

Timeliness

I have been fighting against a parking lot in the alley behind my house since 2013. In August 2013 testified in front of the Historic Preservation Review Board in opposition to a raze permit for the large seven-bay garage on alley lot at square 1035 lot 810. The raze permit was denied and the building was deemed a 'contributing structure' to the historic district by the HPRB.

In June 2014 a building permit was issued to renovate the garage and put permeable pavers and a gate on the open area behind the garage. No parking was referenced on the building plans and no current or proposed use were on the building permit. There were other errors on the building permit as well. I contacted Richard Nero to begin an appeal process, but was counselled that I might discussing the issues with the Zoning Administrator's office might resolve the issue more easily. At his recommendation I wrote to Kathleen Beeton, Deputy Zoning Administrator and outlined the problems with the building permit. She forwarded my email to staff in the ZA office who investigated the issue and responded that the proper zoning classification was parking garage(s) on an alley lot and the because there was no parking referenced on the permit or plans, the owner would need to receive a special exception from the BZA before parking could occur on the open space. If parking did occur on the open space, I should be back in touch so that a zoning enforcement action could be initiated.

On March 10, 2015 a Certificate of Occupancy was issued.

On April 3, 2015 parking began on the open space and I reported that day to Ms Beeton and Mr. Reid. On April 10 I discovered that a C-of-O had been issued and reported that this to Ms. Beeton. I began a series of interactions to try to find out the process through which it was issued and reasoning behind the C-of-O. On April 28, 2015 I (finally) received a response from Mr Reid with notice from the ZA that this was not considered a mistakenly issued C-of-O and providing grounds for appeal.

"The Zoning Administrator is familiar with CO1501450 and has determined that the private garage and private parking on the open space of the alley lot is a matter of right use. I understand that this information is different than what I communicated to you last year regarding parking on the open space of the lot. I originally stated that parking on the open space would require BZA relief; however, in reviewing the matter more closely, the Zoning Administrator determined that the use is not for a commercial parking lot, which would require BZA relief, and is instead for private parking. As such, he further determined that the certificate of occupancy application was approved correctly and complies with the zoning regulations.

At this time our office does not find cause to take enforcement action. Thanks again for contacting our office and bringing your concerns of the property to our attention."

I hope that my appeal is timely based on the earliest date (the issuance of the C-of-O) but would respectfully request that should there be issues with filing this timely to that date the later date when conflicting statements were reviewed and communicated be the effective date of notice. It is only on the later date when the ZA finally provided notice that his decision was to override previous opinion of the staff and the Deputy ZA.

Grievance

I am a neighbor and the open space behind the alley garage is 40 feet from my property line and in clear view of my rear porches (top and bottom). I do not want to look out from my porch onto a parking lot. I do not wish to see four parked cars where before I saw greenery. I do not wish to have greater foot traffic through the alley to get to the cars parked on rental parking spaces. I do not want additional parked cars on open space to be an attraction for people who might break into cars to steal items left in cars.

Issues On Appeal

1 Errors with the C-of-O issuance

The C-of-O was improperly awarded as it fails to meet requirements of 3203.

The CofO application type is 'Ownership Change'. It should be based on a building permit with the required work to permit parking on the open space.

This is the only CofO the alley lot has ever received. There should have been a chain of C-of-O's at least since the lot was subdivided in 1980. Subdivision required a new C-of-O as a two-car garage was removed from the former lot (809) and any new C-of-O would have been for a reduced load. There have been 5 ownership changes since the lot was subdivided in 1980. Lacking a chain of occupancy permits, the latest C-of-O should be considered under current zoning regulations. Any "grandfathered" use C-of-O should be considered "lapsed" and 3203.10 should control issuance of the C-of-O.

No building permit is listed on the C-of-O. There should be a building permit ID since Construction was required to convert the garden space to the new use of parking on open space/parking lot/pad parking.

Errors with C-of-O include failure to meet requirements of 3203 and 3202 of zoning regulations. This should be sufficient to revoke the C-of-O. No parking shown on building plans. No current and proposed use on building permit, thus leading ZA staff to report in 2014 that a BZA special exception is required before parking can proceed on the open space of the lot.

2 Errors in interpretation / Definitions

The C-of-O improperly characterizes the structure as a 'private garage' and '7-private garages'. The sole structure on the lot is one 7-bay garage of over 1600 square feet, with bays rented out on monthly lease. Until the renovation it had seven sliding doors on a shared track. One structure, multiple doors, one set of electric service, construction standards not valid for 7-individual-private garages – all features distinguish this structure from what is generally understood as a 'private garage'. The structure is not a "private garage". It should be classified as "parking garage" based on definition. The sole structure on this alley lot is a garage which is over 1600 square feet, in 7 bays, until the renovation it had seven sliding doors on a shared track.

Open space that is used for parking on an alley lot whose principal use is parking, is by definition a parking lot¹.

The "garage, parking" and "garage, private" are distinguished by square footage (see definitions²). These garages have always been a multi-user garage structure, owned by a single owner, (analogous to a multi-family dwelling --

¹ **Parking lot** – (lot, parking) a tract of land used for the temporary parking of motor vehicles when the use is not accessory to any other use.

² **Parking garage** – (garage, parking) a building or other structure, or part of a building or structure, over nine hundred square feet (900 ft.²) in area, used for the parking of motor vehicles without repair or service facilities. The term parking garage may include a parking garage accessory to the principal use, but shall not include a mechanical parking garage.

Private garage – (garage, private) a building or other structure, or part of a building or structure, not exceeding nine hundred square feet (900 ft.²) in area, used for the parking of one (1) or more motor vehicles and having no repair or service facilities.

see structure definition) and have always been rental garage bays³. This garage(s) are not accessory garage(s) as they have never been tied to other properties or uses. They have always had a principal use of "garage, parking".

The principal use of the lot is parking, specifically "parking garage(s) on an alley lot". Language used by ZA staff in correspondence when discussing building permit and plan data deficiencies in June 2014, nine months prior to the issuance of the C-of-O.

The "lot, parking" definition is clear and makes no distinctions regarding public, commercial, etc. The only use of this lot is parking. Thus the 'parking on open space' is parking on a 'parking lot on an alley lot' which as a new use requires a special exception.

Discontinuance. In 1957-1958 the entire lot covered with 2 structures – a 7-bay garage and a 4-bay garage. After 1960 the 4-bay garage which covered the rear of the lot was torn down (or possibly destroyed in an accident). The lot transitioned to zoning regulation under a grandfathered as "parking garage(s) on an alley lot". The open area created by the removal of this original, pre-zoning structure was fenced and remained enclosed and gated until around 2009. For over 20 years, until 2012 or 2013, the gated area was used as a garden plot.

The removal of the garage and transition to garden triggers either Discontinuance (2005) or Destruction of Structure Devoted to Nonconforming Use (2004). For over 32 years there has been no parking on the open space. Because the use as parking was abandoned (multiple owners previously) this use cannot be a matter of right, but instead must comply with current zoning rules – which require a special exception.

³ (The actual terminology in use when the structure was new as recorded in the Baist maps, 1927 edition is "Auto Stalls")