

March 28, 2017

Margery Perlmutter, R.A., Esq., Chair  
NYC Board of Standards and Appeals  
250 Broadway, 29<sup>th</sup> Floor  
New York, NY 10007

**Re: BSA Cal No: 224-14-BZ  
225-14-A**  
**Location: 1534 Victory Boulevard  
Staten Island, NY**  
**Tax Block: 695**  
**Tax Lot: 81 (formerly 80 & 81)**

Dear Chair Perlmutter:

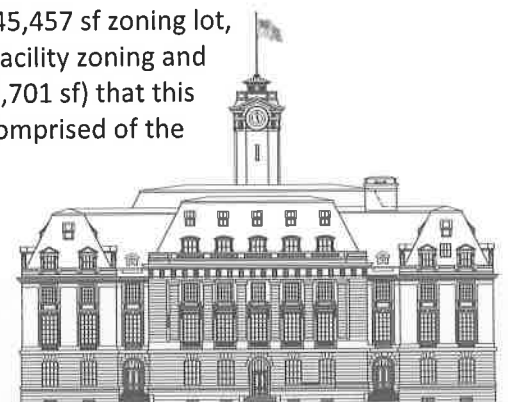
We forward this letter in opposition to the referenced application. We believe that this proposal, along with the Statement of Facts and Findings and other attendant documents, disingenuously combines various and possibly unrelated issues, concerns and multiple zoning lots. As well, it omits pertinent facts that would more clearly frame the issue at hand.

The application, filed in 2014, seeks a variance to construct a non-conforming group parking facility containing thirty-nine (39) vehicle spaces on a separate zoning lot. The zoning lot currently supports an existing complying one-family detached dwelling and detached garage; a conforming use for the designated R1-2 zoning district. The proposed parking facility will be located adjacent to eleven (11) existing residential properties as well as mapped parkland, known as Clove's Tail Park.

The approval of this application will adversely affect the quality of life for residents of adjoining properties, will create additional traffic congestion along Victory Boulevard, which is a major arterial, and will set a precedent that vested zoning lots need not be restricted to the parameters outlined for non-conforming uses in the Zoning Resolution.

We believe the facts of this proposal must be reviewed based on the merits of the individual zoning lots in question. The circumstances of the existing adjoining non-conforming Use Group 4A Community Facility must remain separate and consistent with the use vested under Certificate of Occupancy #078925, issued on August 7, 1992. We also oppose the construction of a new vestibule and an additional increase in zoning floor area to the existing vested non-conforming use.

While documents filed with the Board will show that "new" Tax Lot #81 is a 45,457 sf zoning lot, it is only by arbitrarily merging former Tax Lot #81 (the original community facility zoning and tax lot: 17,756 sf) with existing Tax Lot #80 (residential zoning and tax lot: 27,701 sf) that this new, larger Tax Lot #81 exists. In essence, the newly-created tax lot #81 is comprised of the original vested zoning lot and the existing complying zoning lot.



To better understand the distinction, we have outlined the history of the filings, approvals and non-conformances. The existing medical building is located in an R1-2 Zoning District on Tax Lot #81, situated in Tax Block #695 (tax map attached). The structure was constructed under New Building #1302/1980, approved March 21, 1985. A Final Certificate of Occupancy was issued on August 7, 1992 under CO #078925 (copy attached). The original approval contained seventeen (17) required parking spaces located on the left-side (easternmost property line) and rear of the building (southernmost property line). There were no spaces approved at the front of the building – regardless of the current field conditions and photographs presented to the Board (See original approved site plan attached herewith).

At the time the building was constructed the property was zoned R3-1 and the use was complying. In 2004, this type of community facility use was banned from R1 and R2 residence districts citywide. In 2005, the property was rezoned to R1-2. The vested zoning lot is a 17,756.00 sf. rectangular-shaped 82' x 215' parcel with 82.33' of frontage on Victory Boulevard. While the proposal's narrative purports a single zoning lot, proposed zoning lot is actually comprised of the original zoning lot, which supports an existing vested non-conforming use and accessory parking, plus a new flag-shaped 50' x 350' zoning lot supporting an existing one-family dwelling and detached one-car garage. The proposal includes the demolition of the complying uses and construction of a non-conforming group parking facility in a residence district. We believe the aforementioned zoning lot structure, as described herein, is much different than what has been submitted and is consistent with Article V, Chapter 2 of the Zoning Resolution. The text clearly lays out parameters for enlargements and extensions to existing non-conforming uses. We believe the construction of a new group parking facility on a separate zoning lot is contrary to the intent of the text and should not be permitted. ZR §52-41 addresses the enlargement of existing non-conforming uses: enlargements are permitted when designed exclusively to permit conformity with the regulations on performance standards, or in order to provide required accessory off-street parking spaces or loading berths on the same zoning lot as the use to which such spaces or berths are accessory. We believe the distinction stating "on the same zoning lot" implies a restriction on extending the zoning lot size of the non-conforming use. Any other interpretation could be considered a defacto increase in the degree of non-conformance, as there would be no limit on how large an existing non-conforming zoning lot might become within the complying block. We point out that there are no limits to how parking spaces might be designed – only minimum parking and maneuverability standards.

Article V, Chapter 1, ZR §51-00 outlines the purpose of regulations governing non-conforming uses and non-complying buildings to promote and protect public health, safety and general welfare. The regulations are designed to provide a gradual remedy for existing undesirable conditions resulting from incompatible non-conforming uses. The regulations for non-conforming uses are specifically structured to allow the vested use to continue while restricting further investment which would make the use a more permanent establishment. In the neighborhood in question, the rezoning applications approved by the City Planning Commission (CPC) since 1992 illustrates the desire to continually restrict all uses except detached one-family dwellings.

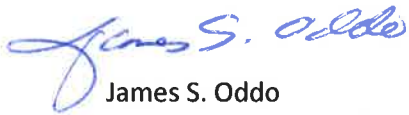
We believe decisions made by the Board should preserve the character of the residential district established by the Zoning Resolution.

At some point, we will leave the built environment and these interpretations to the next generation. We will not be around to explain what we meant, or what the standard of care was perceived to be. It is therefore incumbent upon us to do our best to be honest, fair and consistent regarding decisions made to promote and protect public health, safety and general welfare.

We ask that you and your Board accord our request every consideration consistent with your rules and regulations, while also clearly speaking for the people of Staten Island.

Thank you for your attention regarding this very important community issue

Sincerely,



James S. Oddo  
President, Borough of Staten Island



Steven Matteo  
Minority Leader, District 50