GOVERNMENT OF THE DISTRICT OF COLUMBIA

Advisory Neighborhood Commission 2E

Representing the communities of Burleith, Foxhall-MacArthur, Georgetown and Hillandale

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DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT
00 OCT 12 P 3:30

October 6, 2000

Board of Zoning Adjustment
Suite 210
441 Fourth Street, NW
Washington, DC 20001

RE: BZA Application No. 16592
The Car Barn, 3600 M Street

Dear Members of the Board;

At its October 3, 2000 regular scheduled public meeting, which was duly noticed and at which all seven commissioners were present, the ANC 2E unanimously passed the following motion:

> Whereas, ANC 2E with its great weight, advises the Board of Zoning Adjustment to recognize the fact that The Car Barn has a substantial negative impact on the surrounding residential neighborhood and Prospect Street.
>
> Whereas, The Car Barn has a substantial negative impact on noise and available residential parking.
>
> Whereas, The Car Barn previous use of the facility zoned for residential use is not authorized or endorsed by the surrounding community.
>
> It is hereby recommended by ANC 2E that the application for zoning variance(s) by The Car Barn be **denied**.
>
> ANC 2E encourages the parties to keep talking hoping to seek a middle ground.

BZA
Case No. 16592
Exhibit No. 38

COMMISSIONERS:

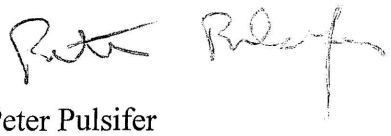
Scott Polk, District 1 Fran Goldstein, District 2 Peter Pulsifer, District 3 Barbara Zartman, District 4
Matt Payne, District 5 Bill Starrels, District 6 Mark Ryan, District 8

Board of Zoning Adjustment
District of Columbia
CASE NO.16592
EXHIBIT NO.38

Also, ANC 2E incorporates into this motion the talking points that are part of the attached letter signed by four of the Prospect Street neighbors that all the commissioners endorse.

Please let us know if we can answer any questions.

Sincerely,



Peter Pulsifer
Chair ANC 2E

October , 2000
Board of Zoning Adjustment
Government of the District of Columbia
Washington, DC 20001

Re: JEMALS/CARY CARBARN LLC, Case No. 16592
3600 M Street, NW
3520 Prospect Street, NW
Washington, DC

Dear board members:

The undersigned ask that you deny the subject application for a special exception and variance to existing zoning. We are all homeowners and live adjacent or within one block of the subject property and are strongly opposed to the proposed special exception and variance and proposed use of the subject property. Our arguments against the special exception and variance are given below. Each of the key statements in the subject application are discussed one-at-a-time by first quoting the wording in the application followed by our arguments against the statement.

1) Application statement: "Since approximately 1959, the Property has been used for commercial purposes, including general office use and accessory use as a garage."... "In April 1999, Building Permit No. B421837 was issued for the construction of a rooftop terrace at the property. ... The rooftop terrace of the Property is at street level along Prospect Street, N.W."

   Discussion: What is not fully stated above is that the rooftop terrace was built along with a pavilion within the portion of the property zoned R-3. During construction, they removed flowerbeds and closed window wells. Their proposed use of the construction within the building permit application was for business (see attached photograph). This pavilion and terrace has been used regularly, along with the connecting C-2-A zoned portion of the property, for special events including most Friday and Saturday evenings. Alcoholic beverages are served at these events and it is our understanding that they often did not have liquor licenses. We have attached photographs documenting a few of these events.

2) Application statement: "The fourth floor, which has views of the Potomac River and Rosslyn, Virginia across the river, is used as a combination restaurant/conference facility. This facility is used for meetings, conferences, weddings, receptions and special events."

   Discussion: The fourth floor includes the rooftop terrace that was the subject of the building permit mentioned in 1) above along with the illegally built pavilion. There is no wall, fence, line or any other separation on the fourth floor between the portion of the building located within the C-2-A district and that portion within the R-3 district. It is, in fact, a single, unobstructed floor on which the pavilion is built. As stated in their

application, they have (illegally) used "This facility … for meetings, conferences, weddings, receptions and special events." We use the word "illegally because a) they use the portion of the roof within the R-3 zoning for these events and b) prior to August 2000, "The only lawfully established uses in the C-2-A and R-3 zones are office and parking garage" according to the letter to them dated February 17, 2000 by Michael Johnson, Zoning Administrator. On August 21st of this year, the Applicant obtained a C of O allowing use of the commercially zoned portion as a "Restaurant/Conference, Catering & Special Events Facility."

3) Application statement: "The Applicant proposes to extend the restaurant/conference facility use of the portion of the building located within the C-2-A district to the roof top terrace of the Property, which is located along Prospect Street, N.W."

   Discussion: As we previously stated, the entire fourth floor is typically used for the "events." Besides not being permitted by the C of O, this is prohibited use for R-3 zoning at any time. We do not agree with extending the restaurant/conference facility to Prospect Street, NW and we strongly object with the present illegal use of the R-3 space.

4) Application statement: "The relief sought by the Applicant can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan because of (a) the continuity and 14-year history of the use of the fourth floor for meetings, conferences, and receptions"

   Discussion: The applicant states he has used the fourth floor for "meetings, conferences, and receptions " which are illegal uses of both the R-3 and C-2-A zoned portions of the fourth floor for all periods prior to obtaining the new C of O in late August of this year. In general, the Applicant is admitting the fourth floor adjacent to M Street was used illegally 14 years for the "events" which appear to be the only use made of the fourth floor. We have not seen it used for meetings or conferences nor is it used for office space. Furthermore, the portion adjacent to Prospect Street has been used illegally for the events by virtue of the zoning as well as the C of O. This illegal use has been a constant sore spot for us and other neighbors. **Just because the space adjacent to Prospect Street has been used illegally for 14 years (with numerous complaints from neighbors) does not mean the Applicant should be allowed to continue such use or that the history of illegal use should be considered as a justification in the subject application for extending the zoning. Rather it should be used as an indication of the ongoing practices and intent of the Applicant.** It should be noted that the rooftop terrace and pavilion, which were recently built and appears to be significantly taller than what had been allowed in the building permit, clearly were built for the express purpose of large "events". It has never been used for its approved use as office space nor could it logically be used as such as it is not enclosed. In other words, **it appears the Applicant has always intended to use the rooftop terrace and pavilion for "events" which is illegal use, inconsistent with the neighborhood, and a self-imposed hardship.**

5) Application statement: "The relief sought by the Applicant can be granted…because of …(b) the adequacy of off-street parking."

Discussion: While there may be adequate off-street parking for the offices in the building, the fact is attendees to the "events" often use the Prospect Street access, not the M Street access. Consequently, the very limited parking spaces on and near the 3500 block of Prospect Street come under extreme pressure because of the events. Furthermore, vendors and suppliers to the events almost always use the Prospect Street entrance because of its easy, direct access to the fourth floor causing severe congestion on Prospect Street.

6) Application statement: "The relief sought by the Applicant can be granted…because of …(c) the existing use of the Property for commercial purposes."

Discussion: As the Applicant has stated, their use of the property for the last 14 years has been for "meetings, conferences, and receptions." This use has been illegal for the entire fourth floor except for the last month of this period when such use became legal for the commercial portion only. The new C of O issued in August was only for the portion with C-2-A zoning. **In other words, the Applicants statement of "existing use of the Property for commercial purposes" only legally pertains to the very short period since August 21, 2000 and not for the last 14 years as the Applicant implies.**

7) Application statement: "The requested special exception can be granted without adversely affecting the surrounding community and will benefit the community for the following reasons:
    1. The extension of the restaurant/conference facility use to the rooftop terrace of the Property is compatible with surrounding uses;"

Discussion: The East Side of the property is adjacent to private residences. The fourth floor in the half of the property adjacent to Prospect Street and the subject of the Application looks down into these residences. Consequently, whenever the "events" take place, individuals on the fourth floor, some of whom clearly are drunk, are able to and do peer down into these residences. Often they throw cigarette or cigar butts and even empty drinks down into their yards. Also, since the rooftop is open, the loud party noise penetrates the residences. The entire adjacent 3400 block is also residential. The property to the West consists of private residences all of which are row houses while the property across the street is owned by Georgetown University and used partially for offices and partially for student residences. The "events", which take place on the subject property including the portion adjacent to Prospect Street, often include bands with amplified music playing past 10pm, 11pm, and sometimes well past 12pm. Such a nuisance is incompatible with the surrounding residential use. If these "events" are held even more often than they currently are, they will adversely affect the value of nearby residences. Clearly, the use of the Applicant's property fourth floor for "events" is not compatible with surrounding uses.

8) Application statement: "The requested special exception can be granted without adversely affecting the surrounding community and will benefit the community for the following reasons: ...
    2. The existing commercial use of the Property has had no substantial adverse impact on surrounding properties."

    Discussion: We have made many statements already concerning the adverse impact of the ongoing illegal commercial use of the subject property. Making it legal by granting the Applicant a special exception and variance to existing zoning will not ameliorate the adverse impact it already has on the surrounding properties when used illegally. Agreeing to the zoning and use change would only make it considerably worse than it currently is as the Applicant would be free to hold "events" any time without worrying about complaints from us, other nearby residents, or the many visitors to this historic section of Georgetown. Despite complaints from the community, the D.C. government has not had the resources to enforce the code and regulations.

9) Application statement: "The requested special exception can be granted without adversely affecting the surrounding community and will benefit the community for the following reasons: ...
    3. Adequate parking and loading areas are provided on the Property"

    Discussion: As previously stated, parking on Prospect Street is extremely limited and under great demand. For the last 14 years, according to the Applicant, the fourth floor has been used for "events." These events are usually supplied by vendors parking on Prospect Street in a zone clearly marked "No Parking" because of its easy access to the fourth floor. (Prospect Street is at the same height as the fourth floor of the subject property while M Street is three stories lower.) Event attendees do, in fact, compete with local residents and other visitors for the scarce parking spaces. Many nearby residences do not have off street parking worsening their plight. This summer, some vendors started using the loading area on M Street but many still use Prospect Street.

10) Application statement: "The requested special exception can be granted without adversely affecting the surrounding community and will benefit the community for the following reasons: ...
    4. The proposed extension for the restaurant conference facility use will not adversely effect traffic in the R-3 district, as the entrance to the roof top terrace will be provided along M Street, N.W.

    Discussion: While M Street provides one entrance to the subject property, it is three stories below where "events" take place. Vendors simply do not use M Street and most attendees also do not. Vendors park directly in front of the Prospect Street entrance reducing Prospect Street from a two-lane street into a one-lane street greatly inconveniencing local residents as well as visitors to this historic section of Georgetown. Both vendors and attendees walk in from Prospect Street directly onto the roof and the "event".

The applicant states that "the subject application satisfies the legal requirements applicable to the requested relief and that it therefore be granted." We, the undersigned and members of the community, respectfully, strongly disagree and request that the subject application be denied. **We are adversely affected** now because of the illegal use of the forth floor and would be even more so if the Applicant's request was granted. We further request that the Applicant be instructed to discontinue using the subject property in an illegal manor in contradiction with the C of O and zoning laws.

Sincerely,

Matthew E. Donahue, 3616 Prospect St.
Michael Linsey, 3620 Prospect St.
Sheryl Spivac, 3622 Prospect St.
James Marsh and Linda Witt, 3624 Prospect St.
other