

Summary by Opposition Party

BZA Hearing, January 27, 2015

Introduction

- We represent a group of 10 people who live in the neighborhood.
- We would like to say from the outset that we are not opposed to development in the neighborhood. There have been and there are currently many developments in the area, and we welcome them.
- We care that development is responsible by adhering to the zone plan.
- We strongly believe that this development will put a disastrous strain on the area's parking resources.

Applicant does not qualify for Special Exception from Off Street Parking for M Street Lot

- Refer to Section 3.1 of Opposition Statement, Exhibit 57 of Case Records.
- Applicant failed to prove, per 2120.6, that "providing the required parking will result in significant architectural or structural difficulty in maintaining the historic integrity and appearance of the historic resource".
- Copy and Paste arguments from previous cases fail to apply here. Both Applicant and OP use identical argument in support of Special Exception in this case, as were used for BZA # 18744 - another SB Urban project at 15 Dupont Circle. However, the structures are **dramatically** different, which fundamentally change the facts of this case.





The Two Landmarks? Who are they kidding.

Applicant's argument comparison:

BZA #18744 : *"underground parking is not possible because the Applicant cannot excavate under the historic **Mansion** without a high risk of damaging it"* Page 19, Prehearing statement.

BZA #18852: *"Underground parking is not possible because the Applicant cannot excavate under the historic **garage** without a high risk of damaging it."* Page 18, Prehearing statement.

OP's argument comparison:

BZA #18874: *"Parking could theoretically be placed under the mansion but the underpinning would be difficult and could damage the **historic landmark**."* Page 5 of 7 of the OP report on record for BZA 18874.

BZA #18852: *Parking could theoretically be placed under the historic garage, but the underpinning would be difficult, extremely expensive, and could damage the **historic landmark***". Page 5 of 9 of the OP report, Exhibit 39, Case Records.

The copy and paste errors in the OP report are very concerning and undermine the credibility of the report. Unlike in BZA #18874, the rear garage is not a landmark, and OP is legitimately expected to know better.

Parking can be provided trivially in two ways:

1. On the remaining area of the lot without touching historic garage to cause it any damage or risk its integrity.
 - Applicant admits that a code compliant garage can be build, (unlike BZA 18638).
 2. Even if the applicant chooses to excavate under the garage, there is zero proof of “significant architectural or structural difficulty in maintaining historic integrity”.
 - a. Applicant will remove rear & roof of the garage for this project anyway.
 - b. More complex moves/underpinnings are done routinely throughout the city.
- **Applicant must seek a variance instead of a special exception.**



This is an example of a **contributing building** in Mt. Vernon Square Historic District at the corner of 5th and NY Ave. that was moved and is now being underpinned, a few blocks from Applicant's project. Applicant would not have to do anything nearly as complicated.

Parking Variance for 9th Street Lot (Section 2, Opposition Statement, Exhibit 57 of Case Records)

- We urge the Board to scrutinize applicants claim that the lot is affected by exceptional situation or condition. Every item describing the lot is either a positive or neutral. There is no “culmination of factors”.
 - If explanations like this are accepted this essentially voids the first prong of the test since anyone can name a few things and declare a culmination.
- Previous HPO approved concepts provided the required parking, see Appendices in Opposition Statement, Exhibit 57.
- No Practical Difficulty or at least Not Yet Proven.
 - Applicant admits that a code-compliant garage can be built.
 - Unlike Church Street case (BZA #18638), where ramp grade would have been 20% and not per code.
 - Inefficiency is not a standard that has any bearing on BZA decisions
 - Hasn’t looked at other options: Car Elevator, Automated Parking System
 - ZA Confirmed that car elevators are acceptable, Appendix B, Exhibit 57.
- Prong 3, Substantial detriment to public good are addressed separately below.

Lot Occupancy Variance for M Street Property

- Similar to 9th Street, the Board should scrutinize the Applicant’s claims that the lot is affected by exceptional situation. Otherwise the standard is being diminished.
- The Applicant does not explain why it is “not practical to shrink the footprint of the first floor on the new structure without shrinking the footprint of the rest of the new structure”.
- Designs where upper floors overhang the first are very common.
- In fact, this will allow a loading berth.

Side Yard Variance on 9th Street/Court Width Variance

- While the variances in themselves are less offensive compared to others, the Applicant’s intent is to increase the internal number of units.
- In case of M Street, the Applicant claims that without a double-loaded corridor the building is not efficient, yet their don’t have a right to a double-loaded corridor.
- Other alternatives that don’t require a variance were not presented and discussed.

We are concerned that there have been two instances of disagreement between DC Agencies, both in applicants favor:

- 1) ZA accepts Car Elevators/Mechanized Garages, yet OP did not even consider this in their analysis.

- 2) OP believes that Applicant is not exempt from providing loading facilities, while ZA has interpreted this section to except additions.
- 3) We request that BZA to address these differences in interpretation and compel these agencies to have matching interpretations.

Substantial detriment to public good: response to DDOT (Exhibit 41) and Wells & Associates reports (Exhibits 15 & 53)

- Zero parking relief will cause substantial detriment to the public good
- Everything discussed here detailed in 36 page report responding to DDOT and Wells & Associates. This is high level summary.
- Applicant is trying to convince all parties that tenants will have no cars and thus will not use neighborhood parking. What they have said (and we disprove):
 - Tenants are unlikely to use cars
 - Studies show that target demographic will own cars and drive more (not affected by gas prices as much, parking costs etc.)
 - Tenants will use car share services (e.g. Car2Go, Hertz, Zipcar)
 - Relying on private resources to serve business model will not work as these resources are not controlled by Applicant.
 - Car2Go effectively mimics car ownership because they can park anywhere
 - Tenants will use nearby parking garages
 - Applicant again wants to rely on shared private resources to provide what zoning rules require them to, **yet they have no control over these resources and cannot guarantee that they will be there in the future.** (e.g. since Wells & Associates report past year, largest garage nearby has closed taking with it car share resources as well)
 - Tenants will use public transit and the site has great walk, transit and bike scores
 - We looked at 9 similar developments in DC.
 - One of them, the **Colonel DC**, is 100ft away on the same block and has exactly the same transit and bike score yet is providing 0.37 parking spots per rental unit. All of the others have parking and all have parking usage $\geq 70\%$ even though they have excellent transit, walk and bike scores.
 - **Good transit options doesn't imply zero car ownership** as we've all been led to believe
 - Tenants will use Bikeshare stations near by
 - These are for current demand and are already overburdened
 - TDM strategy will make sure nobody uses cars

- Every TDM case study provided by Applicant **shows need for parking despite TDM. Square 54 DC** case study: (only DC case study in 150 page report submitted by Wells) developer there Boston Properties has excellent TDM strategy yet has 73% utilization of resident parking and provides 0.37 parking spots for every rental unit.
 - The population sample for Square 54 and The Avenue apartment is unique due it being of GWU campus (full of GW students) and close proximity to State Department, World Bank and IMF.
 - As side note: Square 54 case study also points out vital need for loading zone. Zero average queue counts are exactly because Square 54 has loading zone.
 - Other case studies show TDM effect stagnation after 1st few years
 - TDM works, **but doesn't eliminate parking need**
- We'll change the address so people can't get RPP
 - Impossible to believe that mail to M street address (which is entrance for mail delivery) will not be delivered
 - No guarantee won't change back (e.g. future owners) i.e. **not enforceable in long term**
- We'll make it part of the lease that residents don't get RPP
 - Not enforceable by DDOT own admission
 - In the end, don't need address, can get temporary permit at any DC police station
- No parking demand study done. Our analysis using ITE Parking Demand data shows at least 70 spots needed just for the residential (in line with 63 required by zoning). Let's remember the site also has a retail component.
- Traffic analysis by Wells is makes assumptions that are baseless to avoid doing a more detailed analysis required by regulation CTR 3.2.3. (e.g. 90% reduction on ITE calculated trip generations for residential is **100% baseless and was not questioned by DDOT report**)
- In short, most of ideas that are the foundation of their argument discussed above are simply not tested and no way to enforce in future
- Important to remember there's no going back: if agree to **zero** parking when zone requires **63**, can't add it later. (to paint picture 63 spaces is **150%** number of street parking spots available to residents between 9th and 10th on M)
- To say nothing of capacity that Applicant lot **currently absorbs** in neighborhood (70+ during the day and at least 10 over night)
- To say nothing of Convention Center events that swamps the neighborhood's parking supply during large events
- Urge the board:
 - Review our 36 page rebuttal that shows how misleading Wells & Associates analysis is and how uncritical DDOT has been
 - Reconsider parking relief provided

- Ask SBUrban to do what all other developers do: obey carefully thought out zoning rules

Zoning

- Historic Blagden Alley area, in Square 368, was rezoned under Zoning Order No. 782 to encourage modest commercial development, while protecting the surrounding residences.
- Current development is far beyond C-2-A with its extensive variances and special exceptions, that the Applicant has not proven to qualify for by meeting the three-part test.
- The Applicant also claims an exemption from a loading area that is questionable, so there is yet another variance that is needed that has not been addressed yet.
- Granting extensive relief essentially changes the C-2-A zone to something much more intensive. If relief is granted, it is no longer C-2-A, but something new. This sets an alarming precedent for all other developers who will now claim the same relief with the same meager proof.
- If the city is to be fair, then they must grant the same relief to others based on the same flimsy arguments.

Historic Alley

- Staff at the Historic Preservation Office rejected the proposed project because it was out of historical context, with its pedestrian bridge, extensive glazing, piazza-like dimensions.
- However, the Historic Preservation Review Board took the unusual step of overruling staff by approving the project, and cited no public opposition as one of the reasons even though there is extensive public opposition.
- ANC 2F also supported the plans that were rejected by HPO staff. Astonishingly, ANC approval was given greater weight than knowledgeable staff and opposing residents.

ANC 2F

- ANC 2F narrowly approved allowing the 0 parking variance by a vote of 4-3.
- The Commissioners most supportive of the project and who both attended the initial hearing, have both since resigned from the ANC.
- It was a narrow vote and concerns were raised about creating a bad precedent for future development.
- While the ANC mentions feedback from the community in its decision, in reality the ANC ignored community opposition.

Community Opposition

- 152 residents and owners in Squares 368 and 369 have signed three petitions opposing the zoning relief requested by the Applicant.
- Allowing this project by approving zoning relief will be a detriment to the neighborhood and do harm to the integrity of the zone plan.
- Further, many people are against the concept of the two buildings with single-room, furnished, short-term occupancy in the center of a historic residential neighborhood.
- In contrast, the Coalition for Smart Growth who supports the project, recently submitted a list supporters, none of whom live in the neighborhood or even in the same zip code as the project.