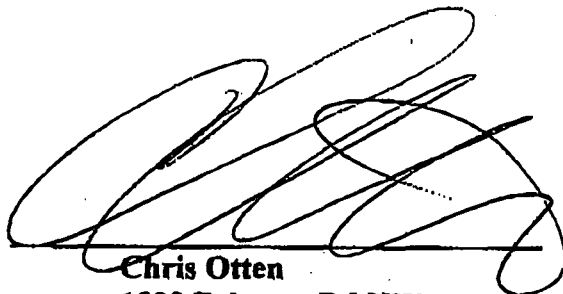
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