

Dear Planning Commissioners,

Thank you for your re-consideration of the Kimball Garage “rooftop deck” CUP. I argue the BOA findings “may” allow a rooftop addition, but did not define it as a special events deck (nor is the BOA allowed to do so). Below I will cite the minutes of the meeting on Oct 18 and the Findings of Fact in so supporting my position.

The purview of the BOA is not of approval of an additional design element, but a determination of compliance with the Park City Design Guidelines for Historic Districts and Historic Sites and LMC for the HRC.

I argue that the “rooftop deck” or event space is not an approved feature by the BOA. The BOA has a finding of fact that “rooftop additions may be allowed”. An event space is not a condition of approval.

The maintaining of one barrel vault, the western, is required by findings of fact.

Finding of fact from the Oct 18, 2016 determination states a rooftop addition “may” be allowed:

*22. The proposal complies with Specific Design Guideline MSHS6 in that rooftop additions **may be** allowed. The proposed rooftop deck does not exceed one story and will be set back from the primary façade so that it is **not visible** from the primary public right-of-way.*

This does not define what the rooftop addition is – e.g., an event deck or passive herb garden. It is not the purview of BOA to decide, nor approve, these additions. Planning Commission can approve rooftop additions of a more passive nature.

I also ask the Commissioners to consider defining “**not visible**”, into considering the synonyms “not observable”, “not noticeable” as it impacts our other senses than sight- but also auditory, and expanding to visible impact regarding snow removal, traffic impacts and overall sense of community and event fatigue.

Finding of fact:

26. The proposal complies with Specific Design Guidelines B.1. Roofs. The BOA has determined that the original roof form, consisting of two (2) barrel vaults running north-to-south are not character-defining features of the historic structure, and, thus, the applicant will only be required to maintain the western barrel-vault.

Page 18 of Oct 18, 2016 minutes:

*Assistant City Attorney McLean clarified that there were two items with the Appeal. One was for the double barrel roof and the other was for the deck. Item 1 of the appeal expressed concerns with the roof and Item 3 were concerns related to the deck. Ms. **McLean pointed out that economic benefit is not part of the Board’s purview. Whether or not a decision affects the applicant economically should not be considered.***

Prior to this, on page 17, Applicant Tyler said:

Mr. Tyler stated that from an economic perspective, the event space will not work without the terrace because it is not large enough to act as an event space that had practical use for everyone in the District. The only way to make it functional was to have additional outdoor space that could be utilized as part of the event space.

It is NOT the place of BOA or Planning Commission to determine approvals or denials based upon economic viability.

Director Bruce Erickson then clarified the process by stating (pg 18):

Director Erickson suggested that the Board discuss whether the two bay bow string arch truss roof system is part of the historic character of the building in keeping with the Design Guidelines. Following that, they should determine whether the rooftop deck complies with the Historic District Design Guidelines, and whether or not the Staff erred in their determination.

Please consider the following comments from the minutes of the BOA meeting:

BOA Chair Ruth Gezalius stated (on page 15-16):

Chair Gezalius found the deck to be the least compatible to the historic use of the building. She understood the need to get in and out due to fire, and adjusting windows and doors for safety, and the earthquake codes. However, she could not see the necessity of modifying this historic building for a roof deck. Chair Gezalius believed that maintaining the roof shape was part of maintaining the façade.

If a CUP is approved in some form, I personally would like any conditions of approval by the Planning Commission to consider the Oct 18, 2016 Finding of fact:

15. The proposal complies with Universal Guideline #10 in that the new additions and related new construction will be undertaken in such a manner that, if removed in the future, the essential form and integrity of the historic property and its environment could be restored.

My comment from the minutes of Oct 18, on page 25:

Board Member Franklin asked for a condition of approval stating that in the event that this building is rehabilitated at a later time that it would be restored back to its previous double barrel roof form. Chair Gezalius replied that the BOA could not do that because they cannot tie the hands of future Board members.

Thank you for you consideration,



Jennifer Franklin
Board of Adjustment member
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