



## **Testimony of Stephen Varga**

BZA Case No. 19629 of Timothy and Charlotte Lawrence

1665 Harvard St. NW (rear); Square 2588; Lot 827

February 21, 2018

Good Afternoon, Chairman Hill and members of the Board. My name is Stephen Varga, Director of Planning Services at Cozen O'Connor. I am testifying today based on my 10 years of experience in zoning and land use within the District of Columbia, including time spent at the DC Office of Planning and Office of Zoning where I reviewed BZA applications for conformance with the zoning regulations. I currently represent clients at Cozen O'Connor regarding land use and planning matters. You have a copy of my resume entered into the record.

This case involves a simple request to locate a private garage on an alley lot. Unfortunately, this request has become complicated due to the varying levels of regulatory and administrative requirements that have been placed on alley lots. In the end, this proposed use is one that will not cause substantial detriment to the public good and does not impair the intent, purpose and integrity of the zone plan.

### **The Site Context**

As explained previously, the Property is an alley tax lot located in the Mount Pleasant neighborhood. It is located on a 15' wide alley that is mid-block to the rear of Harvard Street NW between Irving Street NW and Mount Pleasant Street NW. The Property is 557 square feet in size and is located directly behind 1701 Harvard Street NW, which is improved with a separately-owned, one-family dwelling. The Property abuts a 7.5' public pedestrian alley to the east, which separates it from 1665 Harvard Street NW, which is also owned by the Applicant. The Property is unimproved and used as a parking pad.

### **Project**

The Applicants have owned the Property since 2006. With an intent on improving the lot, the Applicant wishes to remove the parking pad and construct a one-story, garage structure (the "Project").

I have reviewed the application, performed historical and regulatory research for alley lots, and conducted site visits of the Property, Alley, Square, and surrounding Mount Pleasant Neighborhood. The alley has numerous two-story structures, garages, and decks to the north of Harvard Street NW and south of Hobart Street NW. Garages in particular are common on the

block and in the neighborhood. Further, the size, brick material, and design of the Project is intended to be in keeping with these existing structures.

Finally a little context on alleys will be useful. Historically speaking, the basic purpose of alleys in large cities is to provide circulation within the grid and provide access to property. As a function of that purpose alleys have primarily been used for the storage of transportation-related equipment. In the 19<sup>th</sup> century this amounted to horses, and in the 20<sup>th</sup> century on onwards, automobiles.

The Property is a historic alley tax lot – a term used to describe alley tax lots recorded with the Office of Tax & Revenue on or before either November 1, 1957 as described in Subtitle B § 100.1 (“Lot, Alley”), or on or before May 12, 1958 as described in Subtitle C § 303.3. As discussed, due to its tax-lot status, the Property cannot be converted into a new record lot administratively. Indeed, area variances are required to make the Property a record lot for which a building permit can be issued.

Alley lots are not especially common in Mount Pleasant – particularly ones of this small size. Indeed, there are no other alley lots in either Square 2588 or 2591, and only four alley lots in the entire neighborhood. Further, the Property is the smallest alley lot and smaller than upwards of 96% of all the lots in the Mount Pleasant neighborhood.

These facts demonstrate just how unique the Property is. As a land planner, it is my opinion that the uniqueness of the Property should provide comfort to the Board and neighbors that granting the requested relief will not establish a precedent.

**Project will not substantially impair the intent, purpose and integrity of the Residential Flat (“RF”) Zone Plan**

The subject property is an alley lot located in the RF-1 zone, which is designed for low-, moderate- or medium-density residential areas suitable for residential life and supporting uses. (Subtitle E 100.2). Further, the provisions of the RF zones are intended to: “Recognize and reinforce the importance of neighborhood character, walkable neighborhoods... and improvements to the overall environment.” Finally, like most zones, RF zone provisions call for the “establishment of minimum lot area and dimensions for the subdivision and creation of new lots of record in RF zones.

From a planning perspective, often a nearby, garage is a supporting use for residential life. ZR-58 supported this conclusion, permitting “private garages” as a matter-of-right use on alley lots in the R-4 Zone.

Under ZR-16, alley lots in the RF-1 Zone are permitted to have an extremely limited number of uses, including agriculture, artist studio, limited “camping in a tent, wagon, van, automobile, truck, or trailer” and a “parking garage”, subject to conditions.

In my professional opinion, this Project is more in-keeping with the intent of an alley lot in the RF zone district than “agriculture” or “camping.”

**Relief can be granted without substantially impairing the intent, purpose and integrity of the zone plan and without substantial detriment to the public good.**

Pursuant to Subtitle A-101.2(d), “The regulations in this title and the Zoning Maps are designed with consideration of the ... Requirement that zoning shall not be inconsistent with the Comprehensive Plan.” In short, the text of the Comprehensive Plan can be used to assist in interpretation of the Zoning Regulations.

The Comprehensive Plan contains many citations that support improvement/ development of vacant lots, and in this case would support the construction of a one-story garage on the lot.

Namely:

- “Facilitate the reuse of vacant lots that have historically been difficult to develop due to infrastructure or access problems, inadequate lot dimensions, fragmented or absentee ownership, or other constraints.” (Policy LU-1.4.2: Long-Term Vacant Sites)
- “Infill development on vacant lots is strongly supported in the District of Columbia, provided that such development is compatible in scale with its surroundings and consistent with environmental protection and public safety objectives.” (LU-1.4 Neighborhood Infill Development 307); and
- “Encourage redevelopment of vacant lots and the rehabilitation of abandoned structures within the community.” (Policy MC-1.1.3: Infill and Rehabilitation)

The Comprehensive Plan does direct that “infill development must be sensitive to neighborhood context. High quality design standards should be required, the privacy of neighboring structures should be respected, and density and scale should reflect the desired character of the surrounding area.” (LU-1.4 Neighborhood Infill Development 307) *See also* The Framework Element (“infill development on [vacant] sites must not compromise the integrity of stable neighborhoods and must be designed to respect the broader community context and where change occurs, it will be modest in scale and will consist primarily of scattered site infill housing.” (Generalized Policy Map 223).

In my expert opinion, I would determine that the Project satisfies the Comprehensive Plan directions, because it permits development of a long-term vacant property in a way that is contextual with the surrounding uses. Mount Pleasant is indeed a beautiful, stable neighborhood. The broader community context in Mount Pleasant is that garages are located along alleys. Therefore, in my opinion as a planner, the Project, which is modest in scale and design, conforms to this broader community context and therefore does not compromise the integrity of the block. Further, the scale, height, and density of the garage is compatible with its surroundings that include a number of other similarly-sized garages.

Further, the Project would not be substantially detrimental to the public good. The closest dwelling to the garage is 17 feet away to the south. The Project should not introduce or extend any shadows beyond that already cast by a large evergreen tree along the neighbor’s property line along the rear.

High quality design standards will be employed, as the garage will provide an aesthetically-pleasing brick exterior intended to match the pattern in the neighborhood. Further, privacy will be ensured by the planting of trees in the Property's rear yard area in addition to the evergreen tree present in the rear yard of the neighboring property.

The Project is consistent with environmental protection. The Environmental Protection element calls for the maximization of permeable surfaces to absorb stormwater runoff which is particularly important in hilly parts of the District such as Mount Pleasant. Construction of the garage and replacement of the parking pad with permeable pavers will allow for the pervious surface requirement for the zone to be met.

The Project is consistent with public safety objectives, as the garage is designed with safety in mind. As noted, the garage is one foot removed from the pedestrian alley, so that pedestrians entering the east-west alley have a greater angle to view oncoming traffic or others in the alley. Additionally, automobiles pulling in and out of the garage will have an adequate turning radius to maneuver without the risk of hitting neighboring garages. The installation of a fisheye mirror and motion-activated lights along two sides of the structure will offer pedestrians warning of cars existing the garage, and alert them to the presence of cars, cyclists, or other pedestrians nearby.

In short, because development of vacant lots is supported in the Comprehensive Plan and due to the fact that the scale, height, density, and design aesthetic of the Project will neither substantially impair the intent, purpose and integrity of the zone plan nor cause substantial detriment to the public good. Quite the contrary: the Project will fulfill many planning objectives that underpin the zone plan

Finally, the Land Use element also states that "infill sites present some of the best opportunities in the city for "family" housing and low- to moderate-density development" in residential areas. While the Applicants are not proposing to construct a dwelling on the lot, they still have family storage needs. For example, bicycles, car maintenance supplies, and other outdoor equipment that cannot be left out and exposed to the elements and the risk of theft.

### Summary

In conclusion, I remind the Board that the Comprehensive Plan is intended to "Facilitate the reuse of vacant lots that have historically been difficult to develop due to "fragmented or absentee ownership, or other constraints" as indicated here.

This direction recommends sensible in-fill development, like the Project, specifically on troubled lots *just like* the Property.

It is my opinion as a planner that, unfortunately, the Comprehensive Plan policies are being stymied by a rejection of the subdivision relief, despite the fact that the Board has granted lot area relief to smaller street and alley lots in the past.

Therefore, in my professional opinion as a planner, I believe the development of long-term vacant properties such as the Property should be facilitated in *some* way. As it stands right now, this vacant alley tax lot could only be developable by the Board granting the relief from the subdivision requirements, which it should do.

Finally, having said that, in closing I invite you to step back from the complex regulatory and administrative matters and remember that at its base, the fact is that the Lawrences' request is simple: they wish to construct a small garage on an alley, as has been the custom in the District over many years. I urge you to approve their application.