

Sergei Mikhailov
Sara Bakker
5225 Connecticut Ave NW #716
Washington, DC 20015

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2012 OCT 10 PM 2:19

October 4, 2012

RE: Variance from off-street parking requirement.

The letter provides an explanation why the application meets the burden of proof necessary to obtain an area variance regarding the off-street parking requirement.

1) Lot 23 (A&T lot 872) in square 523 is landlocked. There is no alley or street access to the lot from the rear or either of the sides. The only potential access to the lot is from the front, which is facing 4th St NW. There is currently no curb cut and obtaining a curb cut will not be allowed since the lot is located in Mount Vernon Square Historic District. Due to these facts it is not possible for the applicants to provide off-street parking.

2) Obtaining the variance will not be detrimental to the public good and is not inconsistent with the general intent and purpose of the Zoning Regulations and Map. This application for variance is necessitated by the fact that the City and two of its departments – Transportation and Office of Planning – have decided that curb cuts in historic areas will not be allowed even if a curb cut will provide more than one off-street parking space. In such a decision it must be presumed that whatever detriment, if any, is caused by the lack of a parking space it is not greater than the public good of preserving the historic nature of the Mount Vernon Square.

3) The BZA has already approved two applications that are identical to this one – both were for a variance for off-street parking requirement for construction of flats on the same block, same side of the street, just a few houses south of this lot. These applications are 18067 and 18068. Their Summary Orders are attached as evidence with this application.

For the above reasons and due to the established precedent we believe that this application meets the burden of proof to obtain a variance from the off-street parking requirement.

Respectfully,

Sergei Mikhailov

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18483
EXHIBIT NO. 5

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GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18067 of Marzieh Ostadhosseini, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under § 2101.1, to allow the construction of a flat (two-family dwelling) in the R-4 District, at premises 1211 4th Street, N.W. (Square 523, Lot 866).

HEARING DATE: June 8, 2010
DECISION DATE: June 8, 2010

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief.

The Board provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, and by mail to Advisory Neighborhood Commission ("ANC") 6C and to owners of property within 200 feet of the site. At the hearing, as a preliminary matter, the Board waived the 15-day posting requirement as well as the requirement that the applicant file the affidavit of posting five days prior to the hearing.

The site of this application is located within the jurisdiction of ANC 6C, which is automatically a party to this application. ANC 6C submitted a report in support of the application. The Office of Planning ("OP") also submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to § 3103.2, for a variance from § 2101.1. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking a variance from § 2101.1, the applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical

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BZA APPLICATION NO. 18067

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difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application, pursuant to Exhibit No. 6 (Plans), is hereby **GRANTED**.

VOTE: **3-0-2** (Meridith H. Moldenhauer, Nicole C. Sorg and Shane L. Dettman to Approve; No other Board or Zoning Commission members participating)

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

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

ATTESTED BY: 
JAMISON L. WEINBAUM
Director, Office of Zoning

FINAL DATE OF ORDER: JUN 15 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.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

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IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE §§ 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

TWR

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



BZA APPLICATION NO. 18067

As Director of the Office of Zoning, I hereby certify and attest that on JUN 15 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:

Marzieh Ostadhosseini
6201 Goldsboro Road
Bethesda, Maryland 20817

Abbas Fathi
16703 Cyrus Street
Gaithersburg, Maryland 20177

Chairperson
Advisory Neighborhood Commission 2C
P.O. Box 26182
Washington, D.C. 20001

Single Member District Commissioner 2C04
Advisory Neighborhood Commission 2C
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Washington, D.C. 20001

Jack Evans, Councilmember
Ward 2
1350 Pennsylvania Avenue, N.W., Suite 106
Washington, D.C. 20004

Melinda Bolling, Esquire
Acting General Counsel
Department of Consumer and Regulatory Affairs
1100 4th Street, S.W., 5th Floor
Washington, D.C. 20024

ATTESTED BY:


JAMISON L. WEINBAUM
Director, Office of Zoning

TWR

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Board of Zoning Adjustment



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Application No. 18068 of Abbas Fathi, pursuant to 11 DCMR § 3103.2, for a variance from the off-street parking requirements under subsection 2101.1, to allow the construction of a flat (two-family dwelling) in the R-4 District, at premises 1213 4th Street, N.W. (Square 523, Lot 865).

HEARING DATE: June 8, 2010

DECISION DATE: June 8, 2010

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR

The application was accompanied by a memorandum from the Zoning Administrator certifying the required relief.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 6C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 6C, which is automatically a party to this application. ANC 6C did not submit a report related to the application. The Office of Planning submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to § 3103.2, for a variance from § 2101.1. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP report filed in this case, the Board concludes that in seeking a variance from § 2101.1, the applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an

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exceptional or extraordinary situation or condition related to the property that creates an undue hardship for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application is hereby **GRANTED**.

VOTE: **3-0-2** (Meridith H. Moldenhauer, Nicole C. Sorg and Shane L. Dettman and to Approve; No other Board or Zoning Commission members participating)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A Majority of the Board members approved the issuance of this order.

ATTESTED BY: 
JAMISON L. WEINBAUM
Director, Office of Zoning

FINAL DATE OF ORDER: JUN 09 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.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE §§ 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION,

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GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment**



BZA APPLICATION NO. 18068

JUN 09 2010

As Director of the Office of Zoning, I hereby certify and attest that on _____ 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 and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

Abbas Fathi
16703 Cyrus Street
Gaithersburg, Maryland 20877

Melinda Bolling, Esq.
Acting General Counsel
DCRA
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Chairperson
Advisory Neighborhood Commission 6C
P.O. Box 77876
Washington, DC 20013

Single Member District Commissioner 6C02
Advisory Neighborhood Commission 6C
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Washington, DC 20013

Tommy Wells, Councilmember
Ward Six
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004

ATTESTED BY:


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Director, Office of Zoning

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