

Moy, Clifford (DCOZ)

From: Toks Ladejobi <toksJordan@msn.com>
Sent: Tuesday, April 02, 2013 8:29 AM
To: DCOZ - BZA Submissions (DCOZ)
Subject: FW: Case 18511
Attachments: Case 18511 - Opposition Files.pdf

Follow Up Flag: Follow up
Flag Status: Flagged

RECEIVED
D.C. OFFICE OF ZONING
2013 APR -2 AM 8:57

Board Members,

Attached see files that outline opposition to the proposed development. If appropriate, please keep the file open. The opposition has not had sufficient time to review the materials provided by the applicant; thus, the opposition would like to provide revised and additional information in the near future. I will bring copies of the attached files to the hearing today.

From: toksJordan@msn.com
To: bzasubmissions@dc.gov
Subject: Case 18511
Date: Mon, 1 Apr 2013 14:10:30 +0000

Board Members,

My name is Adetokunbo "Toks" Ladejobi, and I am an opponent to the development referenced in case 18511. I have collected 16 signatures from impacted residents in regards to this matter.

The original hearing for this case occurred on March 5. At that time, the Board instructed/allowed the developer to return to appear at the Board on April 2. As instructed, the developer forwarded to me new information about the proposed development. I received this information on March 26. The amount of new information is such that I have not been able to review and properly consider the information in three business days given that I traveled this week for the Easter Holiday. In addition, the developer has contracted counsel since the initial hearing after initially appearing "pro se". I would like sufficient time to work with an attorney on my behalf.

BOARD OF ZONING ADJUSTMENT
District of Columbia Board of Zoning Adjustment
CASE NO. 18511
EXHIBIT NO. 36
District of Columbia
CASE NO. 18511
EXHIBIT NO. 36

I request a postponement of the hearing scheduled for tomorrow, so that I may work with counsel to prepare written information for your review. I will appear at the hearing tomorrow prepared to verbally challenge the financial feasibility studies prepared by the developer and oppose the developer's opinion that the development will not negatively impact the quality of life of the nearby residents. I would like to prepare written information for your review, so that my opposition is organized for your timely review and counsel's input is included. As mentioned, I will appear at the hearing tomorrow in any event.

Toks E. Ladejobi
804-267-9427

GOVERNMENT OF THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT
441 4TH STREET N.W., WASHINGTON, DC 20001

In the Matter of:

Application of Alleyoop, LLC

Regarding 1018 (Rear) Irving Street NW

Square 2851 Lot 837

BZA No. 18511

STATEMENT IN OPPOSITION
TO THE APPLICATION OF ALLEYOOP, LLC

Introduction

My name is Veronica A. Ladejobi, I reside at 3029 11th Street, NW, and the rear of my home faces the alley property at 1018 (Rear) Irving Street NW. I am also the wife of Adetokunbo Ladejobi. I am submitting this statement in opposition to the Applicant's request for variance relief pursuant to 11 DCMR §3103.2, from the alley lot requirements (§2507), the use requirements (§330), and the nonconforming structure requirements (§2001) to allow the Applicant to convert the existing structure to a mixed-use office/residential building in the R-4 District.

I oppose the Applicant's request for the following reasons:

- The development is not consistent with the R-4 zone district and the intent, purpose and integrity of the Zoning Regulations and Map.
- The "self-created hardship" rule precludes the grant of the use variance.
- Relief cannot be granted without substantial detriment to the public good.

Development is not consistent with the R-4 zone district and the intent, purpose and integrity of the Zoning Regulations and Map because:

- The primary purpose of the R-4 zone district is the stabilization of remaining single-family dwellings. *See 11 DCMR § 330.2.* To this end, the R-4 district is not to be an apartment house district. *See 11 DCMR § 330.3.*
- Under the zoning regulations, multi-family use on an alley lot is not permitted in any zone, thereby evidencing the importance of this restriction.
- The height of alley buildings is limited by the width of the alley in all zones, thereby evidencing the importance of this restriction. The proposed height is more than triple the height permitted for the subject alley lot.
- Per the OP, the Applicant's proposal requires a substantial amount of zoning relief to accommodate the five residential units.

The "self-created hardship" rule applies in this instance because:

- The Applicant should have taken certain obvious factors into considerations when negotiating the purchase price of \$556,093 (Note: This price includes the cost of another nearby alley lot although the Applicant does not make that clear in its submission). The Applicant states that as a result of the substantial financial investment required to address the deterioration of the structure and environmental remediation of the site, the permitted uses and other alternative uses are not financially viable options, however, given the prolonged use of the property as an automotive repair shop (since 1928), and given the fact that a visual inspection of the building reveals the extensive deterioration of the structure, the Applicant cannot be surprised that a substantial investment would be needed to address environmental issues and to rehabilitate the existing structure. Furthermore, with respect to rehabilitation costs, the Applicant has not presented evidence/cost analysis showing that razing the existing structuring and building anew would be more expensive.
- In my opinion, any hardship on the Applicant does not arise from the strict application of the zoning regulations to the subject property but is self-created.
- According to the Applicant, reducing the height of the project to two stories, by removing the top floor from the proposed structure, is also not financially feasible, and the three stories are needed to produce a profit. This alleged result, however, appears to be due to market forces rather than any condition of the subject property.

Relief cannot be granted without substantial detriment to the public good which includes:

- Increasing noise due to outdoor patois and increased traffic
 - Increasing density beyond that which would allow comfortable living
 - Loss of light, air and views (the set-backs are not enough)
 - Greatly diminishing the already limited number of parking spaces available to the neighborhood due to the increased demand caused by multiple-vehicle homes and guest parking
 - Hindering adjacent property owners' access to the rear of their properties for parking, loading/unloading, improvement to their properties, etc.
 - Adversely affecting the quality of life enjoyed by the adjacent property owners with respect to privacy, quiet, views, and open space
 - Likely preventing the provision of public works and emergency services to the residents through the narrow alley (no Fire and Emergency testimony or report was submitted)
 - Adversely affecting neighboring properties through increased noise, loss of views and privacy, and the loss of light and air
 - Incompatibility with the character of the majority of the surrounding homes
 - Resulting negative impact of vibrations, noise, and obstruction of alley during construction
-

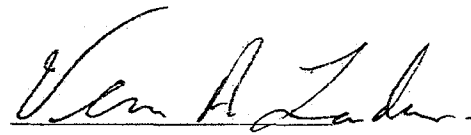
- Adversely affecting traffic circulation and presenting further obstacles for the trash trucks which already have difficulty negotiating the alleys (the existing auto-shop had little traffic).
- The contemplated office tenant is not binding on the Applicant and a future tenant could potentially have a significant negative impact on traffic, noise and parking

One suggestion is that the Applicant considers other options, including the sale to the District of Columbia Government for community gardens or a park.

Conclusion

In summary, the Applicant has failed to meet it's burden of proof with respect to the zoning relief requested.

Respectfully Submitted,



Veronica A. Ladejobi

SUPPLEMENTAL INFORMATION - FINANCIAL ANALYSIS

The applicant has prepared financial analyses for uses that adhere to current zoning regulations. The applicant states that these uses are not feasible. This supplemental information challenges the financial analyses.

1. The financial analyses assume a 20% equity downpayment, implying that the project will be financed with 80% debt. Per conversations with a member of Cassidy Turley's debt placement team, debt providers will not provide debt proceeds at 80% of construction budget. It is more realistic and more prudent for the developer that debt proceeds of approximately 50% - 60% be obtained. The decrease in debt proceeds will decrease the monthly debt service, thereby increasing the monthly profitability for projects that meet current zoning regulations.
2. The applicant may obtain a loan term of 30 years, rather than 25 years as presented by the applicant. The increase in the loan term will decrease the monthly mortgage payment, thereby increasing the monthly cash flow. Agency debt offered by HUD and other providers offer terms of 40 years, further decreasing the applicant's monthly debt service and increasing monthly profitability for projects that meet current zoning regulations.
3. The applicant may contract a management company at 3.5%, thereby increasing monthly profitability for projects that meet current zoning regulations.
4. The applicant assumes a vacancy rate of 7.0%. Given the strong historical performance of the Washington, DC office market, a 5.0% vacancy rate may be used.
5. The aforementioned comments call into question the remainder of the applicants assumptions, including 1) leasable square feet, 2) lease rates, 3) interest rates, 4) the absence of loan terms which are interest only, 5) expense assumptions, and 6) the development budget. The opposition has not had an opportunity to research these assumptions in order to challenge the assumptions given that only three business days have elapsed since receipt of the applicant's supplemental information and the hearing date. However, it is probable that these other assumptions can be improved to produce profitable projects that meet current zoning regulations.
6. The acquisition price included in the applicants financial analyses include two lots, not only 1018 Irving Street Rear. The acquisition price also includes an alley one block to the north. Thus, the acquisition price must be reduced to accurately reflect only the property located at 1018 Irving Street Rear. The reduction in acquisition price will increase the profitability of projects that adhere to the current zoning regulations.

Please see analyses below which challenges the applicants "Automotive Repair Shop Use Analysis". These same analyses can be applied to all projects which meet current zoning regulations. 1) It should also be noted that the applicant may finance with 100% equity projects that meet current zoning regulations. All projects that meet zoning regulations would then be cash flow positive on a monthly basis. While debt is typically used in development activities, debt is not a requirement for development and serves to increase the risk inherent in a project. I

propose that the applicant revisit its assumptions and consider a larger equity commitment in order to complete a cash flow positive property that meets current zoning regulations. 2) It should be noted that at an appropriate property acquisition cost, all projects that meet zoning regulations would be profitable. In this case I propose that a third party acquire the property at a cost basis that allows for substantial profitability while adhering to current zoning regulations.

Analysis 1 (assumes acquisition price paid by applicant)

Total Investment	\$967,000
Equity Downpayment	50%
Leasable Square Feet	4,000
Leasing Rate	\$15.00
Interest Rate	4.50%
Payments per year	12 months
Loan Term	30 years

Cash Flow Analysis

Mortgage Payment	(\$2,450)
Property Taxes	(685)
Property Insurance	(333)
General Landlord Repairs	(167)
Total Monthly Expenses	(\$3,635)

Rental Income	\$5,000
Net Monthly Profit	\$1,365

Management Fee	3.5%	(\$175.0)
Vacancy Rate	5.0%	(\$250.0)
Net Income		\$940

Analysis 2 (assumes acquisition price paid is reduced by \$250,000)

Total Investment	\$567,000
Equity Downpayment	50%
Leasable Square Feet	4,000
Leasing Rate	\$15.00
Interest Rate	4.50%
Payments per year	12 months
Loan Term	30 years

Cash Flow Analysis

Mortgage Payment	(\$1,436)
Property Taxes	(685)
Property Insurance	(333)
General Landlord Repairs	(167)
Total Monthly Expenses	(\$2,621)

Rental Income	\$5,000
Net Monthly Profit	\$2,379

Management Fee	3.5%	(\$175.0)
Vacancy Rate	5.0%	(\$250.0)
Net Income		\$1,954

SUPPLEMENTAL INFORMATION – OTHER MATTERS

1. In Section IV of its Supplemental Submission, the applicant states that the Board is authorized to grant a variance where it finds that three conditions exist. The first condition is listed below. The applicant details the lot size, shape, and topography. While these facts may or may not be true, the applicant does not present evidence that these facts impede the property from being developed in accordance with current zoning regulations if and when the property is acquired at an appropriate acquisition price.

“The property is affected by exceptional narrowness, shallowness, or shape or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition”

2. In Section IV of its Supplemental Submission, the applicant states that the Board is authorized to grant a variance where it finds that three conditions exist. The second condition is listed below. The applicant addresses the development costs which cause undue hardship. The condition of the property is apparent upon eyesight. The condition of the property was known as acquisition; therefore, the hardship is self-imposed.

“The owner of the property would encounter peculiar and exceptional practical difficulties or exceptional and undue hardship if the zoning regulations were strictly applied”

3. In Section IV of its Supplemental Submission, the applicant states that the Board is authorized to grant a variance where it finds that three conditions exist. The third condition is listed below. The applicant states that zoning relief will permit renovation of a dilapidated automotive repair shop. The applicant also states that zoning relief would “prevent usable land from remaining idle”. This ignores the fact that future developers may develop the site in accordance with zoning regulations if the current developer chooses not to do such.

“The variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map”

4. In support of an apartment use, the applicant states that apartment use may be permitted by special exception if approved by the Board subject to provisions 2003.2 – 2003.4. The applicant states that it complies with Section 2003.2. This is inaccurate because the development does impact the present character of the surrounding area. At present and when operated as an automotive shop, the property aided in the quiet and serenity which neighbors could enjoy in their backyards. The automotive shop did not create the noise, traffic, and view impediment that the proposed project will create.

5. In support of an apartment use, the applicant states that apartment use may be permitted by special exception if approved by the Board subject to provisions 2003.2 – 2003.4. The

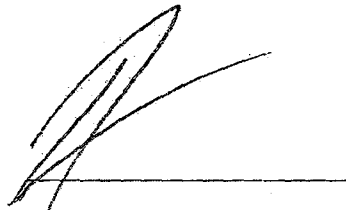
applicant states that "relative to an automotive repair shop, the number of cars, traffic concerns, and amount of noise and odor will greatly decrease". This is inaccurate. At present and when operated as an automotive shop, the property facilitated the quiet and serenity which neighbors could enjoy in their backyards. The automotive shop did not create noise the noise, traffic, and view impediment that the proposed project will cause. In fact, the traffic was very little and facilitated very well by the owner. The proposed project will have ten bedrooms plus office space. The traffic caused by this development will exceed that of the automotive shop which did not cause traffic throughout the entire day as residences will.

6. See pages 10 and 11 of the Supplemental Submission. The applicant states that a single-family home and/or multiple single-family homes do not allow the applicant to recoup costs of renovation. The applicant does not provide an analysis to support this assertion, thus this fact does not have merit.
 7. The applicant references BZA Case No. 16815, stating that the Board granted relief from 2507, 403, 2001.3, and 2101 to allow the conversion of a two-story warehouse to a four-story mixed-use structure. This is not an appropriate comparable. It should be noted that the character of the surrounding area in this case is very different from the proposed development. The proposed development is in an area in which there is a high concentration of row-houses while the property in case 16815 is located in a block in which row houses are very few.
 8. The applicant references a Line of Sight Diagram, stating that the structure will not be visible from any of the surrounding public streets. This ignores the real issue with line of sight. The line of sight from the rear of the homes of residences that live on 11th Street NW will be severely impaired and completely eliminated in some cases as a result of the proposed development. The stacking plan proposed by the applicant does nothing to alleviate this, as the height of the proposed development impedes the line of sight. At present, residences are able to see as far to the west as Howard University, Georgia Avenue, and numerous other DC landmarks.
 9. The applicant states "the additional residential units help address the well-documented shortage of housing in the Washington, DC area". This is an incomplete assessment of the Washington, DC housing market. Due to an overabundance of multi-family development, Delta Associates forecasts that the vacancy rate for Class A apartments in Washington, DC will increase due to a pipeline that includes approximately 10,000 Class A units and an absorption rate that is forecasted at approximately 5,000 units per year.
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10. In response to the neighbor that owns the property that abuts the southwest entry/exit to the alley, the applicant states that "automobile traffic and noise will be significantly reduced by the change in the use of the existing structure". This is inaccurate for multiple reasons. 1) As an automotive repair shop, the majority of traffic entered from the northside of the alley lot. The proposed development contemplates entry/exit from the southwest corner of the alley lot. This is an entirely new source of traffic on this end of the alley lot where the alley narrows to 15 feet and where the referenced neighbor lives. 2) The applicant ignores the fact that the property is not currently an automotive repair shop; thus, this comparison is completely inaccurate. 3) The office tenant of the proposed development can be of any sort. Thus, traffic may become an extremely burdensome issue in the future.

It should be noted that the home of the aforementioned neighbor has been and remains damaged due to the impact of cars that hit the home as drivers navigate a very small alley of 15 feet

Respectfully Submitted,

A handwritten signature in black ink, consisting of a large, stylized 'A' followed by a horizontal line and a diagonal stroke extending upwards and to the right.

Adetokunbo O. E. Ladejobi

OBJECTION TO ZONING ADJUSTMENT IN CASE NUMBER 18511

From: Adetokunbo Ladejobi

3029 11th Street NW

Washington, DC 20001

To: Board of Zoning Adjustment of District of Columbia

441 4th Street, NW

Suite 200/201-S

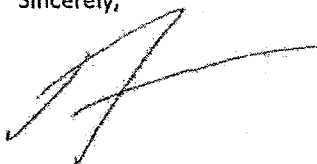
Washington, DC 20001

Board of Zoning Adjustment:

My name is Adetokunbo Ladejobi, and I live at the address listed above. This note is in reference to case number 18511. Attached please find the Form-140 and an opposition statement executed by 16 residents in the impacted area. We are confident that there are numerous additional residents that are also opposed to any change in zoning that will allow for any construction that exceeds the existing one-story building. Please consider our position outlined on Form -140. The proposed development will increase noise, traffic, and congestion in an alley that narrows to 15 feet. In addition, a development that exceeds the existing one-story building will obstruct views by adding a multi-floor building across a narrow alley. Finally, you will note that homes in the southern portion of the alley have been damaged by the little traffic that is currently prevalent in the alley. We appreciate your attention to this matter.

I do not plan to call witnesses at this time, and I do not believe that I will require more than seven minutes to present my opposition to the planned development.

Sincerely,



Adetokunbo "Toks" Ladejobi



BEFORE THE ZONING COMMISSION OR
BOARD OF ZONING ADJUSTMENT OF THE DISTRICT OF COLUMBIA



FORM 140 - PARTY STATUS REQUEST

Before completing this form, please review the instructions on the reverse side.
Print or type all information unless otherwise indicated. All information must be completely filled out.

PLEASE NOTE: YOU ARE NOT REQUIRED TO COMPLETE THIS FORM IF YOU SIMPLY WISH TO TESTIFY AT THE HEARING. COMPLETE THIS FORM ONLY IF YOU WISH TO BE A PARTY IN THIS CASE.
(Please see reverse side for more information about this distinction.)

Pursuant to 11 DCMR §§ 3022.3 or 3106.2, a request is hereby made, the details of which are as follows:

Name:	Adebunbo Ladejebi (Toks)		
Address:	3029 11th Street NW, Washington, DC 20001		
Phone No(s):	804-267-9427	E Mail:	tokajordan@msn.com
I hereby request to appear and participate as a party in Case No.:		18511 on 3/5/13	
Signature:			Date: 2/19/13
Will you appear as a(n):	☐ Proponent	☒ Opponent	Will you appear through legal counsel? ☐ Yes ☒ No
If yes, please enter the name and address of such legal counsel.			
Name:	—		
Address:	—		
Phone No(s):	—	E Mail:	—

PARTY WITNESS INFORMATION:

On a separate piece of paper, please provide the following witness information:

1. A list of witnesses who will testify on the party's behalf;
2. A summary of the testimony of each witness (Zoning Commission only);
3. An indication of which witnesses will be offered as expert witnesses, the areas of expertise in which any experts will be offered, and the resumes or qualifications of the proposed experts (Zoning Commission only); and
4. The total amount of time being requested to present your case (Zoning Commission only).

PARTY STATUS CRITERIA:

Please answer all of the following questions referencing why the above entity should be granted party status:

1. How will the property owned or occupied by such person, or in which the person has an interest be affected by the action requested of the Commission/Board? *increased noise, increased traffic, increased congestion. Damage to homes in ally entrances. Obstruction of views.*
2. What legal interest does the person have in the property? (i.e. owner, tenant, trustee, or mortgagee) *None*
3. What is the distance between the person's property and the property that is the subject of the application before the Commission/Board? (Preferably no farther than 200 ft.) *50-60 feet*
4. What are the environmental, economic, or social impacts that are likely to affect the person and/or the person's property if the action requested of the Commission/Board is approved or denied? *decreased quality of life as a result of issues outlined in #1.*
5. Describe any other relevant matters that demonstrate how the person will likely be affected or aggrieved if the action requested of the Commission/Board is approved or denied.
6. Explain how the person's interest will be more significantly, distinctively, or uniquely affected in character or kind by the proposed zoning action than that of other persons in the general public. *My home is within 50-60 feet of subject property*

Except for the applicant, appellant or the ANC, to participate as a party in a proceeding before the Commission/Board, any affected person shall file with the Zoning Commission or Board of Zoning Adjustment, this Form 140 not less than fourteen (14) days prior to the date set for the hearing.

10. Maria Parnell

3014 Hennepin

11. Angela

3017 11th St NW

12. Elizabeth Berg

3031 11th St NW

13. Johanna Ebiach-Moks

3031 11th St NW

14. Travis Briggs

3023 11th St NW

15. Vernice Ladejob

3029 11th St NW

16. Holly Trogdon

3023 11th St NW

17. _____

18. _____

19. _____

20. _____

21. _____

22. _____

Opposition to Construction at Premises Rear 1018 Irving Street, NW

The following residents are opposed to the planned construction at Rear 1018 Irving Street, NW. Each of the individuals that have signed below lives in the square block that includes Columbia Road NW, 11th Street NW, Irving Street NW, and Sherman Avenue NW. The residents are opposed to construction that exceeds one story.

NAME

ADDRESS

1. Adedokunbo Ladejebi 3029 11th St NW
2. Elizabeth Weber 3021 11th St NW
3. Ilya Munosov 3021 11th St NW
4. Muse/Kel 3027 11th St NW
5. J. Ellwanger 1023 Columbia Rd NW
opposed to night and parking traffic
6. Kyle Feplink 1023 Columbia Rd NW
only opposed to proposed parking
7. Judith Cermeno 1021 Columbia Rd NW
high traffic is a concern I would like to address with the without construction.
8. Bruno Aguiar 1021 Columbia Rd NW
9. Oliver Lastru 911 Cal NW