

Toye Bello

From: Goldstein, Paul (DCRA) [paul.goldstein@dc.gov]
Sent: Thursday, October 15, 2015 3:30 PM
To: Toye Bello; LeGrant, Matt (DCRA)
Cc: Vitale, Elisa (OP); 'Arsema Adal'; 'kubrom adal'
Subject: RE: 400 K Street NE BZA Case No. 18979

Hi Mr. Bello:

After consulting with the Office of Planning regarding the issues referenced below, the Zoning Administrator has the following guidance:

Parking

1. Based on the information provided, it does appear that the property is entitled to one parking credit. As a result, no additional parking is required for the transition from the single family dwelling to a flat in this circumstance.
2. However, parking relief is required for the new artist studio use (2300.3(e)) since no additional on-site parking would be provided.

Carriage House

1. No additional zoning relief is needed for the carriage house height (2500.4) or alley set back (2300.2(b)) due to what appears to be its longstanding location and volume on the subject property.
2. As already communicated, the inclusion of a shower or tub is an indicator of a dwelling unit design. Consequently, the artist studio may not have a shower or tub.

The ZA is not here addressing any other relief that may or may not have been applied for in this case.

Thank you.

Paul W. Goldstein

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From: Toye Bello [mailto:toyebello@bandbllc.com]
Sent: Monday, October 12, 2015 7:55 PM
To: Goldstein, Paul (DCRA); LeGrant, Matt (DCRA)
Cc: Vitale, Elisa (OP); 'Arsema Adal'; 'kubrom adal'
Subject: RE: 400 K Street NE BZA Case No. 18979

Board of Zoning Adjustment
District of Columbia
CASE NO.18979
EXHIBIT NO.56

Mr. Goldstein:

Background:

The instant application before the Board as you may well know is to allow the adaptive use of an existing two-story carriage house for purposes of an Artist Studio. The owner of the subject property was granted a building permit to construct a third floor addition on the premise that the carriage house would not have or keep a roof, thereby eliminating the carriage house from counting towards lot occupancy. The main building occupies approximately 55% of the lot, but 75% when the carriage house is included.

In short, the application before the Board is to keep and repair the roof of the carriage house and make adaptive use of the carriage house for purposes of an artist studio, consequentially retaining the 75% nonconformity of structure which has existed since the improvements upon the lot was constructed in 1890.

Both the Board and OP have raised at least two matters requiring further brief and consideration in an additional hearing scheduled for November 10 for which the ZA's determination is sought.

1. Parking

Board member Peter May's contention are two-fold; one that he is unaware of the administration or interpretation of § 2100.4 as granting a "parking credit" when a use in existing building is changed; secondly that the adaptive use of the carriage house constitutes an elimination of existing parking, such that a parking variance ought to be required.

The applicant's contention is to the contrary for the following reasons.

As to the first contention, I have attached a definitive BZA Order which I believe briefs that matter unequivocally; excluding first-hand knowledge of the history of the interpretation of § 2100.4. I believe Matt also has determination letters of recent memory to this effect.

On the second contention, notwithstanding that the architect refers to the existing carriage house as a garage, no public record evidence supports the fact that the carriage house was ever converted from its horse and boggy use for purposes of an automobile parking garage. The carriage house can therefore not be deemed a parking garage as that term is defined and set forth under § 199.1 because the carriage house was not constructed for the use of parking **motor vehicles**. The location of the carriage house opening or door on 4th Street without a driveway access for a motor vehicle is further testament to the fact that it has never been used as a garage since an automobile must necessarily drive over a sidewalk, a prohibited outcome, to access the carriage house. There is likewise no evidence that the carriage house opened unto the public alley. The property has been vacant since the 1969 MLK riots and it remained in a dilapidated condition through the time the applicant purchased the property in 1989.

Since the subject property changed use from a single family dwelling to a two a flat, and both uses are subject to providing one (1) parking space, the change of use of the main building is not subject to providing an additional parking space in accordance with the provision set forth under § 2100.4.

With respect to the adaptive conversion of the carriage house for purposes an artist studio, § 2300.3 (e) is the pertinent section pertaining to the parking requirement for an artist studio. In summary that pertinent section subjects an artist studio to the provision of one (1) parking space for each 3 occupants. The applicant contends that since the intent is to limit the number of occupants to 3 or less, it is therefore subject to providing one parking space and that the parking credit earned based on the use of the subject property as a single family dwelling can be used to offset that one required parking space; such that the project need not physically provide a parking space on site.

2. Additional Relief for existing carriage House

OP believes that additional relief from the provisions of § 2300.2 (b) which requires that a garage be set back 12 feet from the centerline of the alley upon which it opens and from § 2500.4 which limits an accessory garage to one (1) story and 15 ft in height may be required for the existing carriage house.

The applicant contends that additional relief is not required in the foregoing circumstances for the following reasons:

- The carriage house is not intended to be a private garage and does not propose an opening unto the alley hence § 2300.2 (b) is inapplicable;
- The carriage house was originally constructed in 1890 as two-story structure in its current location on the lot and is therefore grandfathered to the extent it is deemed a nonconforming accessory structure. Section 2500.4 cannot therefore be retroactively applicable.
- The applicant does not propose to alter the structure by constructing an addition or enlarging the existing structure

I also want to revisit the matter of providing a full bathroom in the artist's work space on the 2nd floor for reconsideration of the ZA.

I hope the foregoing outlines the subject of the request for a meeting sufficiently.

The deadline for supplementing the case folder is November 3rd. I will appreciate if your busy schedule will accommodate a meeting in advance of the date above.

Thank you

Toye Bello

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From: Goldstein, Paul (DCRA) [<mailto:paul.goldstein@dc.gov>]
Sent: Monday, September 28, 2015 4:53 PM
To: Toye Bello; LeGrant, Matt (DCRA)
Cc: Vitale, Elisa (OP); 'Arsema Adal'; 'kubrom adal'
Subject: RE: 400 K Street NE BZA Case No. 18979

Hi Mr. Bello,

Could you first identify and briefly explain each issue that the BZA asked you to clarify and consult with the Zoning Administrator about? Thanks.

Paul W. Goldstein

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From: Toye Bello [<mailto:toyebello@bandbllc.com>]
Sent: Monday, September 28, 2015 3:24 PM
To: Goldstein, Paul (DCRA); LeGrant, Matt (DCRA)
Cc: Vitale, Elisa (OP); 'Arsema Adal'; 'kubrom adal'
Subject: RE: 400 K Street NE BZA Case No. 18979

Messrs LeGrant and Goldstein:

The Board has scheduled additional hearing for the instant application for November 10, 2015 to allow for further documentation and brief of zoning interpretation issues raised by Board members and the Office of Planning (OP). Given that this application is self-certified, it is imperative that the issues raised be reconciled with the prevailing interpretation of the ZA to avoid any conflict or obstacle in the course of the building permit process, should the BZA find it within its discretion to approve the application before it.

Please let me know what your schedules will accommodate to meet on this matter. I am glad to brief each issue raised in advance of a scheduled meeting.

Thank you.

Toye Bello

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From: Toye Bello [<mailto:toyebello@bandbllc.com>]
Sent: Tuesday, September 22, 2015 12:22 AM
To: 'Goldstein, Paul (DCRA)'
Cc: 'LeGrant, Matt (DCRA)'; 'Vitale, Elisa (OP)'
Subject: RE: 400 K Street NE BZA Case No. 18979

Mr. Goldstein:

Thank you for the follow up and response. The ZA's position will be duly noted to the Board in the course of the hearing hopefully for definitive deliberation.

Thanks again and best regards

Toye Bello

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From: Goldstein, Paul (DCRA) [<mailto:paul.goldstein@dc.gov>]
Sent: Monday, September 21, 2015 1:52 PM
To: Toye Bello
Cc: LeGrant, Matt (DCRA); Vitale, Elisa (OP)
Subject: RE: 400 K Street NE BZA Case No. 18979

Hi Mr. Bello,

I am writing on behalf of the Zoning Administrator. In addition to eliminating the proposed kitchen, he also instructs that the tub must also be removed from the carriage house in order to remove any suggestion that this is a third dwelling unit rather than the planned artist studio. Also, the tub cannot be replaced with a shower – the same guidance would apply. Thank you.

Paul W. Goldstein

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The Department of Consumer and Regulatory Affairs' (DCRA) Small Business Resource Center (SBRC) will be hosting its 3rd annual "Entrée Food & Drink Forum" on September 21, 2015 at the Walter E. Washington Convention Center. Click [here](#) for more information.

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From: Toye Bello [<mailto:toyebello@bandbllc.com>]
Sent: Friday, September 18, 2015 6:24 PM
To: Goldstein, Paul (DCRA)
Cc: LeGrant, Matt (DCRA); Vitale, Elisa (OP)
Subject: RE: 400 K Street NE BZA Case No. 18979

Mr. Goldstein:

I have added the floor plans "BEFORE" and "AFTER" to the files for clarity. Please let me know if you need additional information.

Thank you for your prompt response.

Toye Bello

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From: Goldstein, Paul (DCRA) [<mailto:paul.goldstein@dc.gov>]
Sent: Friday, September 18, 2015 3:06 PM
To: Toye Bello
Cc: LeGrant, Matt (DCRA); Vitale, Elisa (OP)
Subject: RE: 400 K Street NE BZA Case No. 18979

Hi Mr. Bello,

I am in receipt of your request. Just for clarification purposes, it is hard to tell from the way the attachments are labeled which ones are the original proposal and which ones are the revised (new) proposal. Would you mind resending with additional labeling so that there is no confusion? Thank you.

Paul W. Goldstein

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From: Toye Bello [<mailto:toyebello@bandbllc.com>]
Sent: Thursday, September 17, 2015 8:25 PM
To: Goldstein, Paul (DCRA)
Cc: LeGrant, Matt (DCRA); Vitale, Elisa (OP)
Subject: 400 K Street NE BZA Case No. 18979

Dear Mr. Goldstein:

I am representing the owner of the subject property above in a BZA case scheduled for hearing coming Tuesday. It is my understanding that Ms. Vitale of OP who is the development reviewer of the instant application consulted with you on the classification of the proposed use of the carriage house as configured notwithstanding that the applicant's proposal is for use and occupancy as an artist studio.

Please find attached the before and after configuration of the floor plan for your review and consideration. The revised floor plan has eliminated a proposed kitchen and any other amenity which may misconstrue the purpose of the carriage house as a third dwelling unit to the two dwelling units for which the main building is already configured.

Given that this application is self-certified, I think it prudent to request a follow up to the informal determination provided OP in the context of the revised floor plan. The Board is bound to be interested in the resolution of this fact given that your determination is a substantive part of OP's recommendation.

Please let me know if further clarification is required and I am glad to call to discuss, or if you have any questions, please let me know.

Thank you in advance.

Best regards

Toye Bello

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