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MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment
FROM: Stephen Cochran, Case Manager
Joel Lawson, Associate Director Development Review
DATE: October 23, 2012
SUBJECT: OP Supplemental Report for BZA Case 18381, 4336 Douglas Street, N.E.

I. BACKGROUND

After continuation of a July 16, 2012 hearing and postponement of a September 25, 2012 hearing, Office of Planning (OP) staff again had telephone conversations with both the property owner and the applicant's representative, and met with the representative at OP's office. The applicant has submitted a letter of authorization for his representative. On October 16, 2012, the representative submitted significant revisions to the earlier plans. However, as with the original filing, the revised plans were not accompanied by a written consideration of how either the application meets the zoning tests required for the requested relief.

The revised proposal is for a detached single family house. Relief from § 201.1, to permit a semi-detached dwelling in an R-1 zone, is no longer being sought.

The previously requested area variance from § 405.9, minimum side yard widths, has been revised. The area variance request for relief from § 401.3, minimum lot width, remains the same.

This supplemental OP report analyzes the revised plans, and, in response to the Board's expressions of concern at the October 2 hearing, considers whether it would be possible for an applicant to make a case for the relief needed to build the plans submitted on October 16, 2012

II. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) **cannot recommend approval** of the applicant's revised request for the following relief to construct a new single family detached house on a twenty-foot wide lot in the R-1-B zone:

- Area Variance from § 401.3, minimum lot width (50 feet required, 25 feet proposed);
- Area Variance from § 405.9, minimum side yard widths (8 feet on each side yard required, 3 feet for each side yard proposed).
 - The applicant has requested a special exception, but a variance is required.

As indicated on page 3 of this report, it is possible that a case could be made for the granting of the requested and required relief.

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18381

EXHIBIT NO. 34

Board of Zoning Adjustment
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III. LOCATION AND SITE DESCRIPTION

Address	4336 Douglas Street, N.E.
Legal Description	Square 5116, Lot 115
Ward	7
Lot Characteristics	Flat, essentially rectangular lot 25' wide, approximately 226' deep , with a land area of 5,654 square feet
Zoning	R – 1 detached single family dwellings.
Existing Development	Undeveloped vacant lot
Historic District	none
Adjacent Properties	West: 2 vacant lots of same size as applicant's. East single family dwelling on two substandard lots.
Surrounding Neighborhood Character	Both sides of Douglas Street are developed with single family detached houses, many of which are on narrower lots than required in this low-density zone. There are a substantial number of small vacant lots that were platted prior to the Zoning Act of 1958.



Figure 1. Site Location

IV. APPLICATION IN BRIEF

The applicant has submitted plans showing a 19-foot wide, two-story single family detached house with two 3-foot side yards on a twenty-five foot wide, 5,654 square foot lot in the R-1-B zone. The zone permits a detached house to be constructed with 8 foot wide side yards on a 5,000 square foot lot that is at least 50 feet

wide. The existing lot is 50% less than the required lot width. The applicant is requesting a 5-foot reduction for each side yard. There would be two off-street parking accessed from a 16-foot wide public alley at the rear of the property, although Sheet CS does not show a driveway connecting the alley with the parking spaces.

V. ZONING REQUIREMENTS and REQUESTED or NECESSARY RELIEF

R-1 Zone	Regulation	Existing	Proposed	Relief
Height § 400	40' / 3-story max.	Vacant lot	28' 11", 2 stories	None required
Lot Width § 401	50 ft. min.	25 ft.	25 ft.	25 ft., 50% required
Lot Area § 401	5,000 SF min.	5,654 SF	5,654 SF.	None required
Floor Area Ratio § 402	None prescribed	---	---	None required
Lot Occupancy § 403	40 % max.	Vacant lot	17%	None required
Rear Yard § 404	25 ft. min.	Vacant lot	134.58 ft.	None required
Side Yard § 405	8' min., both sides	Vacant lot	3 ft. and 3 ft.	5 ft. on each side
Court § 406	Not applicable	n/a.	n/a.	n/a

VI. OFFICE OF PLANNING ANALYSIS

The applicant has not addressed the provisions of the zoning regulations that would enable OP to make an affirmative recommendation for relief to the Board:

- The applicant has not submitted a demonstration of the existence of an exceptional condition that would lead to a practical difficulty.
- The applicant has not attempted to demonstrate that the granting of relief would result in no substantial harm to the public good or to the intent of the zoning regulations.

Nevertheless, it would appear to be possible for the exceptional condition and practical difficulty prongs of the relief requests to be justified:

- The lot's size (25 ft. width & 148 ft. depth) was an existing condition in 1958 when the current zoning regulations were adopted. The R-1-B District was designated as the appropriate zoning category for the area, with the expectation that lots would be combined in order to meet dimensional requirements, or if they could not be combined, that the owner would seek appropriate relief.
- The owner is unlikely to be able to create a lot conforming to § 401.
 - On the west side of the applicant's lot a single property owner has two non-conforming lots that could be combined into one conforming lot. Although the lots are vacant, it is unlikely that the church owning the lots would be likely to sell one of them to the applicant and thus create a potentially non-conforming situation for the church.
 - On the east side, a single property owner has two non-conforming lots. The lots' owner lives in a detached single family house on the lot that is adjacent to the applicant's. That the

lots' owner could not create a nonconformity by selling the lot with the house on it to enable the applicant to create a conforming lot.

- Any house on the applicant's non-conforming lot would require side yard relief.
 - Without some relief from the requirement for two 8-foot side yards, a conforming house on the applicant's non-conforming lot could be no wider than 9 feet. Even a fourteen foot wide house, of which there are many in row-house areas of the District, would require 3.5 feet of relief on each side from § 405's side yard requirements.

Given the eclectic nature of housing types in the Eastland Gardens neighborhood and the ability to design a house on the applicant's lot that would not impinge on the privacy, light or air available to adjacent lots, it is possible that with an adequate demonstration of the first two prongs of the variance relief tests, the granting of such relief would not generate substantial harm to either the public or the zoning regulations.

Nevertheless, at the time this report was written, the applicant had not demonstrated that any of the variance tests had been met.

VII. COMMENTS FROM OTHER DISTRICT AGENCIES

The District Department of Transportation has no objection to the requested relief.

VIII. COMMUNITY COMMENTS

No ANC comments have been filed and OP is not aware of any meetings between the applicant and the ANC or other community groups.

At the July 16 hearing, the east-adjacent neighbor testified in opposition to the application. The homeowner testified that she has had a 70-year old informal easement on the applicant's property to provide access to the garage on her property. Documentation was not provided. There is access from the public alley at the rear, although the applicant states that use of such access would be harmful to the lily garden in her back yard.

There were no written public comments on file as of October 16, 2012.