

July 11, 2015

Appeal Filing: Required Information

Property address: 1828 Ontario Place, NW

Required Information

Item	
The date upon which the appellant first had notice or knowledge of the decision being appealed	The date of the Zoning Administrator's approval on pivs.dcrs.dc.gov regarding Permit Application B1412288 is May 13, 2015.
The circumstances under which such notice or knowledge occurred	Appellants learned about the approval on May 22, 2015, from counsel for neighbors joining in this appeal, who was monitoring the permit application for the neighbors.
Standing: How the appellant is aggrieved	ANC 1C has passed resolutions regarding adherence to DCMR regulations, including parking requirements. Not adhering to the rules and not enforcing the parking regulations results in adverse impact on the residents of ANC 1C, including adding to density issues and the lack of parking that currently exists in the residential areas of ANC 1C. The ANC 1C resolutions regarding Pop Ups and Parking are attached to this appeal and further discuss the negative effects of such lack of enforcement. The case at hand is a classic example of DCRA failing to enforce the rules regarding development and parking that are currently in place and intended to prevent these adverse impacts.
Statement of Issues	This application is being filed to appeal the decision of the Zoning Administrator allowing conversion of the existing single family dwelling into a four unit condominium building. The decision was based in part on allowing one substandard 8' x 16' parking space. We believe the reasoning for allowing that substandard space is flawed and that the approval is in violation of the Off-Street Parking Requirements of 11-2101 of the DCMR. A more detailed discussion is below.
Witnesses	TBD

APPELLANTS

This appeal is being made by the ANC 1C, but is also being joined by the following residents of ANC 1C:

Address	Names
1817 Ontario Place	Joanne Trotter and Nick Lockwood
1819 Ontario Place	Irene Mayer
1824 Ontario Place	Loren Pope
1825 Ontario Place	Ami Wilber
1826 Ontario Place	Julie Kelleher and Ben Todd
1826 Ontario Place	Michael Rafferty and Eloy del Toro
1827 Ontario Place	Tom Antisdell and Martha Daniels
1830 Ontario Place	Stacie Desai
1831 Ontario Place	RJ and Julie Hamilton
1832 Ontario Place	James Woodyard
1833 Ontario Place	Bryce Jacobs and Matthew Mayers
1840 Ontario Place	Ira Teinowitz
1844 Ontario Place	Kathleen Silvassy
1846 Ontario Place	Bruce Kangisser
1878 Ontario Place	Toby Olowofoyeku
1751 Lanier Place	Katie Davis
1776 Lanier Place #1C	Aaron Plantenburg
2360 Adams Mill Rd #208	Mindy Moretti

SUMMARY OF RELEVANT FACTS AND ISSUES

1828 Ontario Place currently consists of a single family dwelling/rowhouse built in 1915 that sits on a lot that is 16.66' wide at the street and 16.68' wide at the alley (see attached plat) ("1828 Ontario Place"). Bogdan Builders ("Bogdan") purchased 1828 Ontario Place on June 24, 2014. On September 22, 2014, Bogdan filed building permit application B1412288 that contemplates conversion of 1828 Ontario Place into a four unit condominium building.

Bogdan, or agents on its behalf, initially put forth misrepresentations about the prior use of 1828 Ontario Place in order to satisfy the parking requirements for conversion to a four unit building. Specifically, they misrepresented that there had always been 2 non-conforming parking spaces on 1828 Ontario Place and they requested that the 2 non-conforming spaces be grandfathered by the Zoning Administrator. Pictures of a garage at a different property were put forth to support this misrepresentation.

Once the misrepresentation was brought to the attention of the Zoning Administrator in early March 2015 (see attached e-mail), the Zoning Administrator made the following ruling (screen shot from the PIVS building permit tracking website maintained by DCRA):

Zoning Review	Zoning Review - HFC	04/11/2015	per za matt legrant's 10 april 2015 review of the drawings to determine the number of parking spaces provided in the existing garage, the zoning administrator has determined that the existing garage provides only one (1) parking space. applicant is required to provide two (2) off-street parking spaces for the proposed 4-unit apartment building, or seek bza relief for the off-street parking required per section 2101 of dcmr title 11.
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In response to the above, Bogdan advanced a new theory put forth in a Parking Study prepared by Wells + Associates dated April 29, 2015 ("the Parking Study") (included as an attachment to the appeal). In response to the Parking Study the Zoning Administrator issued the following ruling, which is the basis of this appeal (screen shot from the PIVS building permit tracking website maintained by DCRA):

Zoning Review	Zoning Review Approved - WC	05/13/2015	(r-5-b zoning district) -- zoning approval for the conversion of an existing sfd into an apartment house with four (4) dwelling units. includes a two-story addition (four story + cellar apartment house). parking provided via one standard 9' by 19' parking space and one substandard 8' by 16' parking space. substandard space approved by za matt legrant based upon existing condition in existing garage (providing one standard and one substandard space). parking configuration approved by za matt legrant based upon traffic/parking report prepared by wells and associates. existing garage roof to be removed and walls demolished to a height of four feet. prior to issuance of a final certificate of occupancy, a zoning inspection will be required to 1. verify use, 2. verify number of parking spaces, and 3. verify that the garage has been demolished per the above description to not count towards lot occupancy.
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We believe that the zoning approval issued on May 13, 2015 by the Zoning Administrator is fatally flawed and we respectfully request that it be overturned.

We believe that the approval is flawed for multiple reasons. Since Bogdan Builders is relying on the pre-existing nonconforming garage to assert a right to a substandard space of 8' X 16', they must comply with the requirements relating to the approval of the nonconforming garage. Specifically, Bogdan would need to keep the existing walls of the garage in place up to 4 feet in height per the Zoning Administrator's ruling. Bogdan has already torn down the exterior wall of the garage closest to the existing house on the property. In order to benefit from the 4 foot tall wall rule for not having a demolition of a non-conforming structure, the developer must maintain all the masonry walls of the existing structure to a height of 4 feet. The garage was built before 1919 (as verified by the Baist's Atlas at the Library of Congress available on line at <http://www.loc.gov/resource/g3851bm.gct00135c/?sp=10>). This shows the outline of the garage walls which must be maintained to a height of 4 feet. The developer has demolished the exterior wall of the garage closest to the house sometime after October 9, 2014 in violation of this rule. If they had retained that wall, it would be impossible for them to comply with the requirements of

the Zoning Administrator and their newly proposed plan. If they were required to rebuild the wall, they could not possibly provide the 2 parking spaces as shown to the Zoning Administrator by the developer in the Parking Study. Also, the Parking Study assumes that the entrance to the garage from the alley has the full benefit of the 15' 8" that currently exists between the 2 interior walls of the garage. What it fails to recognize is that the masonry walls of the garage structure are such that the actual opening to the garage is about 18" to 20" smaller than that, with 8-10" masonry walls coming out of each side wall at the opening. Since these walls cannot be removed because of the 4' foot wall rule, if they were to be properly noted on the attached study it would render their plan impossible to comply with for yet another reason.

Also, the basis upon which Bogdan is asserting and being granted a pre-existing non-conforming 8' x 16' space is unclear. First, the pre-existing non-conforming space was 16' long rather than the required 19' length, because it was contained within and constrained by the masonry walls of the garage. The fact that the exterior wall closest to the house no longer exists means that there is nothing preventing Bogdan from making that previously non-conforming space a full 9' x 19' conforming space. Since those constraints no longer exist, the non-conforming space should not be granted and they should be required to make it a conforming space. If they were to make the previously non-conforming space a conforming 9' x 19' space, there would be no way they could comply with the terms of their proposed Parking Study and Bogdan would not be able to provide 2 conforming parking places given the size of the property.

Given the above discussion, the mathematical impossibility of compliance with the requirement to provide 2 conforming parking spaces on the lot, and the fact that there is no parking space "minor flexibility" per DCMR 11-2522, we appeal to you that Mr LeGrant's decision be reversed as a violation of DCMR parking regulations. Any variations from parking requirements should go before the Board of Zoning Adjustment. Therefore, the development plan put forth by Bogdan for four units should require review and approval of the Board of Zoning Adjustment or should be rejected by the Zoning Administrator and DCRA.