

BEFORE THE  
BOARD OF ZONING ADJUSTMENT  
OF THE DISTRICT OF COLUMBIA

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Application of Timothy and Charlotte Lawrence, )  
pursuant to 11 DCMR Subtitle X, Chapters 9 and 10 for )  
variance and special exception relief to construct a ) Application No. 19629  
garage structure on an alley lot in the RF-1 zone at )  
1665 Harvard Street N.W. (Rear). (Square 2588, Lot 827). )  

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RESPONSE OF VICTOR TINEO AND LAUREN YAMAGATA  
TO OFFICE OF PLANNING SECOND SUPPLEMENTAL REPORT

The Office of Planning’s report on the Zoning Administrator’s conclusions confirms several key points:

- The applicants can spread gravel and perform maintenance on their parking pad without a building permit.
- The applicants can install a fence, such as the one they had on the site until 2008, when they tore it down. They will, however, need a building permit for a fence or other improvements, such as bollards or a light pole.
- There is thus no “practical difficulty” that prevents the applicants from using – and improving – this site for parking, a use that is permitted under the Zoning Regulations.

In other words, we are back where we were before the applicants unexpectedly injected the permitting issue into the April 17<sup>th</sup> hearing. And apart from failing to meet the “practical difficulty” element of the test for a variance test, the applicants have not shown that the other two elements have been satisfied.

First, there is nothing “extraordinary” or “exceptional” about the parcel in question, which is identical to the way it was in 2008 when the Board denied similar relief. Second, the variance relief needed to build this garage is so far-

reaching that approval would result in a “substantial detriment to the public good” and would “substantially impair” the intent, purpose, and integrity of the zone plan. (For the Board’s convenience, we attach the more detailed discussion of these points from our April 17<sup>th</sup> presentation.)

Finally, even if a garage might be viewed as an acceptable accessory use if Mr. Tineo and Ms. Yamagata did own this parcel, this application cannot be considered in that light. Mr. Tineo and Ms. Yamagata do not own this parcel, and thus a garage owned by the applicants would, by definition, not be a use that is “incidental to the use of the principal building” on the Tineo/Yamagata property.

It is one thing if an owner chooses to build a garage on his or her own property, rather than leave the land open for other uses. In that situation, the tradeoffs between having an accessory building versus losing open space are made entirely by the property owner with no negative impact on the neighbors (assuming a matter-of-right project).

Here, however, the proposed garage on the site would not be an “accessory” use made by Mr. Tineo and Ms. Yamagata to benefit their property. Instead, the proposed garage would impose a burden on them and other neighbors, who are entitled to the full protections of the Zoning Regulations unless the rigorous standards for variance relief have been met. That has not happened here, and we therefore respectfully request that the application be denied.

Respectfully submitted,

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7 May 2018

CERTIFICATE OF SERVICE

I certify that on May 7, 2018, a copy of this supplement statement was served, via e-mail, as follows:

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*Cornish F. Hitchcock*

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Cornish F. Hitchcock

# Supplemental statement of Victor Tineo and Lauren Yamagata

BZA Case No. 19629 – April 17, 2018

- The Lawrences have not shown that they meet the standards for zoning relief.
- The reasons why the Board denied relief in 2008 still apply, particularly as the height of the proposed garage would exceed the height the Board rejected in 2008.
- The Lawrences can continue to use the property for a permitted use.
- Their most recent statement fails to address specific points in our prior testimony about adverse effects on our property.

*The application fails part 1 of the variance test: The circumstances are not “extraordinary” or “exceptional,” and they have not changed since 2008.*

- The lot is still small
- The lot is still trapezoidal.
- The lot is still behind 1701 Harvard Street.
- The lot is still next to two alleys.
- The lot can still be used – and is being used – for the desired use, namely, parking.
- As OP has noted, there are many other small alley lots in the District that were historically tax lots, but not record lots. This one is not unique.

*The application fails part 2 of the variance test: There are no “practical difficulties” in using their property for a permitted use.*

- The Lawrences appear to have backed away from their prior argument that the lot is a magnet for trash and that a garage should be permitted to abate the issue.
- Much of the recent accumulation was of their own making, which they did not try to clean up the lot until two days before that hearing. In fact, as they admit, a citation was issued several weeks after the hearing.
- The property is being used for a permitted use, as it has been for years.

*The application fails part 3 of the variance test: It would lead to “substantial detriment to the public good” and “substantially impair” the intent, purpose, and integrity of the zone plan.*

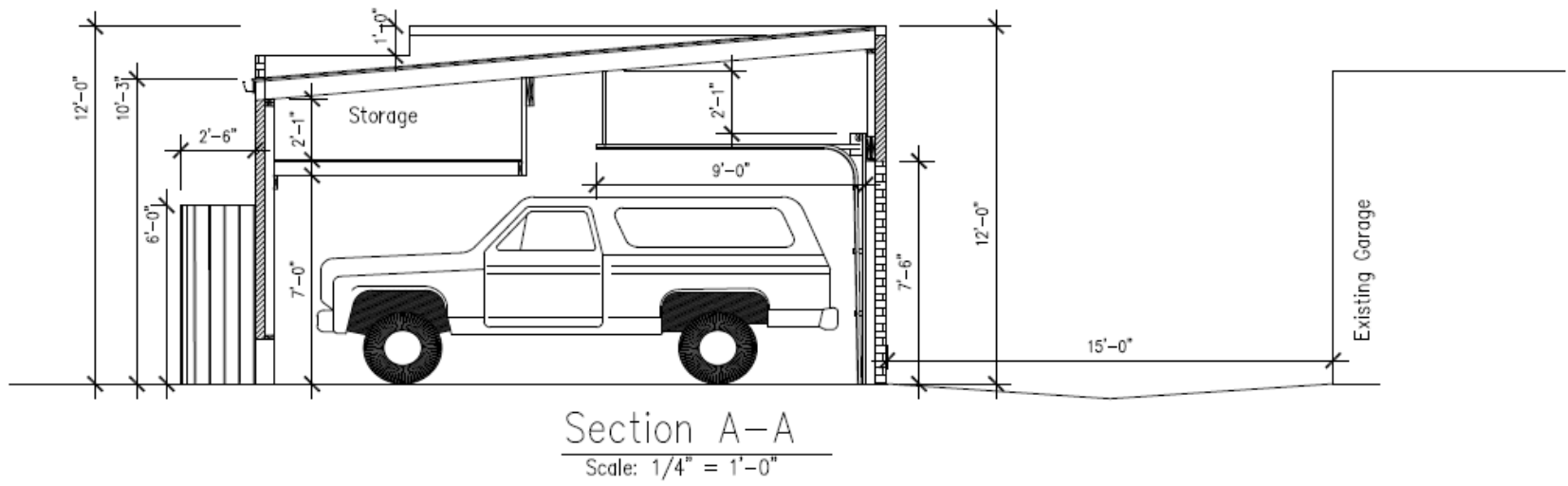
- The 2016 Zoning Regulations may allow greater use of alley lots, but that does not mean every alley lot can be developed.
- The standards for new alley record lots were based on recommendations about public safety. Also, OP reversed its recommendation that property owners be able easily to convert tax lots to record lots, and the Commission agreed.
- The deviations being sought here seek a 75% departure from the minimum lot requirement and a significant departure from alley centerline requirements.

*Special exception relief should also be denied because of potential impact on neighboring property and detriment to the public good.*

- Our prior points discuss the negative effects of this proposal generally. In addition:
- The maximum height of the proposed garage would be higher (12') than the maximum height of the garage rejected in 2008 (10'6").
- The latest filing does not respond to specific points in our last testimony.



The roof structure is designed to drain toward our property.



The latest filing does not address structural concerns we raised about the effect of trees in the 2'6" space next to our rear wall.



Comparing the proposed garage to other garages in the alley can be misleading because buildings on the north side of the alley on Hobart Street (left) are on a higher grade than buildings on Harvard Street. The view on the south side of the alley is different (right).

