

**BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA**

**Application of Mohammad Pishvaeian
3609 13th Street, N.W.
for Area Variance Relief**

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Background

Mr. Mohammad Pishvaeian ("Mr. Pishvaeian" or "Applicant") seeks to renovate a two-story plus finished basement end-unit row house, ("building"), located at 3609 13th Street, N.W. (Square 2829, Lot 62) in the R-4 district and convert it from an 11-unit rooming house to three condominiums – one condominium per floor. Because the building's lot is 1800 square feet and Section 401.3 of the Zoning Regulations requires the lot to be a minimum of 900 square feet for each apartment for conversion of a building or structure to an apartment house, Applicant is seeking herein an area variance of 900 square feet. As set forth more fully below, a confluence of factors, including an extremely deteriorated condition of the building and a layout that is best suited to three apartments, gives rise to practical difficulties in renovating this structure for a matter of right use. No adverse impact on neighboring properties will result from this conversion and the conversion will be consistent with the Zone Plan and the Comprehensive Plan as the use will be less dense than the previous use and will serve to stabilize the neighborhood.

Description of the Property and Surrounding Area

The building was constructed in 1909 as the end unit of five attached townhouse structures. Its dimensions are 20 feet by 55 feet, with each floor having 1100 square feet of living space, with a total of 3300 square feet total. It has a rear yard set back of 20 feet, as required in the R-4 District and it abuts an alley on the north. It maintains its original design suited for three separate apartments with separate entrances in the front interior and three distinct entrances in the rear.

The 3600 block of 13th Street, as seen in the attached photographs consists of a variety of residential structures bordering this main corridor. These residential structures are a mix of single family homes, flats, apartment houses and rooming houses. There is also a mix of uses within the five attached townhouse structures. Currently, one of the townhouses is a rooming house, another is a single family home, one is undergoing renovation, and another is vacant.

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The building itself has had a variety of uses as documented in the attached certificates of occupancy dating back to 1958. These uses include use as a rooming house, an apartment house and a flat. Its last use was as a rooming house with 11 rooms. Use as an apartment house was for three apartments, one on each floor.

The building is currently vacant and in need of extensive renovation. Following is a breakdown of some of its deteriorating conditions:

Roof and Gutters - Plywood below the rubber membrane of the roof is rotted at different spots and is leaking through the second floor's ceiling.

Plumbing - The building still has its original plumbing, including lead piping, which leaks into the house. An odor of backed up sewer exists in the house, indicating the possibility of broken pipes inside the house connecting to the city sewer.

Electrical - The electrical equipment is dated (110 Amps.) and consists of its original wiring, plugs, fixture and outlet.

Windows and Frames - The window frames are the originals. Some are rotting. Some windows have been replaced. Some are broken.

Interior Doors - The interior doors are original with original knobs. Many of the doors are in need of repair.

Plaster and Interior Walls - The original plaster walls are cracking, exuding mold and exposing lead to the environment.

Floors and Ceilings - There are many damaged floor joists. The floors are warped and slope in various places. They will be unable to support any renovation in the condition they are in. Many of the ceilings have been patched over time and require repair.

Heat - The radiators are original and the boiler is over 15 years old.

Cooling - There is no central air conditioning or window units.

Carpets - The carpets are old, soiled, torn, and totally unusable.

Photographs reflecting some of these conditions are attached to this application Exhibit A.

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Plans for Renovation

In light of the old and deteriorated condition of the building, Applicant needs to invest in remodeling and renovation regardless of what use the building is ultimately devoted to. Applicant has assessed the extent and cost of renovation and remodeling of the building for the uses allowed as a matter of right in this District and for use as three condominium units. As will be shown herein, the latter is the only economically viable option.

While remodeling for use as a rooming house will be less extensive than for sale as a flat, three condominiums or a single family dwelling, significant renovation will still be required for all uses to create a safe environment. The roof and gutters will need to be replaced, plumbing repaired, air conditioning installed, windows replaced, window frames and interior doors repaired, plaster replaced in ceilings and walls, and carpets removed.

To transform this building for sale as a flat, three-unit condominium, or single family residence, Applicant will need to demolish the interior to produce a shell with the interiors carved differently depending on the use. Applicant has submitted floor plans for a 3-unit condominium. Were the building to be used as a flat or a flat with rooming in the basement or as a single family dwelling, the layout would obviously differ. By way of example, for a single family dwelling, there would only be one kitchen.

Attached to this application, as Exhibit B, is a profit analysis worksheet that shows the estimated costs and projected income relating to each matter of right option and to the proposed 3-unit condominium. As shown in the Profit Analysis Worksheet, none of the matter of right uses is economically viable. However, a 3-unit condominium is economically viable. This is due to the cost of renovation for each type of use and the market rates for purchase or rent for the different options in the area. Also attached, as Exhibit C, is a letter from a licensed realtor familiar with this neighborhood who confirms that the 3-unit use is the most viable and cost-effective way to improve the property and that this use would be a benefit to the neighborhood.

Finally, the proposed conversion will result in a decrease in density from 11 units to 3 units. It will increase the stability of the neighborhood by changing the building's status from rental to home ownership.

Variance Analysis

Applicant seeks an area variance from the provision of Section 401.3 of the Zoning Regulations which requires a minimum lot area of 900 square feet per apartment for the conversion of a building or structure to an apartment house in the R-4

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District. The property's lot area is 1800 square feet. Accordingly, the regulation requires a minimum lot area of 2700 square feet for conversion of this building from a rooming house to a 3-unit condominium. Therefore, Applicant seeks an area variance of 900 square feet..

Burden of Proof

The three-prong test for an area variance, as recently articulated by the D.C. Court of Appeals, is as follows:

- (1) There is an extraordinary or exceptional condition affecting the property;
- (2) Practical difficulties will occur if the zoning regulations are strictly enforced;
- (3) The requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan

Fleischman v. District of Columbia Board of Zoning Adjustment, 2011 WL 3715032 (D.C. 2011)

1. Extraordinary Condition

The Applicant will show that the property is in an exceptional state of disrepair and that the combination of this condition with the layout of the building creates an exceptional condition affecting the renovation of the building.

2. Practical Difficulties

Applicant will demonstrate that in light of the disrepair of the building and its natural layout as three units, practical difficulties will occur in renovating the building if the regulations are strictly enforced. Specifically, Applicant will show with a profit analysis and information related thereto that renovating the building for the matter of right uses is not economically viable, but renovating the building for use as a 3-unit condominium is viable.

3. No Harm to the Public Good or Zone Plan

Variance relief in this case will benefit the public good by renovating a badly deteriorated structure and putting it to a use that will be less dense than the previous use and will be stabilizing to the neighborhood. The Zone Plan will not be compromised, as this building is located in a neighborhood with a mix of uses. As set forth in the attached certificates of occupancy, this building itself has a history of different uses, including use as a 3-unit apartment building.

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Conclusion

Pursuant to Section 3113.8 of the Zoning Regulations, Applicant will file with the Board no later than fourteen (14) days prior to the hearing date for this case an additional statement expanding upon the legal authority for the requested relief and providing additional material as evidence in support thereof.

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