

**DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT
441 4th Street, N.W.
Washington, D.C. 20001**

Appeal of Michael Cushman

BZA Appeal 19047

RESPONDENT'S PRE-HEARING STATEMENT

Appellant alleges that the Zoning Administrator (the “**ZA**”) erred in approving Certificate of Occupancy CO1501450 issued on March 10, 2015 (the “**CofO**”)¹ for seven “private parking garages” and four “open parking spaces” for a “total of 11 parking spaces” located at 20 14th Street, NE (the “**Property**”) an alley lot in the R-4 zone district.

Respondent, the District of Columbia Department of Consumer and Regulatory Affairs (“**DCRA**”), asserts that the ZA properly issued the CofO. DCRA asserts that the seven private garages are permitted as a matter of right as principal uses for an alley lot, and that alternatively these garages were an existing non-conforming use predating zoning that was the principal use of the Property as with many similar alley lots throughout the District. DCRA therefore asserts that the four open parking spaces are accessory to the principal use of the Property as private parking garages, and so comply with the Zoning Regulations.

DCRA therefore respectfully requests the Board of Zoning Adjustment (the “**Board**”) to affirm the ZA’s issuance of the CofO as correct and deny this Appeal.

ARGUMENT

The CofO complies with the Zoning Regulations

1. The seven garages are permitted as matter of right principal uses

The Zoning Regulations define a “private garage” as “a building or 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” (Section 199.1) (emphases added). These seven garages each measure significantly less than 900 square feet and are each completely separate covered and enclosed spaces, with each garage accessible by its own exclusive exterior door and

¹ BZA 19047 Exhibit 13.

without internal connections to any other garage. The ZA therefore properly determined that each of these garages is a “private garage” under Section 199.1, and so authorized as a principal use on an alley lot in a R-4 zone district under Section 201.1(n) of the Zoning Regulations (as adopted by Sections 300.3(a), 320.3(a) and 330.5(a)).

2. Alternatively the seven garages are grandfathered existing non-conforming uses

Appellant admits that the seven garages existed were already in existence before the May 12, 1958 effective date of the Zoning Regulations (Section 100.2).² As a result these garages were an existing non-conforming use grandfathered as compliant under Section 2000.4 of the Zoning Regulations. Section 2002.4 authorizes “repairs, alterations, or modernizations” to a structure housing an existing non-conforming use, such as the repairs authorized by Building Permit B1406901, without affecting the compliant status of the non-conforming uses. Therefore these repaired garages retained their non-conforming status as the principal use of the Property, since the garages occupy the majority of the Property.

3. The four open parking spaces are permitted accessory uses

The four open parking spaces are permitted as uses accessory to the principal use of the seven private parking garages under Section 331.1(b).

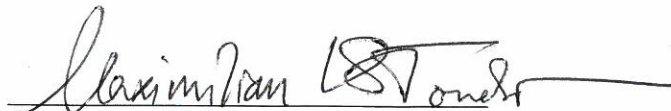
CONCLUSION

For these reasons, DCRA asserts that the ZA correctly issued the CofO. DCRA therefore respectfully requests that the Board dismiss the Appeal as time-barred or alternatively affirm that the Zoning Administrator correctly applied the Zoning Regulations in issuing the CofO and so deny the Appeal.

Respectfully submitted,
CHARLES THOMAS
General Counsel
Department of Consumer and Regulatory Affairs

² Appellant’s Detailed Statement, BZA 19047, Exhibit 17, at 3 (“Discontinuance. In 1957-1958 the entire lot covered [*sic*] with 2 structures – a 7-bay garage and a 4-bay garage.”).

Date: July 15, 2015



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CERTIFICATE OF SERVICE

I hereby certify that on this 15th day of July 2015, a copy of the foregoing Pre-Hearing Statement was served via electronic mail to:

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