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Resolved, that ANC1D advises the Board of Zoning Adjustment to deny the Special Exceptions and variances requested for 1665 Harvard St NW, Case 19629, and to scrutinize and confirm the status of this property as a tax lot.

Why: This Commission appreciates the substantial reduction in size made by the applicant, responding to ANC concerns expressed last month and in October 2017. The height of the structure has been reduced from over 20 feet to 12 feet, and what was a garage and an alley apartment is now only a garage with overhead storage.

This Commission has no objection to an alley garage, per se. Under ordinary circumstances, this Commission would not object to the BZA allowing a small number of modest zoning reliefs to permit a garage. But this is no ordinary circumstance. This situation is unique because the location of this tiny lot is directly behind the dwelling at 1701 Harvard Street, which is home to a different owner than the owner of the alley lot in question. Indeed, if this lot were part of the lot at 1701 Harvard Street, it is unlikely that building a garage would require any zoning relief at all.

History of the Mount Pleasant ANC and Lot 826

The current application is similar to that filed in 2008 for this location, a garage which was to be 16 feet tall. In October 2008, this ANC advised, by unanimous vote, against permitting variances for that proposal, arguing as follows:

“Any building constructed on this tiny lot would face the rear of the home on lot 826, 1701 Harvard Street. With a roof height of 16 feet above the back-yard ground level, only 17 feet from the existing row house at 1701 Harvard, this construction will clearly have an adverse effect on the light and air of that dwelling.

“Though some neighbors favor this construction, the residents of 1701 Harvard are very unhappy at the prospect of a garage being built on that location. They have a valid complaint, and ANC1D advises that this application for a zoning variance be denied.”



Rationale for ANC 1D Recommending Denial

The current application only slightly modifies these dimensions. The proposed structure is 12 feet tall and would be 19 feet from the back of the 1701 dwelling. In their statement and plans, the applicant has not met the burdens of proof necessary for the BZA to approve zoning relief for this project. Specifically, the applicant does not meet the burden of proof to overcome the following tests for granting zoning relief:

1. Showing that the garage would not cause substantial detriment to the public good;
2. Showing that the garage would be consistent with the Zoning Regulation intent of controlling building bulk; and
3. Showing that the BZA must grant zoning relief because failing to grant relief would cause an exceptional situation resulting in a practical difficulty.

These reasons are explained in greater detail in the subsequent three sections.

Detriment to the Public Good

First, before permitting a variance, the BZA must find that “granting the request would not cause substantial detriment to the public good.” This Commission believes that, due to the height of the proposed garage and its proximity to the adjacent residences (particularly at 1701 Harvard St), the garage would be a “detriment to the public good” by blocking light and air flow of the adjacent neighboring properties. On a communitywide level, another detriment to the public good would be how the proposed garage, fence, and gate would obstruct pedestrian sightlines between a public walkway and a public alleyway. Currently, the lack of any structure in this lot allows pedestrians a clear view of oncoming alley traffic from the west. The construction of a garage and fence on this lot without considerable side setback will greatly reduce the ability of pedestrians to see oncoming traffic and thus increases the chance of cars hitting pedestrians.

Inconsistent with Intent and Purpose of Zoning Regulations

Second, the BZA must also find that “granting the request... would not be inconsistent with the general intent and purpose of the Zoning Regulations.” The Zoning Regulations for Mount Pleasant’s RF-1 district are explicitly intended to “control the location of building bulk in relation to adjacent lots and streets, by regulating rear setbacks, side setbacks, and the relationship of buildings to street lot lines”. According to the Office of Planning (OP), the intent of these regulations is to avoid proximate obstructions and prevent disorderly development—which will both occur if the BZA approves this application.

No Existence of Exceptional Situation Resulting in a Practical Difficulty

Third, for two of the variances requested, the applicant must show that the BZA not granting zoning relief will create an "exceptional situation resulting in a practical difficulty." The OP claims that the applicant did not meet their burden of proof to show a “practical difficulty” in a previous set of plans. The applicant uses the property for vehicle parking now, and, as depicted in the new plans, the applicant still proposes to build a garage for vehicle parking. Here is the relevant passage from the OP report:

"...the application does not demonstrate how adherence to the regulations would be a practical difficulty to the applicant as the current use as surface parking could continue, as the Board discussed in the previous decision in Order No. 17833, and as the property has continued to be used since that case was denied."

The OP report further commented that this application does not meet the "practical difficulty" test because the applicant has not adequately demonstrated that a car could not fit into a by-right structure.

FIG 1: BY-RIGHT GARAGE

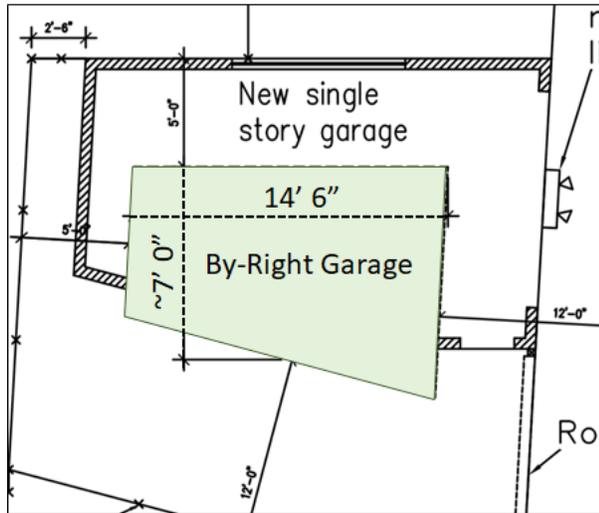
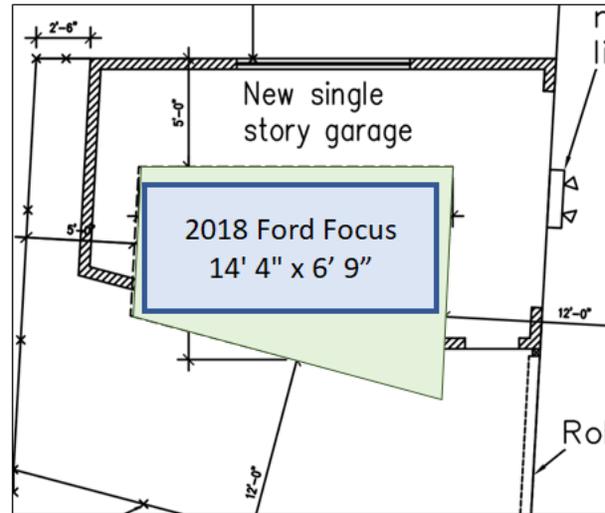


FIG 2: BY-RIGHT GARAGE WITH VEHICLE



Again, here's the relevant passage from the OP report:

"In this application, the applicant is seeking a variance from the requirement for setback from the centerline of the alley - 12 feet required at north, 7.5 feet proposed; 12 feet required at east, 4.75 feet proposed. However, the Applicant has not adequately demonstrated that should the setback from the alley centerline (from either alley) be increased, a car could not fit in a garage at this location."

It is the view of this ANC that even a small by-right garage could house a normal-size car. The applicant has indicated that a by-right garage would be 14' 6" long and about 7' wide at its most narrow point. The 2018 model year Ford Focus is 14' 4" long and 6' 9" wide. From this ANC's perspective, the applicant could build a by-right garage—or something extremely close to by-right in size—and still park a car in the garage (see Figures 1 and 2 below).

Record Lot Treatment

Finally, regarding the record lot issue, the applicant has argued that this particular lot may be converted from a tax lot to a record lot as a matter of right, without requiring a variance, due to historical circumstances. However, legitimate doubts have been raised about the historical facts concerning this lot, as well as the correct interpretation of how such conversions should be made. The BZA should investigate and verify the factual statements of the applicant and interested parties about the history of this lot and whether a variance to treat it as a record lot is unnecessary. The BZA should be confident in its analysis before ruling on this matter.

Conclusion

For the reasons stated above, this ANC recommends that the BZA deny zoning relief for the garage as proposed in this case. Although we are sympathetic to the need for parking in our community, we do not believe that the applicants here have met their burden of proof to show that zoning relief (1) is not a detriment to the public good; (2) is consistent with zoning regulations; and (3) is required to overcome an exceptional situation resulting in a practical difficulty.

Resolution passed, 4 to 0 vote, at the legally noticed, public meeting of ANC1D on March 20, 2018, with a quorum present. Voting "yes": Commissioners Karaffa, Stewart, Karrer, McKay. A quorum for this commission is three; four commissioners were present.