ATTACHMENT

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DEPARTMENT OF
PLANNING & ZONING

Ron Koss and Carley Claghorn
46 Cross Parkway
Burlington, Vermont 05408
802-522-6205

March 1, 2018

Appeal of an Administrative Decision Request

Description of the decision under appeal: We are appealing the decision that denied our application, dated February 15, 2018, for a zoning permit to improve upon a single-car garage space. The proposed improvements include adding a small bathroom; updating windows; replacing the garage door with an insulated door; and adding a wall mounted gas heater.

Description of the property subject to appeal: The property subject to appeal is a single-story ranch home located on 46 Cross Parkway in the New North End. The current space, that is the subject of this permit application, is entirely contained within the foot-print of the house underneath the eave of the hip roof.

Reference to the regulatory provision applicable to the appeal: The regulatory provision applicable to our appeal is found in Article 8 – Parking. Specifically, we primarily site Section 8.1.12 (c).

Relief required by appellant: We are asking for approval of our application to renovate and update a single-car garage space based upon both established permitting precedent and a zoning ordinance that is clearly defined in the city's "Comprehensive Development Ordinance."

Alleged grounds why such relief is believed proper under the circumstances: We believe there is both a written zoning ordinance and permitting approval precedence to establish grounds to support justified relief under the circumstances.

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Basis for our appeal:

In multiple interactions, in relationship to our renovation proposal (first presented in August 2017), Associate Planner Ryan Morrison has repeatedly asserted that the zoning ordinance requires that a parking space be available behind the front yard setback and that the presence of a bathroom at the back of the garage would cut into that "required" parking space. The denial of our application implies that we are applying to create a substandard parking space, when in fact we are asserting that the need to park behind the setback is not supported in writing or by precedent.

On review of Article 8, which covers matters related to parking, we were unable to find anything that specifies this requirement. Section 8.1.12 (c) restricts parking to only *within* the single access driveway, but nowhere states that one of those parking spaces has to be behind the front yard setback. Given the impact of this highly specific "requirement," one could fairly expect that it would be included in the written parking ordinance. Our proposal is fully in compliance with the ordinance as written and as such should have led to an approval.

In response to our inability to find that "requirement" in writing and in turn pointing out to the planner that Article 8 does not say anything about parking behind the setback, Mr. Morrison wrote in an email exchange:

"Unfortunately, the code doesn't say that specifically. So you have to draw from different areas within. Table 8.1.8-1 sets the 2 spaces per single family residence. Then this specific section –

c) Front Yard Parking Restricted:

Required parking in all residential zoning districts shall not be located in a required front yard setback area abutting a public street, except alleys. This prohibition extends from the edge of the public right-of-way into the required front yard setback for the entire width of the property with the exception of a single access drive no more than eighteen feet (18') or less in width."

He continues: "The first sentence above prohibits parking within the front yard setback, and then allows an exception in cases of single access driveways. The city has always interpreted this as: the first parking space needs to fit behind the front yard setback line, and only after the first space complies, then the second space can locate within the front yard setback."

Again, to have an "interpretation" of such consequence that is not spelled out in the highly specific written ordinance, does not allow the public to fairly plan for the flexible use and enjoyment of their homes. Before purchasing this house in June 2017, we spoke to our realtor, our home inspector and two builders about our intentions and as well versed as they were about permitting issues, none of them had ever heard of this "requirement"/restriction.

But more important is the planner's assertion that the Planning and Zoning Board has always interpreted the ordinance this way, because clearly the city has not always interpreted it this way. Mr. Morrison writes to us, "There are actually 3 (garage conversions) from your list that received permits- 131 and 143 Staniford and 77 Woodbury- approved in 2002, 1995, and 1997. I questioned my colleague and he said the first parking space to meet the front yard setback has been in place well before 1995. So however those permits got approved is beyond me."

Fortunately, the explanation for these permit approvals is not beyond us. Our point is that a clearly written and well-established zoning ordinance has allowed for these permit approvals in the past. And given the large number of conversions in the New North End, there are likely others. At any rate, clearly a precedent has been set to allow us to park within our single access driveway, in front of the setback, which is the "exception" detailed in Section 8.1.12 (c).

We believe that as the highly specific Article 8 parking ordinance is written, our request is fully compliant. In addition, the precedents set by previous permits issued, despite a lack of parking behind the setback, supports our appeal to proceed as originally requested.

We appreciate your consideration. Thank you.

Ronald Koss and Carley Claghorn

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