

Cochran, Patricia (DCOZ)

From: Jane Wilson <sj.wells@verizon.net>
Sent: Wednesday, October 2, 2024 3:13 PM
To: DCOZ - BZA Submissions (DCOZ)
Subject: BZA Case# 21143

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October 2, 2024

Re: BZA Case# 21143

Dear Members of the Board of Zoning Adjustment:

I am a 30-year resident of Georgetown and am writing to express my opposition to the special exception and area variance requests made by the Trustees for Harvard University (“Applicant”) with respect to 3100 R Street, NW (“Property”) (BZA Case# 21143). I reside less than half a block from the Property.

On April 1, 2024, an Application For Variance And/Or Special Exception was filed with the BZA requesting approval for the Applicant to use the Property as office space (Exhibit 1A in the online records for this case; superseded by Exhibit 1B, filed on April 5). Also on April 1, a Statement of Existing and Intended Uses was filed, stating that the Applicant’s intent is to use the Property as office space (Exhibit 3). On the same date, a Preliminary Statement Of Compliance With The Burden of Proof was filed in support of the Application to use the Property as office space (Exhibit 8). It was not until Applicant’s Prehearing Statement was filed on June 24, 2024, that a more robust description of the underlying facts of this case, including Applicant’s intended long-term use of the Property, was revealed in the online case record (Exhibit 22).

For purposes of putting my comments into context, I will first summarize my understanding (gleaned from the overall record) of the basic facts. The Applicant purchased the Property in March 2021 for the purpose of providing temporary housing for scholars, professors, and other guests conducting research at the Applicant’s Dumbarton Oaks campus. (Although not clear from the record, it seems that the Applicant, at least initially, may have assumed that this use of the Property was a matter-of-right residential use that would not require BZA approval.) The Property was in a state of significant disrepair when purchased, so the Applicant sought, and in February 2022 was granted, approval by the OGB and CFA to make specified improvements and repairs to, and renovations of, the Property. Within a year of purchasing the Property, however, Applicant determined that “[f]unding and supply chain issues caused by the Pandemic” (Exhibit 22, p. 5) would require Applicant to delay commencement of the Property’s renovations for a significant period of time. In January 2022, the Department of Buildings deemed the Property “Vacant.” The following month, four Dumbarton Oaks employees began using the Property as “makeshift” (my word; not the Applicant’s) office space in order to put the Property to use and prevent its being classified by the Office of Tax and Revenue (“OTR”) as “Vacant” for tax purposes. Once the employees started occupying the Property, OTR classified the Property as “Commercial” for tax purposes. The Applicant was then advised to file the BZA application in this case seeking a special exception to permit the use of a residentially-zoned property by a nonprofit organization for nonprofit purposes. Because the Applicant cannot meet the minimum floor square footage condition of the special exception, its application also seeks an area variance. Although the application filed in this case and the Applicant’s Statement of Existing and Intended Uses refer only to use of the Property as office space, the Applicant’s Prehearing Statement filed on June 4 (Exhibit 22) and its Prehearing Statement filed on September 23 (Exhibit 44) make it clear that the Applicant is also seeking BZA’s approval of the Applicant’s long-term plans to provide temporary housing to visiting scholars, based either on a matter-of-right residential use theory or pursuant to a special exception.

I have reviewed the comments contained in the online case record and fully agree with the comments that touch on the Applicant's lack of stewardship of the Property, the Applicant's inability or unwillingness to remedy the S Street traffic/parking issues caused by ongoing construction work at the Applicant's Dumbarton Oaks campus, and the Applicant's historic failure to engage with the local Georgetown community, even with the members of that community whose streets are directly impacted and frequently over-burdened by the activities conducted at Dumbarton Oaks. (The Applicant, who advertizes on its Dumbarton Oaks website the availability of two-hour street parking on weekdays and Saturdays and time-unlimited street parking on Sundays, would, for example, have to be oblivious not to realize that visitors to Dumbarton Oaks often contribute to dangerous traffic conditions in the neighborhood, as well as to a complete lack of street parking for neighboring residents.) In truth, the Applicant's conduct smacks of privilege and entitlement and, as such, does not engender much faith that the Applicant will renovate and use the Property in a manner that will adequately take the neighborhood's sensitivities into account. Nor does it inspire confidence that the Applicant will diligently enforce the conditions proposed in connection with its application.

I also fully agree with online comments that express concern about the impact of the Applicant's ownership and proposed office use of the Property on the housing market and on the character of the surrounding residential neighborhood. It is far easier to promote a suitable environment for family life, a stated goal of the R-1B zoning classification, when properties so zoned (like the Property) are owned and occupied by individuals interested in integrating into the neighborhood than when those same properties are owned by an insular institution and occupied by staff members of that insular institution. As for the Applicant's proposed long-term plans to provide temporary housing for visiting scholars, the Applicant has not put forth sufficient details to accesss the impact of that use on the neighborhood and whether that use is consistent with the R-1B zoning classification goals. Wouldn't it be important to nail down, for example, the length of time a visiting scholar is expected to be housed in the Property on any one visit? Are we talking about a rapidly revolving door of visiting scholars, who for all practical purposes, would likely remain nameless, and even faceless, to the neighbors? Unless these sorts of details are immaterial to a matter-of-right residential use determination, I would urge the BZA to refrain from addressing the Applicant's long-term plans for the Property, because the record does not contain sufficient information and the long-term use is too far off in the future for the issue to be ripe for a determination at this time.

I turn now to property taxes, a subject raised not only in comments filed in this case, but also in widespread conversation. It's interesting to note that the Applicant's very existence and its ownership of Dumbarton Oaks came about in 1941 in furtherance of a plan to avoid the property taxes that would have been levied had Dumbarton Oaks been owned directly by Harvard University. Dumbarton Oaks Archives, "Taxing Issues: Getting Tax Exemption for Dumbarton Oaks," <https://www.dopapers.org/newsletter/news-archives/2016/taxing-issues-getting-tax-exemption-for-dumbarton-oaks> (<https://perma.cc/2WAF-VXM2>), June 15, 2017. Over the course of its existence, the Applicant has amassed a real estate portfolio in this immediate neighborhood alone that is impressive by any measure. In addition to owning the 16-acre Dumbarton Oaks campus (assessed at approximately \$134,100,000), the Applicant currently owns, within a two-block radius of the campus, a residence used to house its director (assessed at approximately \$8,400,000), a townhome whose use is unknown to me (assessed at approximately \$2,900,000), two apartment buildings used to house Dumbarton Oaks fellows, visiting scholars, Harvard interns (not sure I've properly described who's being housed in these buildings) (assessed on a combined basis at approximately \$20,700,000), and the Property (assessed at approximately \$6,100,000). Out of these real estate holdings, with a combined assessed value of approximately \$172,200,000, the only property with respect to which the Applicant is currently paying any property tax is the Property (whose approximate assessed value is a mere 3.5% of the total). The Applicant hopes to reduce its property tax liability to \$0 and is seeking to use BZA approval of its zoning requests to buttress its case for having the Property classified as tax exempt by OTR.

There are a myriad of reasons (some policy based; some not) why I find it galling that the Applicant, who has been able, year after year, to avoid having to pay property taxes (the total amount of which would surely be staggering if calculated) is now (at the same time that the City, strapped for money, is implementing a property tax increase that will affect virtually all of the neighboring residential properties) pulling out all stops to achieve tax exempt status for the Property. That said, I am firmly of the view that all persons have a right (in fact a duty, in some cases) to pursue strategies for reducing or eliminating taxes provided that those strategies are supported by applicable law. If the result is offensive, then perhaps the laws that produce it need to be overhauled.

I realize, of course, that the BZA's jurisdiction does not extend to tax matters; however, the BZA's response to zoning requests could, in some cases, influence or perhaps even pre-ordain the outcome of related tax matters that fall within the jurisdiction of the taxing authorities. In the Applicant's case, It is not clear to me that the BZA's approval of the zoning requests would necessarily lead to the Property being classified as exempt for tax purposes. But, it is also not clear to me that approval of the zoning requests would not affect (possibly effectively determine?) the tax outcome. What does seem clear is that denial of the zoning requests will leave the Applicant with no current legal basis that I can think of for pursuing exempt status for the Property at this time. That seems not to be an unfair result here. After all, when the Applicant purchased the Property in March 2021, it should have considered whether implementing even its original (now long-term) plans for the Property (providing temporary housing accommodations) might require the Applicant to seek a special exception from the BZA, and certainly, the Applicant knew or should have known at that time that it couldn't possibly meet one of the conditions to that exception. Within a year of purchasing the property, the Applicant decided to delay implementation of its orinal plans, citing funding and Pandemic-related supply chain issues as its reason for doing so. We know, of course, that at the time of the Property's purchase, the Pandemic had already been wreaking havoc on the economy for a year, with no end in sight. Finding itself in a bind (having to pay tax on the Property), the Applicant seeks the BZA's help in extricating itself from a situation caused by the Applicant's own strategic and financial miscalculations. Considering the entire record and future implications of approving the Applicant's zoning requests, I think it's too much to ask of the BZA.

Thank you for your consideration of my comments.

Sincerely,
Jane Wilson
1677 31st Street, NW
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