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Time Waiver in Case Number 18511

Date: May 15, 2013

From: Adetokunbo Ladejobi
3029 11th Street, NW
Washington, DC 20001

To: Board of Zoning Adjustment
441 4th Street N W
Washington, DC 20001

Board of Zoning Adjustment

I request a time waiver in regards to my filing as an Opponent in BZA Case Number 18511. The reason for this request is the following. The applicant filed its amended and restated plan on May 7th. In addition to the demands of our daily professional occupations, my wife and I organized and traveled to attend a Memorial Event for a deceased friend the week of May 7th. We will submit our filing on May 15th, only one day after the deadline. I appreciate your consideration.

Respectfully,



Toks Exum Ladejobi

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18511

EXHIBIT NO. 47

Board of Zoning Adjustment
District of Columbia
CASE NO.18511
EXHIBIT NO.47

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

FORM 150 – MOTION / 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.

CASE NO.:

18511

Motion/Request of:

☐ Applicant

☐ Petitioner

☐ Appellant

☐ Party

☐ Intervenor

☒ Other Opponent

Motion/Request to

☐ Amend the Relief Sought

☐ Waive Posting / Affidavit of Posting Requirement

☐ Waive Notice Requirement to Shorten Period of Time Case is
Advertised in the *DC Register*

☐ Accept a Proffered Expert Witness

☐ Allow Non-Authorized Representative to Perform Cross-
Examination

☐ Reopen the Record

☐ Reopen a Hearing (before decision)

☐ Dismiss on the Merits

☐ Postpone

☐ Continue

☐ Correct a Transcript

☒ Waive the following Time Deadline (i.e. 14-day filing deadline)

May 14th Filing Deadline

☐ Other _____

Points and Authorities

On a separate sheet of 8 1/2" x 11" paper, state each and every reason why the Zoning Commission (ZC) or Board of Zoning Adjustment (BZA) should grant your motion or request, including relevant references to the Zoning Regulations or Map.

CERTIFICATE OF SERVICE

I hereby certify that on this

15

day of

May

,

20

13

I served a copy of the foregoing Motion or Request to each Applicant, Petitioner, Appellant, Party, and/or Intervenor, and the Office of

Planning in the above-referenced ZC or BZA case via:

☐ Mailed letter

☐ Hand delivery

☒ E-Mail

☐ Other _____

Signature.

[Signature]

Print Name.

Adetokunbo Ladejobi

Firm/Organization.

NA

Address

3029 11th St NW, Washington, DC 20001

Phone No.

804-267-9427

E-Mail

tolajordan@msn.com

To be notified of hearing and decision: (Maker of Motion/Request or Authorized Agent)

In the event an authorized agent files a Motion or Request on behalf of the Maker of the Motion or Request, a letter signed by the Maker of the Motion or Request authorizing the agent to act on his/her behalf shall accompany the notice of application, petition, or appeal.

Print Name

Adetokunbo Ladejobi

Address

3029 11th St NW, Washington, DC 20001

Phone No

804-267-9427

E-Mail

tolajordan@msn.com

Concerns in Case Number 18511

Date May 14, 2013

From Adetokunbo Ladejobi
3029 11th Street, NW
Washington, DC 20001

To Board of Zoning Adjustment
441 4th Street N W
Washington, DC 20001

Board Members

In addition to this cover letter, enclosed find the Amended and Restated Findings of Facts and Conclusions of Law. I do not oppose rehabilitation of the existing structure referenced in case 18511, as I would like our city to prosper. In fact, I considered supporting the amended plan. However, my opposition continues partially as a result of the increase in height that is outlined in my second concern. This letter is to express two concerns in regards to case 18511.

First Concern

The Applicant has been afforded numerous opportunities by the Board in regards to the proposed development

- 1 At the March 5th Hearing, the Board instructed the Applicant to revisit its proposed development and request for relief, as the applicant as of March 5th did not address a hardship and other matters in its original application. The Board granted the Applicant a second hearing for April 2nd
- 2 The applicant appeared before the board on April 2nd, and the Board's decision was scheduled for April 30th. On April 30th, the Applicant interrupted the proceedings just before the Board was set to vote. The Applicant requested permission to amend its plan. The Board granted the Applicant the ability to amend its plan, and the amended plan was submitted on May 14th
3. On May 14th, the Applicant submitted its third proposal to the Board.

I respect and understand that the Board has the discretion to permit these amendments; however, I am concerned that I was not permitted to speak at the April 30th "Decision Day" and the Applicant was permitted to speak. In addition, I am concerned that the Applicant has now had three occasions to amend its plan. This is especially concerning when the Board instructed the Applicant as early as March 5th to work with neighbors and instructed the applicant on April 2nd to work with the Office of Planning. The applicant chose not to consider the input from neighbors and chose not to work with the Office of

Planning until the Board was within seconds of possibly rejecting the Applicant's request for relief on April 30th

Second Concern

In its review of the amended and restated plan, OP recommends the approval of the amended and restated development; however, OP does not accurately assess the impact of the height of the amended development on the surrounding community. In its report, OP states, "At 19 5 feet, compared to the existing 18 5 feet, the height difference would be essentially imperceptible." It is the word, "imperceptible" which reveals that the OP Report is considering the impact of the proposed development from the building's exterior. This being the case, the OP Report misses an important fact that is not addressed in the text of the amended and restated plan the proposed development as viewed/perceived from its exterior is 26 feet once the expanded roof and parapet are considered. In addition, the existing structure ranges in height, and is approximately 15 feet at its lowest point as viewed from its exterior. Thus, the difference in perceived height would be very perceptible at 11 square feet, rather than "imperceptible" at 1 foot. I respect the OP's input, however, I believe that OP missed information which is not communicated in the text of the Applicant's amended plan.

I appreciate your consideration in this matter.

Respectfully,

A handwritten signature in black ink, appearing to read 'Toks Exum Ladejobi', with a stylized, sweeping flourish extending from the end of the name.

Toks Exum Ladejobi

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

In the Matter of:

Amended and Restated Application of Alleyoop, LLC
Regarding 1018 (Rear) Irving Street NW
Square 2851 Lot 837

BZA No. 18511

(PROPOSED) FINDINGS OF FACT AND CONCLUSIONS OF LAW

Background

The amended and restated application of Alleyoop, LLC (the “Applicant”) pursuant to 11 DCRM § 3103.2 is for a variance from the use provisions related to office use under subsection § 330.4, a variance from the nonconforming structure provisions under subsection § 2001.3, a variance from the building on an alley lot provisions under section § 2507, relief from the lot area and width requirements under section § 401, relief from the rear yard requirements under section § 404, and relief from the side yard requirements under section § 404.1 The amended and restated application contemplates subdividing the existing lot into three smaller lots, with one lot serving as an office, and two lots serving as artist studios, in the R-4 District at the premises 1018 (Rear) Irving Street, N.W. (the “Property”).

The initial application was scheduled for a public hearing on March 5, 2013. The March 5th public hearing was continued to April 2, 2013 so the Applicant could provide supplemental evidence to support its undue hardship claim. At the April 2nd hearing the Board scheduled its final decision for April 30th. At the April 30th hearing, the Board approved the Applicant’s motion to postpone its decision so the Applicant could amend its application and resubmit supplemental information. The Applicant submitted its Amended and Restated Submission package on May 14, 2013

ANC 1A was automatically a party to this proceeding. At the April 2, 2013 public hearing, the Board granted a request for party status to Adetokunbo Ladejobi, a resident of the neighborhood (the “Opponent”) who opposes the initial application and the amended and restated application. The Opponent has more than 15 years experience as a real estate private equity investor and asset manager. Mr. Ladejobi presented the Board with 16 signatures from residents in the surrounding block; these residents oppose any development that exceeds the existing one-story. The rears of the residents’ homes face the Property.

Applicant's Case

The Applicant stated that the requested zoning relief was necessary to allow the Applicant to convert an existing automotive repair shop to an office/residential building in the R-4 District on an alley lot. During the March 5th and April 2nd hearings, the Applicant was represented by Greg Gardner, the developer and a partner of Alleyoop, LLC. Meredith Moldenhauer, an attorney with the Griffin, Murphy, Moldenhauer & Wiggins law firm, also represented the Applicant at the April 2nd hearing.

Amended and Restated Application

The amended and restated application was not submitted to the ANC or members of the community for review and comment.

Government Reports

Prior to the Applicant's submission of its Amended and Restated Submission package, the Office of Planning ("OP"), through a report dated February 26, 2013, and testimony presented at the April 2nd public hearing, recommended the denial of the requested use variance pursuant to § 2507.1 (multi-family residential use of an alley building), and the denial of the requested area variance pursuant to § 2507.4 (height variance for an alley building). In addition, OP recommended that should the Board determine that the residential use and height is appropriate for this location, OP recommends approval of the requested use variance pursuant to § 330 4 (office use in an alley building), and the approval of the requested area variance pursuant to § 2001 3 (addition to a non-conforming structure).

In its review of the amended and restated plan, OP recommends the approval of the amended and restated application.

The Department of Transportation recommended approval of the Applicant's original application with conditions in regards to parking and mitigation of the parking issue.

To date, no reports have been received from the Fire and Emergency Medical Services Department or D C Water with respect to the original application or the amended and restated application.

ANC Report

ANC 1A, as reflected in a submission dated January 8, 2013, voted in support of the original application. Kent Boese, an ANC Commissioner for Single Member District 1A-08, testified in support of the application at the April 2nd hearing. ANC 1A has not reviewed or submitted approval of the amended and restated application

Persons in Support

The Applicant presented 10 letters in support of its original application from separate residents in the square. No letters have been received in connection with the amended and restated application.

Parties in Opposition

The Opponent filed a written objection to the original application on February 19, 2013, along with 16 signatures from residents surrounding the Property who oppose the application. The Opponent also filed supplemental information opposing the original application on April 2, 2013. The Opponent filed Proposed Findings of Facts and Conclusions of Law on April 23, 2013 (with respect to the original application) and on May 15, 2013 with respect to the amended and restated application. The Opponent's wife, Veronica Ladejobi, a commercial real estate attorney with the Venable law firm, filed a Statement in Opposition of the Application on April 2, 2013. The Opponent has more than 15 years experience as a real estate private equity investor and asset manager.

FINDINGS OF FACT

The Property

- 1 The Property was purchased all-cash in December 2012 by the Applicant for \$556,093.00.
2. No appraisal, nor Phase I and II reports, were performed on the Property prior to purchase.
- 3 The Property is located on Lot 837 in Square 2851 and is a large alley lot with approximately 5,901 square feet of land area and a width of roughly 52.7 ft. The Property is bounded on three sides (east, west, and south) by public alleys. To the west, the alley network ranges from 10 feet to 15 feet wide, to the south the alley is 10 feet wide, and to the east the alley is 15 feet wide.
- 4 The existing structure has a footprint of roughly 4,072 square feet occupying 67% of the lot. The remainder of the lot is an open yard. The open yard allows for 24.8 feet of separation between the structure and the northern property line.
5. The Property consists of a 1-story building. The ceiling height is 18.5 feet at its center and highest point. As the roof is slanted, the ceiling height is significantly less in other portions of the building. Historically, the building has been used for automotive repair, a business which has been discontinued. The automotive repair shop had been in use since at least 1928 and remained in use and operation until September 2012.
6. Square 2851 is bounded by Irving Street NW to the north, Columbia Road NW to the south, 11th Street NW on the west, and Sherman Avenue NW on the east.

Surrounding Neighborhood Characteristics and Current Zoning

- 7 The Square is mostly characterized by 2- to 2.5-story row dwellings along with a few 3- story row dwellings. A 3-story multi-family apartment building fronts on Sherman Avenue NW on the square's east side. More generally, the neighborhood is comprised of row dwellings, low density commercial uses, and some garden apartment buildings.
8. The Property is in the R-4 District. The primary purpose of the R-4 zone district is the stabilization of remaining single-family dwellings. 11 DCMR § 330.2.
9. The height of alley buildings is limited by the width of the alley in all zones.

Proposed Development

10. The Applicant initially proposed to convert an existing 1-story automotive repair to a 3-story mixed-use office/residential building. The first story contained office use and four residential parking spaces. Two additional spaces were provided on the side yard. The proposed development also included five residential units, each containing 2 bedrooms, on 2 new floors. More specifically, the 2nd floor housed 3 units and the 3rd floor housed 2 units. The building rose to 39.5' in height.
11. Now, with its amended and restated application, the Applicant again proposes to convert an existing 1-story automotive repair to a 2-story mixed-use office/artist studio building. The existing lot will be subdivided into three smaller lots with one lot serving as an office, and two lots serving as artist studios. 9 parking spaces will be provided on the site. The building height would be 26 feet (19.5' ceiling height plus the height of the roof peak and a 2.75' parapet). The current height of the building is 18.5'.

Office of Planning Recommendation and Testimony

12. OP opposed the requested area variance for height for an alley building in connection with the initial application.
13. Paul Goldstein, from OP, testified that: (i) OP stands by its original report which said that OP is not able to support this project; (ii) the burden has not been met by the Applicant; (iii) it was not a reasonable expectation of the Applicant when purchasing the Property that it could get 2 additional floors up to 40 feet and 5 units on this property; (iv) the requested relief is far beyond what the alley lot regulations allow, and this application is running afoul of the restrictive intent of those regulations; and (v) OP supports reuse of the existing building for a different less intensive use, but does not support expanding or at least doubling the size of the building for a new nonconforming use.
14. OP testified that height is a major issue with the initial Application.
15. In its review of the amended and restated plan, OP recommends the approval of the amended and restated development; however, OP does not accurately assess the impact of the height of

the amended development on the surrounding community. In its report, OP states, "At 19.5 feet, compared to the existing 18.5 feet, the height difference would be essentially imperceptible." This is inaccurate because the proposed development as viewed/perceived from its exterior is 26 feet once the new roof and parapet are considered. In addition, the existing structure ranges in total height, and is approximately 15 feet at its lowest point as viewed from its exterior. Thus, the difference in perceived height would be very perceptible at 11 feet.

ANC Recommendation and Testimony

- 16 Mr. Boese from ANC 1A-08 testified in support for the original application because (i) the ANC was very pleased with the communication it got from the Applicant, (ii) the ANC felt that the volume of traffic would be less than one could expect from its previous uses, (iii) anything that can add more residential units in the neighborhood in a tasteful manner is good as long as it's not overly dense because with the expanding city residents don't have the inventory for the demand, and it's putting a burden on the entire community.
17. During cross-examination by the Opponent, Mr. Boese admitted that although there are four squares (including this one) that have alley lots in them off of Sherman Avenue, that this is the first alley lot that has come before the ANC with a proposal for development. None of the after-mentioned alley lots have residential units in the middle of them or have any development. One alley lot has been converted to a community garden, one still has a stable and a grassy area, and another one is entirely surrounded by private garages.

Financial Feasibility

18. The Applicant gave testimony and presented supplemental evidence in the form of an Alternative Uses Income Analysis (attached as Exhibit I to the Supplemental Submission of the Applicant) that various other alternative uses, including continuation as an automotive repair, artist studio use, automotive storage use, and office use, were not financially feasible, and that each alternative use would result in a net monthly loss based on the Applicant's assumptions in its financial analysis.
- 19 The Applicant testified that he had not done an analysis of the financial feasibility of the building being used as a rental property.
- 20 The Applicant states that a single-family home and/or multiple single-family homes do not allow the Applicant to recoup cost of renovation, but the Applicant did not provide an analysis to support this assertion.
- 21 In the Applicant's amended and restated application it states that the existing 1-story structure, at 18.5 square feet, must be divided into two stories to reduce first floor use due to environmental conditions at the site, but does not explain why these environmental conditions prohibit the use of the entire first floor for other uses if environmental remediation will be completed by the Applicant. Also, the applicant fails to explain why it would be acceptable to use a portion of the space but not all of the space due to the environmental conditions.

22. Although the Applicant states that office use or matter-of-right use such as an artist studio would be inefficient and present marketing difficulties, it provides no evidence to support its assertion.
23. The Applicant has not presented evidence/cost analysis showing that razing the existing structuring and building anew would be more expensive.
24. The Opponent testified that for current development, the Applicant would be prudent to have 55 to 60 percent debt on the Property. If the Applicant uses a debt percentage of 55 to 60 percent, then the monthly interest payment by the Applicant on its loan would be significantly less. The fact that the Applicant is using 80 percent leverage in its analyses inflates the amount of the monthly payment, and decreases the profitability of the projects that adhere to current zoning regulations

Undue Hardship

25. The Applicant testified that prior to acquisition of the Property, he was aware of some damage to the concrete roof structure and that the damage was visible from the interior.
26. The Applicant's Supplemental Submission stated that the building was used as an automotive repair shop since at least 1928 and remained in use and operation until September 2012, and the Property is contaminated by oils, solvents and chemicals due to the extended use as an automotive repair shop
27. The Applicant testified that no appraisal was performed on the Property prior to purchase. Also, the record indicates that no Phase I and II reports were ordered prior to acquisition of the Property
28. The Opponent testified that the condition of the Property is apparent upon eyesight.

Adverse Effects

29. The Opponent submitted written evidence stating that 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 the noise, traffic, and view impediment that the proposed project will cause. The traffic was very little and facilitated very well by the owner. The proposed project will have 2 artist studios plus office space. The traffic caused by this development will exceed that of the automotive shop.
30. The Opponent testified that as an automotive repair shop the majority of the traffic entered the north side of the alley lot. The proposed development contemplates an entry/exit from the southwest corner of the alley lot. This is an entirely new source of traffic on the southwest end of the alley lot where the alley narrows to 10 feet.

31. The Opponent testified that he drives a '96 Camry and his car can barely fit down the entry and exit that the developer is suggesting for this Property. His neighbor's house is already damaged because it is repeatedly hit by cars that are coming in and out of the alley (you can see bricks that are literally chipped off the side of his neighbor's home). Below see two pictures of a two Verizon vehicles parked in the alley at the southwest corner of the alley lot. This is the ingress proposed for the indoor parking.



Per conversations with Verizon representatives, the Opponent was made aware that the box pictured in the exhibit above to the right is a primary switch box for Verizon. For this reason, Verizon must visit this box as much as twice per week for an extended period of time. This causes significant traffic congestion and results in car honking. In the picture to the top left, see that the Verizon employee is serving the box. Please note that there are two Verizon vehicles in the above pictures. In the picture below and to the left, please note the primary box. In the picture below and to the right, observe the ingress/egress of the proposed development. The yellow home (pictured below and to the right) has suffered damage due to existing traffic. Traffic will significantly increase if the proposed relief is granted.



32. In the Statement in Opposition of the original application submitted by the Opponent's wife, Mrs. Ladejobi listed a dozen reasons why relief could not be granted without substantial detriment to the public good. The majority of the listed negative impacts still apply to the amended and restated application. Such detriment includes: (i) increasing noise due to outdoor patios included in the proposed development and increased traffic as a result of the increase in intensity; (ii) increasing density beyond that which would allow

comfortable living by adding density behind existing residences; (iii) loss of light, air and views due to an increase in intensity; (iv) greatly diminishing the already limited number of parking spaces available to the neighborhood due to the increased demand caused by multiple-vehicle studios and guest parking; (v) hindering adjacent property owners' access to the rear of their properties for parking, loading/unloading, improvement to their properties, etc due to increased intensity; (vi) adversely affecting the quality of life enjoyed by the adjacent property owners with respect to privacy, quiet, views, and open space; (vii) 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); (viii) adversely affecting neighboring properties through increased noise, loss of views and privacy, and the loss of light and air; (ix) incompatibility with the character of the majority of the surrounding 2-story row dwellings; (x) resulting negative impact of vibrations, noise, and obstruction of alley during construction; (xi) adversely affecting traffic circulation and presenting further obstacles for the trash trucks which already have difficulty negotiating the alleys; and (xii) 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.

CONCLUSIONS OF LAW

- 33 The Applicant seeks variance relief from four sections of the zoning regulations: §§ 2507.4 and 2507.1, concerning restrictions on the use of an alley lot; § 2001.3, concerning an addition to a nonconforming structure; and § 3304, concerning office use in an alley building. The Board is authorized to grant a variance from the strict application of the zoning regulations where, by reason of exceptional narrowness, shallowness, or shape of a specific piece of property or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of the property, the strict application of any zoning regulation would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, provided that 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. D.C. Official Code § 6-641.07(g)(3); 11 DCMR § 3103.2
- 34 The Applicant is also seeking relief from the lot area and width requirements under § 401, relief from the rear yard requirements under § 404, and relief from the side yard requirements under § 404.1.

Area Variance Relief (§ 2507.4, height)

- 35 Based on the testimony and evidence in the record and the Findings of Fact, the Board concludes that the subject property exhibits an "extraordinary or exceptional situation or condition", however, the Property's uniqueness does not impose a practical difficulty related to the requested 26 foot height. The amended and restated application indicates that the site is currently non-conforming to height at 18.5' tall, which exceeds the 12.4' permitted on the lot. The Applicant proposes to further expand the existing non-

conformity by requesting a 13.6' variance from the permitted height, an amount which substantially exceeds the maximum permitted height for the Property, to accommodate a nonconforming use.

36. The Board is not persuaded by the Applicant that the Property cannot be developed for a profit under the current zoning regulations. The Board recognizes that a lower debt burden for the Property significantly improves the profitability of the project. The Board also recognizes that the Applicant has not presented evidence of the financial feasibility of the building being used as a rental property, or a single-family home and/or multiple single-family homes, or razing the existing structure and building anew.
37. The Board understands that the Applicant purchased the Property all-cash for \$556,093.00. In its analyses in which the Applicant considers conforming uses, the Applicant assumes that cash in the projects that adhere to zoning regulations ranges from \$183,400 to \$233,400. Thus, the Applicant is assuming that cash is replaced with debt proceeds. This infusion of debt proceeds reduces the profitability of the projects that adhere to zoning regulations. However, if the Applicant does not withdraw cash (replacing cash with debt) in its analyses of conforming uses, then the profitability of such uses is materially increased.
38. The Board finds that requested height is substantial and would adversely affect the neighboring property owners by loss of views and privacy, and the loss of light and air. Inclusive of the parapet, the existing structure height will be increased to 26 feet although the Applicants revised application mentions a slight increase in height from 18 5 feet to 19 5 feet. The Board also finds that the project is incompatible with the character of the majority of the surrounding homes in the area.
39. The Board finds that the relief cannot be granted without substantially impairing the intent, purpose and integrity of the zoning regulations and map. The height of an alley building is limited by the width of the alley in all zones, and the proposed height is more than double the height permitted for the subject alley lot.

Use Variance Relief (§ 330.4, commercial use)

40. The Board finds that although the Property is unique, the Property's uniqueness does not lead to a practical difficulty in using the existing building for a conforming use. Although the Applicant states the costs associated with the remediation and substantial structural repairs prevent it from being cost effective to convert the building to an arts use or other conforming uses, the Board recognizes that the remediation costs total \$25,000 and therefore do not materially impact the profitability of the project. In addition, the Board finds that the project's debt burden can be significantly reduced, thereby improving the profitability of the project.
41. The Board finds that the office use could potentially have substantial detriment to the public good if the office tenant changes. 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 in the future.

- 42 Although the Applicant states that office use or matter-of-right use such as an artist studio would be inefficient and present marketing difficulties, it provides no evidence to support its assertion

Area Variance Relief (§ 2001.3, expansion to a non-conforming structure)

43. The Board finds that the Property's uniqueness does not create a practical difficulty for adaptively reusing and expanding the existing structure
44. The relief could not be granted from § 2001 3 without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zoning regulations and map. Increasing use intensity in an alley lot with 10 to 15 feet alley widths would have numerous detrimental effects, which includes (i) increasing noise due to outdoor patios and increased traffic; (ii) increasing density beyond that which would allow comfortable living; (iii) loss of light, air and views; (iv) greatly diminishing the already limited number of parking spaces available to the neighborhood due to the increased demand caused by multiple-vehicle studios and guest parking, (v) hindering adjacent property owners' access to the rear of their properties for parking, loading/unloading, improvement to their properties, etc ; (vi) adversely affecting the quality of life enjoyed by the adjacent property owners with respect to privacy, quiet, views, and open space, (vii) 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); (viii) adversely affecting neighboring properties through increased noise, loss of views and privacy, and the loss of light and air; (ix) incompatibility with the character of the majority of the surrounding homes; (x) resulting negative impact of vibrations, noise, and obstruction of alley during construction; (xi) adversely affecting traffic circulation and presenting further obstacles for the trash trucks which already have difficulty negotiating the alleys; and (xii) 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.

Conclusion

- 45 Having considered the written submissions and the foregoing findings of fact, the Board concludes that the Applicant has not carried its burden of proof in this case. The Board denies the requested relief with respect to the area variance for height variance for an alley building. The Board also denies the requested use variance pursuant to § 330 4 (office use in an alley building), and the requested area variance pursuant to § 2001.3 (addition to a non-conforming structure)