

**From:** [Beal Lowen](#)  
**To:** [Lisa Chase](#)  
**Subject:** [EXTERNAL]Objection to Curb Cut at 322-324 South Lee Street  
**Date:** Monday, September 5, 2022 2:06:25 PM

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September 3, 2022

Dear Board of Zoning Appeals:

I have lived at 321 South Lee Street for over thirty years.

My home is directly across the street from the proposed parking area at 322-324 South Lee Street.

I wish to reiterate my strong opposition to this project.

There is no pressing need for it. It violates ordinances and standards for such projects in Old Town. If this curb cut, the destruction of a tree and construction of a parking area are approved there will be no way to prevent similar projects anywhere in the Old and Historic District, or the entire City.

I thank you for your time and efforts, and urge you to not permit this project.

Beal Lowen

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September 2, 2022

Memorandum

To: BZA Board Members

From: Phil and Lisa Herget (Avonlea LLC)

RE: Curb Cut and Variance Request for 324 S Lee St

We look forward to meeting with you on Monday September 12<sup>th</sup>. In advance of that, we would like to share our rationale and thoughts for the curb cut and for the associated parking area.

We recently bought the quaint and beautiful house at 322 South Lee Street and the adjoining lot at 324 South Lee. 322/324 have not been occupied for many years and as a result are in need of substantial investment. We plan to restore and renovate the house while landscaping and improving the open space of the 324 lot. This is a very exciting opportunity and frankly a significant challenge as well given the current condition of the property. Our plans for the 322 house focus on preserving and restoring the historic aspects of the house. We are not adding on to the home other than extending the side porch a bit (which likely was the length when originally added to the house many years ago). Our plans for restoring the house have been approved by the BAR. We will enhance the 324 open space with tasteful landscaping. We are confident the end result will be amazing and very much in keeping with the neighborhood aesthetics and historical nature of the property.

We hope to make one significant improvement to the 324 lot – add a two-car parking area that is fenced, gated and landscaped in a manner that is in keeping with the current aesthetics of the property. This of course requires a curb cut. The pad and sidewalk access will be thoughtfully and visually designed to also be in keeping with the existing nature of the property. Attached is a drawing to illustrate what we have in mind (note that the sidewalk tree stays).

The rationale for the curb cut/parking area includes the following:

- Several properties in the 300 block of South Lee and in the broader neighborhood have curb cuts with parking areas. In the case of 324 and unlike any other property on the 300 South Lee block (and very few if any other properties in the broader neighborhood), there is an open lot that can be improved or otherwise developed. We believe the best way to improve 324 is through landscaping and a tastefully done two-car parking area. We will be able to maintain much of the open space of 324 – this is very important to us.
- A critical factor in this case, there is no on-street parking on the east side of the 300 block of South Lee Street where 322/324 are located. So, we can add 2 new parking spaces without eliminating any existing on-street parking. With the recent increase in nearby restaurants and businesses plus reduced parking on King Street, the demand for on-street parking is at an all-time high and getting worse. Many of our neighbors

express strong support for our plans simply based on this key factor. The 300 block of South Lee has especially high demand for on-street parking given its proximity to the restaurants and businesses.

- We will design, fence, gate and landscape the parking area such that it will be in keeping with current aesthetics and veil the vehicles to maintain a pedestrian and neighbor experience that is very similar to how it is now.
- We will maintain the open space that currently exists on 324 and enhance with tasteful landscaping and fencing.
- To be environmentally sensitive, we plan to use a permeable surface for the parking pad.
- We will of course adhere to City design requirements.
- We plan to put in an EV Charging Station to allow us to buy an EV Vehicle.

As noted above, there is a sidewalk tree that is in the vicinity of the requested curb cut. We plan to leave the tree as is and to work to maintain the health of the tree. We have engaged an arborist to advise us on this. And, we recently met with the City's arborist. Something that is very important to note, both arborists agree that this tree is in a state of advanced decline and no matter what will likely not live much longer. It is a very unhealthy tree that recently required emergency attention to remove a major limb (~ 30% plus of the tree) which had cracked and decayed creating a dangerous situation for pedestrians. With or without the curb cut, this tree is in very bad health, and the City arborist commented this tree will probably not survive another 2-3 years. If granted, this curb cut will not impact the tree's remaining life because its health is so bad it is not going to survive much longer in any event. Given the tree is in such poor health and state of decline, we are willing to work with the City on replacing it at the appropriate time including contributing to the cost of doing so.

We are happy that many of our Old Town neighbors support and encourage what we plan to do with 322/324 South Lee. Many letters have been submitted to the BZA in strong support of what we propose to do. This support is multifaceted including appreciation for our desire/plans to:

- Restore the house which is in substantial need of investment
- Preserve the historic character/nature of the property and neighborhood
- Utilize our side yard (the 324 South Lee property) to increase net neighborhood parking by adding the parking area
- Maintain the pedestrian and neighbor experience through very tasteful and aesthetically relevant (and needed) investment in landscaping, fences and gates.
- Preserve most of the open space of the 324 property by not adding on to the house or developing the property in a way that encroaches on or diminishes the 324 open space.

Attached is a letter from Catie Meyer that articulates the supporting views of many neighbors.

Thank you for your time and consideration.

*Phil Herget*

*Lisa Herget*



HERGET RESIDENCE - FRONT ELEVATION  
 322 S. LEE ST. - PROPOSED FENCE WITH DRIVE GATES

Owen Albrecht

From: Sent: To: Subject:

Dear Board of Zoning Appeals,

I am a home owner at 52 Wolfe Street and within the boundaries of the OHAD. I am writing in support of the application for a variance to access parking from the street rather than from an alley or interior court for 322 & 324 South Lee Street. I have read all the documents filed for and against this variance.

The legislative intent of Zoning Ordinance 8-200(c)(5)(a) was to prevent new townhouse construction from constructing parking pads in front yards of townhomes that were set back from the property. This is the basis for the language in the ordinance stating that all parking for properties located within the boundaries of OHAD must be from an alley or interior court, thus precluding parking in front of a townhome. The goal and purpose of 8-200(c)(5)(a) was and still is important for the historic preservation of old town. I believe all interested parties would agree to this fact. The issue at hand is that the set of facts presented for this variance do not apply to the purpose of the zoning ordinance. In fact, the denial of this variance would be outside the scope of the ordinance's intent. The staff states in Roman Numeral I, Issue that "the proposed parking would be in the front yard." This is inaccurate. The parking would be in the side yard for lot

322. There is no parking being requested in the front yard of a townhouse. Finally, according to the ordinance, the standard to be applied to a variance request is a "reasonable" standard.

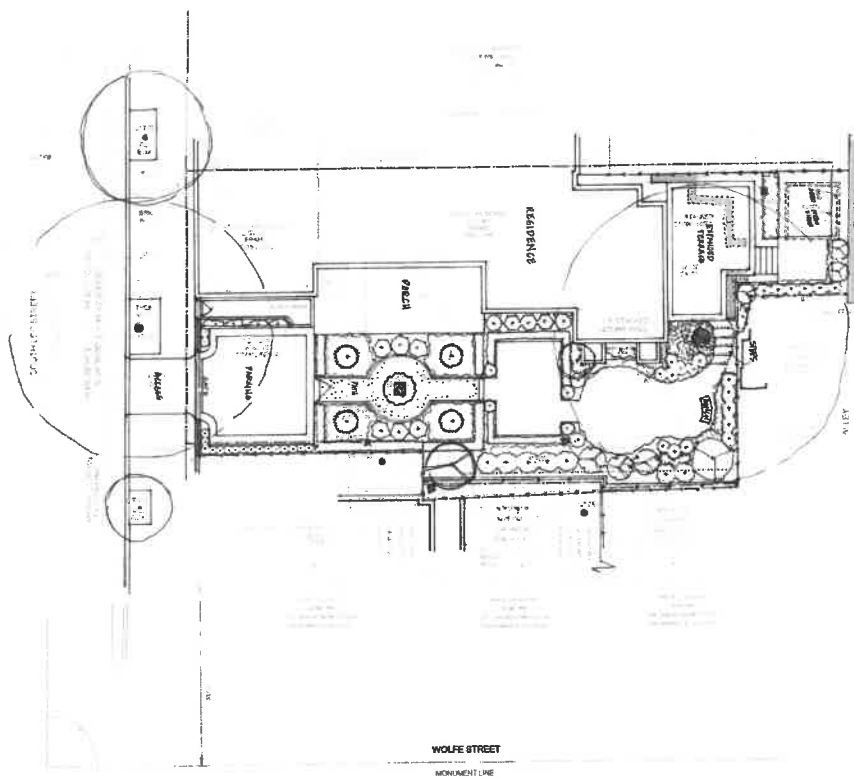
The intent of all laws, rules and ordinances should always be taken into consideration when applying them to the facts. In this fact scenario, the homeowners request for a variance is aligned with the goals of the ordinance; which is to maintain the historic nature of the property. Based on the rendering submitted by the homeowners, they have shown through good faith that they will use fencing, landscaping, high quality historic products to maintain the streetscape and pedestrian experience. They are not removing any parking spots from the street as there is no parking allowed on the east side of S. Lee Street. The request not only is aligned with the goals of the ordinance but the purpose of the ordinance, to prevent new construction from building parking pads in front of their homes. None of those facts exist in this scenarios. One could argue, they are in fact improving the experience by not constructing a townhouse or other structure on the property, which is their right or any future owners right.

The variance request is reasonable. As a homeowner, I am very concerned about the application of the zoning ordinance outside it's intent when enacted. I am very concerned about denying this variance when the facts clearly demonstrate the desire to keep the streetscape and pedestrian experience intact. I am very concerned about not partnering with homeowners whose goals align with preserving the historic nature of old town. This is not a front parking pad, they are not removing parking spaces from the street, and they are not building new construction. What they are requesting is reasonable.

As a community we need to partner with our homeowners who are willing to and want to preserve the historic nature of our wonderful neighborhood.

Thank you,  
Catie Meyer [catiemeyer5@gmail.com](mailto:catiemeyer5@gmail.com)

Catie Meyer <[catiemeyer5@gmail.com](mailto:catiemeyer5@gmail.com)>  
Monday, April 11, 2022 11:09 AM  
Owen Albrecht  
[EXTERNAL]BZA #2022-00006 : 322 & 324 South Lee Street



	<b>DCA Landscape Architects, Inc.</b> 1818 Wisconsin Avenue, NW Washington, D.C. 20007 202.297-1160 (tel.) 202.297-4800 (fax)		PROJECT RESIDENCE 1818 WISCONSIN AVE. SW ALEXANDRIA, VIRGINIA 22304	SCALE 1/8" = 1'-0" DATE 10/1/01 DESIGNED BY CHECKED BY	<b>L1</b>	

September 8, 2022

**DELIVERED BY EMAIL COURTSEY  
OF THE DEPARTMENT OF PLANNING AND ZONING**

Chair Lee Perna  
and Commissioners of the Board of Zoning Appeals  
City Hall  
301 King Street  
Alexandria, Virginia 22312

**RE: BZA#2022-00006 322-324 South Lee Street**

Dear Chair Perna and Commissioners.

I am writing on behalf of Lisa and Phil Herget the principals of Avonlea, LLC the applicants requesting a variance to permit access to non-required parking spaces from the public right of way on the 300 block of South Lee Street rather than an interior court or an alley as required by the RM/Townhouse Zone regulations to supplement their application in two specific areas: (i) issues relating to an offsite street tree adjacent to their property and (ii) a review of the precedence established by prior decisions of the Board of Zoning Appeals where variances has been requested from the strict application of the RM/Townhouse Zone's regulation governing access to required and non-required parking. As the Commissioners evaluate the request for the variance it is important to note that the issue is "access" and not whether or not a curb cut can be constructed in front of 324 S. Lee Street. That decision is under the independent and primary jurisdiction of the Department of Transportation and Environmental Services pursuant to the provisions of the Alexandria City Code, 1981, as amended ("**Code**"). A Curb Cut Application was applied for on February 1, 2022 and is still pending. Pursuant to the Title 6, Chapter 6 of the Code, the Department of Recreation, Parks and Cultural Activities have primary and independent jurisdiction and manages the processes regulating Street Trees.

As noted in the Staff Report, there is a street tree located in front of 322 South Lee Street as shown on Figure 2 (should reference Figure 1) and Figure 4 in the Staff Report. The Staff Report's section designated "Staff Analysis of Variance Standards" contains the following language included in the Analysis: "The City Arborist recommends the **curb cut** should not be considered as it will negatively impact the street tree located on the sidewalk within the public right- of-way (Figure 2 and Figure 4) . The proposed curb cut will be roughly 1.00-foot from the tree box and 5.0 feet from the tree trunk, will cause root loss sufficient to sufficient not only to kill the tree, but potentially destabilize it through the loss of anchorage." The inference being that the granting of the variance to allow access will kill the tree and would be of "substantial detriment to the adjacent property and nearby by properties in the proximity of that geographic



Chair Lee Perna  
and Commissioners of the Board of Zoning Appeals  
City Hall  
301 King Street  
Alexandria, Virginia 22312  
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area” (Section 11-1103 (C) of the Ordinance). As discussed, the variance approves access and not the curb cut.

With regards to the tree and its relevance, if any, to the granting of the requested variance it is important to understand the condition of the street tree in question. After the initial Staff Report was published the Hergets commissioned Northern Tree Service, Ltd. to evaluate the tree the condition of the tree and to make recommendations concerning the tree. A Copy of the report is attached. The Arborist reported the tree was in “fair” condition and its growing environment is less than optimal and is already in “decline”. The report further indicated that the roots of the tree are “growing up against the foundation of the house and already buckled the brick sidewalk to where it has caused a tripping injury to a pedestrian in the past.” The Report concludes that that consideration should be given to replacing the tree with a more suitable tree for its environment. The report recommended using construction techniques that would minimize disturbance of root system if the tree were to remain for the remainder of its life.

This information was shared with Oscar Mendoza, CPM, Division Chief, Park Operations, Department of Recreation, Parks and Cultural Activities in early June. In early July, a site meeting was held at the property with Andrew Benjamin (Urban Forester) and a colleague of Mr. Benjamin, Lisa Herget and Myself. In a summary email of that meeting I sent to Mr. Mendoza on July 19, 2022, I stated that all involved agreed the tree is in decline due to its hostile environment and needed pruning to remove dead, diseased and potentially dangerous branches and limbs. I also indicated that the Hergets would be willing to replace the tree with a new tree and loss of canopy to provide for the future tree canopy and an appropriate street tree. As a result of this exchange, the tree has been substantially pruned ( see Exhibit A and compare to Figure 1 and 4 in the Staff Report) and that TE&S has made some emergency repairs resetting some brick and will follow up with additional repairs in 2023. The City has not responded to the concept of a replacement street.


On behalf of the Hergets, I submit that the street tree is not relevant to whether or not the requested variance should be granted based on the fact of the tree’s current state of decline and that its outside of their property and their control. While the loss of any tree is regrettable, its potential loss does not create such a substantial public detriment such as to require the strict enforcement of the access regulations of the RM/Townhouse Zone regulations to protect; rather the granting relief for the unreasonable restrictions imposed on the use of the Herget’s property as demonstrated in their Application for a variance.

Based on my review and analysis of the City records; including conversations with Planning and Zoning Staff, to the best of my knowledge there have been a total of six (6) cases

Chair Lee Perna  
and Commissioners of the Board of Zoning Appeals  
City Hall  
301 King Street  
Alexandria, Virginia 22312  
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considered by the Board of Zoning Appeals requesting variances from the strict application of Section 8-200 (C) (5) (A) of the Ordinance. In four (4) of those cases the Board of Zoning Appeals granted the requested variance for access to parking from a public street rather than from an interior court or an alley. Attached as Exhibit C is a summary of the six (6) cases. The common thread where variances were granted is that the number of on street parking spaces were not being removed thereby depleting available public parking. In the two cases that were denied, it was stated as a reason for denial that existing street parking was going to be diminished. In this instance, two new spaces are being created and no parking spaces are being eliminated.

I will be available at the hearing to respond to any questions concerning this information or any other questions that the Commissioners may have concerning the Herget's request for relief from the unreasonable restrictions imposed by the provisions of Section 8-200 (C) (5) (A) of the Ordinance

Best,  
  
Duncan W. Blair

cc: Clients  
City Planning Staff



## **NORTHERN WOODS**

tree service, ltd

P.O. Box 100972 Arlington, VA 22210

Phone: (703) 528-2056

05/27/2022

Lisa Herget

Re: 322 S. Lee Street Alexandria, Va.

Dear Mrs. Herget,

This letter is to follow up on our conversation regarding the Oak tree located close to the curb in front of your property referenced above. I understand you are developing plans for a new parking area in the back yard and have concern about the possible impact that construction might have on the tree.

First, it's important to evaluate and understand the existing conditions and current health of the tree. This tree is in "fair" condition. It is situated in an extremely restricted growth area and is in a state of decline. Its trunk and root flare are encased by curb on one side and sidewalk on the other and its Critical Root Zone (CRZ) is extremely limited. Consequently, availability of water, oxygen, and soil nutrients is less than optimal for the tree's future survival.

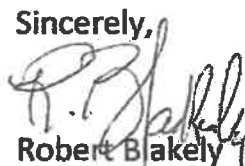
The tree does not have a vertical central leader...it may have broken off when the tree was younger or surgically removed, but the tree's structural form is unbalanced and misshapen. There is visual evidence of several wounds where limbs have been removed (cut off) in the past. It is unclear if they were removed because they were dead or simply to achieve clearance from the house and over the street, but if they were dead, it could be indicative of some root dysfunction and possible decay. There is overt evidence of fungal growth and a girdling condition at the base of the trunk and a major leader has a structural stress crack, all of which support the theory of existing root decay. Roots from this tree are growing up-against the foundation of the house and already has buckled the brick sidewalk to where it has caused a tripping-injury to a pedestrian in the past.

This tree is already in decline and given the existing conditions, it may not survive many more years regardless of the proposed construction. Therefore,

recommend consideration be given to replacing this tree with a more suitable specimen for the space. If the tree is to be retained, recommend an exploratory investigation of the roots that could be affected by construction. This would be done using an air-spade to carefully expose those roots to ascertain their size, quantity, and exact location. Any roots that might need to be removed would be cut cleanly, e.g., not ripped out. Follow-on recommendations would then be made (fertilizing, etc.) to help off-set any construction-related stress to the tree.

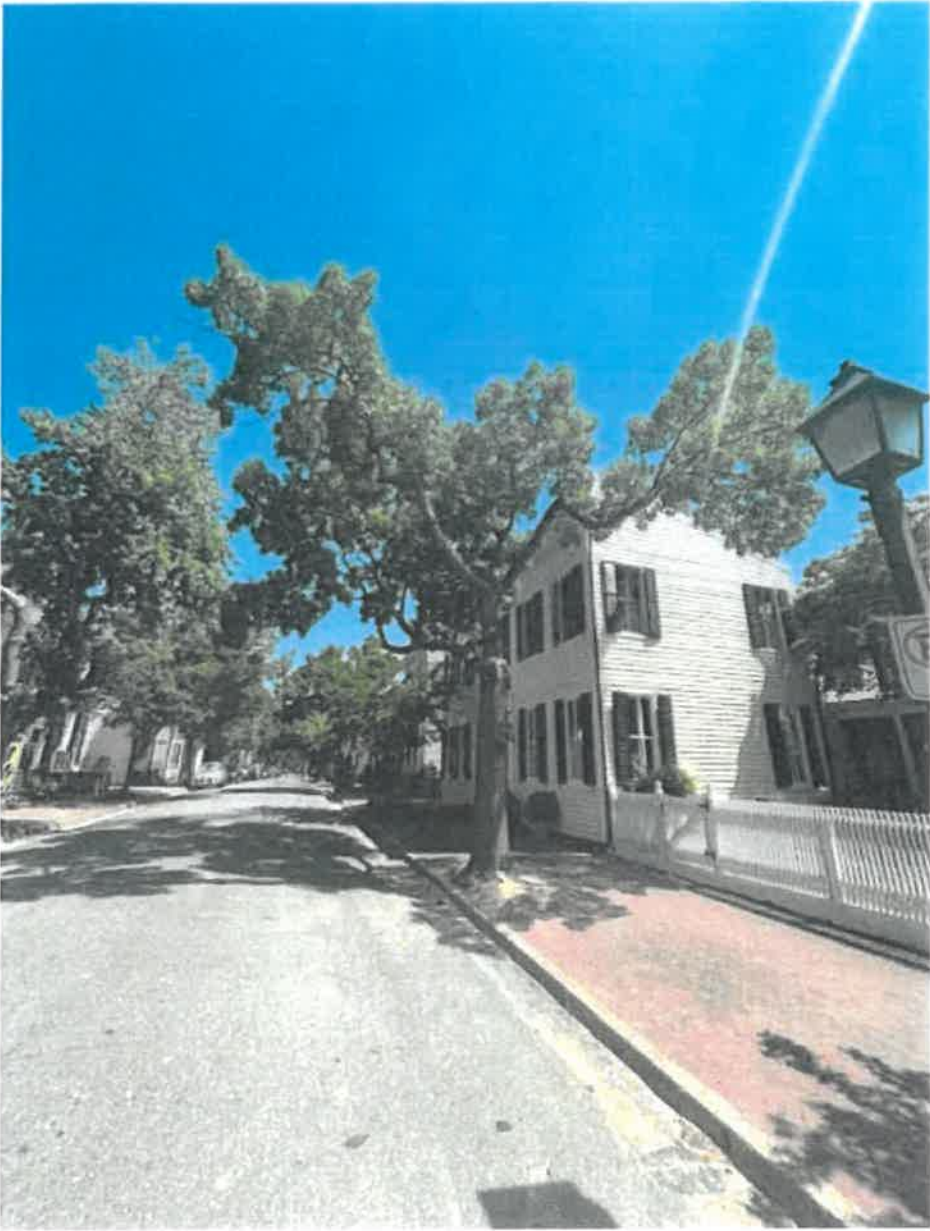
Please let me know if you have any questions.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. Blakely", written over the printed name.

Robert Blakely

President, Northern Woods Tree Service, Ltd







**BZA CASE #6398**  
**SEPTEMBER 10, 1994**  
**705 & 706 POTOMAC STREET**

**ISSUE:** VARIANCE FROM SECTION 8-200 ( C ) (5) (A) TO PERMIT ACCESS TO REQUIRED PARKING FROM A PUBLIC RIGHT OF WAY RATHER THAN INTERIOR COURT OR ALLEY.

**BZA ACTION:** VARIANCE GRANTED.

**SUMMARY:** THIS CASE INVOLVED THE NEW CONSTRUCTION OF THREE TOWNHOUSES ON POTOMAC STREET. IT WAS DETERMINED NOT TO BE FEASIBLE TO ACCESS THE REQUIRED PARKING FROM AN INTERIOR COURT OR ALLEY DUE TO PHYSICAL CONSTRAINTS OF THE SITE. IN 1994 THERE WAS NO PARKING ALLOWED ON POTOMAC STREET SO NO PARKING SPACES WERE LOST TO THE PUBLIC BY GRANTING THE VARIANCE. AND IT WAS AN UNREASONABLE RESTRICTION ON THE STRICT APPLICATION OF THE ORDINANCE UTILIZATION OF THE ORDINANCE WAS FOUND BY THE BZA. PLANNING AND ZONING STAFF AND TE&S STAFF BOTH SUPPORTED THE VARIANCE.

**BZA CASE #95-0026**  
**JULY 13, 1996**  
**726 SOUTH STREET**

**ISSUE:** VARIANCE FROM SECTION 8-200 ( C ) (5) (A) TO PERMIT ACCESS TO REQUIRED PARKING FROM A PUBLIC RIGHT OF WAY RATHER THAN INTERIOR COURT OR ALLEY.

**BZA ACTION:** VARIANCE GRANTED.

**SUMMARY:** THIS CASE INVOLVED AN EXISTING TOWNHOUSE THAT AND A REQUEST TO ACCESS A NON-REQUIRED PARKING SPACE FROM THE PUBLIC RIGHT-OF -WAY AS THE SITE WAS NOT SERVED BY AN INTERIOR COURT OR AN ALLEY. THE PROPERTY IS LOCATED ON THE EAST SIDE OF SOUTH LEE STREET WHICH DOES NOT HAVE ON-STREET PARKING SPACES. THE STAFF REPORT CONCLUDED THE APPLICATION MEET THE STANDARDS FOR APPROVAL. THE RATIONALE WAS THAT SINCE THERE WAS NO PARKING ON THE EAST SIDE OF LEE STREET THAT THERE WOULD BE NO LOSS OF PARKING BY ALLOWING ACCESS FROM THE PUBLIC RIGHT-OF-WAY AND THERE WERE OTHER PARKING

PADS ON THE EAST SIDE OF THE BLOCK WITH STREET ACCESS. TE&S SUPPORTED THE VARIANCE.

**BZA CASE #2002-00005**  
**FEBRUARY 14, 2002**  
**329 NORTH WASHINGTON STREET**

**ISSUE:** VARIANCE FROM SECTION 8-200 ( C ) (5) (A) TO PERMIT ACCESS TO REQUIRED PARKING FROM A PUBLIC RIGHT OF WAY RATHER THAN INTERIOR COURT OR ALLEY.

**BZA ACTION:** VARIANCE GRANTED.COURT OR ALLEY.

**SUMMARY:** THE STATED REASON FOR APPROVAL “WAS DEMONSTRATED DUE TO THE PARTICULARITIES OF THE IS PARTICULAR LOT WITH RESPECT TO THE REMAINDER OF OPEN SPACE STILL AVAILABLE, THE NET GAIN OF PARKING SPACES, LACK OF PRECEDENT AND THE RESERVATION OF CONTINUED SCRUTINY WITH RESPECT TO FUTURE APPLICATIONS.” WHILE A PARKING SPACE WAS REMOVED, THERE WAS A ‘HISTORIC CURB CUT’ THAT WAS BEING REPLACED. IN ADDITION TO THE PRESERVATION OF OPENSOURCE, THE PARKING AREA WAS SCREENED FROM THE STREET BY A GATE AND WALL. PLANNING STAFF DID NOT SUPPORT THE VARIANCE IN PART BECAUSE IT ARGUED THAT NOT HAVING PARKING WAS NOT A HARDSHIP. TE&S SUPPORTED THE REQUEST.

**BZA CASE #2018-00010**  
**JULY 12, 2018**  
**731 BERNARD STREET**

**ISSUE:** VARIANCE FROM SECTION 8-200 ( C ) (5) (A) TO PERMIT ACCESS TO REQUIRED PARKING FROM A PUBLIC RIGHT OF WAY RATHER THAN INTERIOR COURT OR ALLEY.

**BZA ACTION:** VARIANCE GRANTED.

**SUMMARY:** THE BOARD FOUND NOT ALLOWING ACCESS FROM THE PUBLIC RIGHT-OF -WAY WAS AN UNREASONABLE RESTRICTION THE OFF STREET PARKING WAS NOT A DETRIMENTAL TO THE AREA. PLANNING AND ZONING DID NOT SUPPORT THE VARIANCE. THE STATED NOT HAVING A PARKING SPACE WAS NOT A HARDSHIP AS THE HOUSE WAS NOT REQUIRED TO HAVE PARKING AND HAD EXISTED IN THE PAST WITHOUT OFF-STREET PARKING.



**BZA CASE #2019-00016**  
**JULY 12, 2018**  
**301 COMMERCE STREET**

**ISSUE:** VARIANCE FROM SECTION 8-200 ( C ) (5) (A) TO PERMIT ACCESS TO REQUIRED PARKING FROM A PUBLIC RIGHT OF WAY RATHER THAN INTERIOR COURT OR ALLEY.

**BZA ACTION:** VARIANCE DENIED.

**SUMMARY:** THE BOARD OF ZONING APPEALS MOTION OF DENIAL WAS INDICATED THAT THE REASONS FOR DENIAL WERE STATED IN THE STAFF REPORT. IT APPEARS THOSE REASONS WERE: (1) HISTORICALLY NO PARKING AND PARKING NOT REQUIRED, (2) THERE IS ON-STREET PARKING IN ON BOTH SIDES OF COMMERCE STREET SO THAT ON STREET PARKING FOR THE PUBLIC WOULD BE REDUCED AND (3) THE EXISTENCE OF A TREE (THE TREE HAS BEEN SUBSEQUENTLY REMOVED BY THE CITY).

**BZA CASE #2020-00019**  
**OCTOBER 19, 2020**  
**520 AND 522 QUEEN STREET**

**ISSUE:** VARIANCE FROM SECTION 8-200 ( C ) (5) (A) **TO EXPAND THE NONCOMPLYING ACCESS** TO REQUIRED PARKING FROM A PUBLIC RIGHT OF WAY RATHER THAN INTERIOR COURT OR ALLEY.

**BZA ACTION:** VARIANCE DENIED.

**SUMMARY:** THIS WAS AN UNUSUAL CASE IN THAT THE PROPERTIES INVOLVED ALREADY HAD A PARKING AREA THAT WAS ACCESSED BY A CURB CUT THAT PREDATED SECTION 8-200 ( C ) (5) (A) AND WAS A LAWFULLY EXISTING NONCOMPLYING USE. THE OWNERS WANTED TO EXPAND THE CURB CUT TO MAKE IT EASIER TO GET INTO THE PARKING PAD. ESSENTIALLY THE VARIANCE WAS REQUIRED BECAUSE THE OWNERS WANTED TO ENLARGE THE NONCOMPLIANCE ACCESS POINT. THE MOTION TO DENY STATED FOR REASONS IN STAFF REPORT BEING NO NEED TP EXPAND THE ACCESS POINT AS EXISTING WAS SUFFICIENT AND EXPANDING WOULD RESULT IN LOSS OF ON STREET PARKING.

# City of Alexandria, Virginia

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## MEMORANDUM

TO: BOARD OF ZONING APPEALS MEMBERS  
FROM: TONY LACOLLA, LAND USE SERVICES DIVISION CHIEF  
DATE: SEPTEMBER 12, 2022  
RE: BZA2022-00006 322 S LEE STREET

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On the afternoon of Friday September 9, 2022, planning staff received additional materials from the applicant for BZA2022-00006 322 S Lee Street. These materials included a letter from the applicant and a report from an arborist that the applicant hired to assess the condition of the tree that is near the proposed curb cut. In the letter, the applicant mentions conversations they had this summer with two city arborists. In response to the letter, Andrew Benjamin, one of the city arborists mentioned in the applicant's letter, has submitted the following comments regarding the tree:

“Following up on our conversation, Scott Graham and I did meet with the applicant. It was to reiterate the findings of John Marlin (city arborist that originally submitted comments for this project). While the tree was showing signs of stress, it was the stress typical of a tree trying to grow in a highly urbanized environment and did not meet our removal criteria. We try to preserve as much canopy as often as possible as long as it is safe to do so. We found John Marlin's assessment was accurate, in that, the tree was worth preserving and would be negatively impacted by the construction of the curb cut.”

It is worth noting that, while staff believes a curb cut will have a negative impact on the tree which would be detrimental to the adjacent properties, the reason staff is recommending denial of the requested variance is because the request does not meet the definition of a variance, nor does it meet all the standards for a variance.

Lastly, the additional materials submitted by the applicant included an overview of many BZA cases that requested variances to access parking from the street rather than an alley or interior court. Like all variance requests, each case has unique characteristics and individual considerations that influence if the BZA believes a request meets the variance definition and the standards for a variance.