

BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE DISTRICT OF COLUMBIA

Application of CAS Riegler Companies
ANC 1A

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BZA Application No.
Hearing Date:

APPLICANT'S STATEMENT

This is the application of the CAS Riegler Companies (the "**Applicant**") for area variance relief from the off-street parking requirements.¹ The property that is the subject of this application is 1300 Park Road, NW (Square 2843, Lot 824) (the "**Property**"). A Surveyor's plat is included in Exhibit C. The Property is included in the R-4 Zone District. An excerpt of the Zoning Map is included in Exhibit D.

I. NATURE OF RELIEF SOUGHT

The Applicant requests that the Board of Zoning Adjustment ("**BZA**" or "**Board**") approve a variance from Section 2101.1 (required off-street parking) of the Zoning Regulations (11 DCMR § 2101.1). The required off-street parking for the proposed project is one (1) space, and the project will not provide any off-street parking.

II. JURISDICTION OF THE BOARD

The Board has jurisdiction to grant the variance relief requested pursuant to Section 3103.2 of the Zoning Regulations (11 DCMR § 3103.2).

III. DESCRIPTION OF PROPERTY AND SURROUNDING AREA

The Property is located in the Columbia Heights neighborhood of Ward 1. It is mostly triangular in shape and contains approximately 4,846 square feet of land area. The Property is a corner lot bounded by Park Road to the north, 13th Street to the east, and row dwellings to the south and west. A building restriction line ("BRL") constrains the Property along both Park Road and

¹ The Applicant is the contract purchaser of the Property. The owner has signed the Self Certification form.

13th Street. The front of the Property is along Park Road, and the Property narrows considerably at its rear.

The Property is improved with a two-story flat (two units) that is vacant. The building was constructed in the early part of the 20th Century, prior to 1958. The Property does not contain any off-street parking, there are no curb cuts to access the Property, and there is no alley access to the Property.

The immediately surrounding neighborhood is comprised mostly of row dwellings, flats, and moderate density multifamily apartment buildings. Directly to the east, west, and south, the neighborhood is developed with primarily row dwellings and flats. Across Park Road to the north are several moderate density apartment buildings. Retail uses are approximately ½ block to the west on Park Road, and the 14th Street commercial corridor is approximately one block to the west. The Columbia Heights Metro Station is approximately three blocks to the southwest.

IV. THE PROPOSED PROJECT

The proposed project will convert the existing flat into an apartment house containing five units. Plans for the proposed project and photos of the existing building are located in Exhibit E. The building will also receive an addition to facilitate the conversion. The resulting apartment house will conform to the requirement that the Property contain at least 900 square feet per dwelling unit and will conform to the Zoning Regulations in all other respects but parking. The resulting project will not provide any parking.

Pursuant to 11 DCMR §2101.1, the required amount of off-street parking for the Project is two spaces, but the existing building receives one parking “credit.” Therefore, the required off-street parking is one space, and the Applicant requests relief from the requirement for one space.

V. THE APPLICATION MEETS THE REQUIREMENTS FOR VARIANCE RELIEF

The burden of proof for area variance relief is well established. The Applicant must demonstrate that (1) the property is affected by an exceptional or extraordinary situation or condition, that (2) the strict application of the Zoning Regulations will result in a practical difficulty to the Applicant, and that (3) the granting of the variance will not cause substantial detriment to the public good nor substantially impair the intent, purpose or integrity of the zone plan. Palmer v. D.C. Bd. of Zoning Adj., 287 A.2d 535, 541 (D.C. 1972). As described below, this application meets the three-part test for area variance relief from the off-street parking requirements.

A. The Property is Affected by an Exceptional Condition

The Court of Appeals held in Clerics of St. Viator v. D.C. Bd. of Zoning Adj., 320 A. 2d. 291 (D.C. 1974) that the exceptional situation or condition standard goes to the property, not just the land. The Court in Monaco v. D.C. Bd. of Zoning Adj., 407 A.2d 1091 (D.C. 1979) went even further and noted that the exceptional situation or condition is not limited to the land or the physical improvements on the land, but applies also to the history of the property. Furthermore, the Court of Appeals held in Gilmartin v. D.C. Board of Zoning Adjustment, 579 A.2d 1164, 1167 (D.C. 1990), that it is not necessary that the exceptional situation or condition arise from a single situation or condition on the property. Rather, it may arise from a “confluence of factors.” Id. Finally, it is not necessary that the Property be unreservedly unique. Rather, applicants must prove that a property is affected by a condition that is unique to the property and not related to general conditions in the neighborhood.

The Property meets the “exceptional conditions” element of the variance test. The Property is oddly configured as a triangular corner lot, with the widest portion of the lot being at its front on Park Road and its narrowest point being at its rear. This is a sharp contrast to the rectangular lots that comprise the vast majority of the neighborhood. Also, the Property lacks any alley access.

Furthermore, the Property lacks any curb cuts and, the Applicant has very little probability of success in obtaining them. Any curb cut would require approval by the District Department of Transportation (“DDOT”) and the Public Space Committee (“PSC”). Finally, the BRLs along both Park Road and 13th Street significantly limit the amount of area where parking can be located. While the project has been designed with the assumption that the BRL along 13th Street will be removed through legislative action, the BRL along Park Road will remain, and still constrains the usable area of the Property.²

B. Strict Application of the Zoning Regulations would Result in a Practical Difficulty

The Applicant’s legal burden in an area variance case is a practical difficulty, not impossibility, in complying with the Zoning Regulations. It is well settled that the BZA may consider “a wide range of factors in determining whether there is an ‘unnecessary burden’ or ‘practical difficulty’ . . . Increased expense and inconvenience to applicant for a variance are among the factors for BZA’s consideration.” Gilmartin v. Bd. of Zoning Adj., 579 A.2d 1164, 1171 (D.C. 1990) (citing Barbour v. D.C. Bd. of Zoning Adj., 358 A.2d 326, 327 (D.C. 1976)); see also Tyler v. D.C. Bd. of Zoning Adj., 606 A.2d 1362, 1367 (D.C. 1992). Other factors to be considered by the BZA include: “the severity of the variance(s) requested”; “the weight of the burden of strict compliance”; and “the effect the proposed variance(s) would have on the overall zone plan.” Gilmartin, 579 A.2d at 1171. Thus, to demonstrate practical difficulty, the Applicant must show that strict compliance with the Regulations is burdensome, not impossible.

The application meets the standard for a practical difficulty. The unique conditions affecting the Property make it particularly burdensome for the Applicant to provide one parking space on the Property. Because the Property is has a triangular shape and is a corner lot, it is

² The Applicant initiated the process for having the BRL removed by D.C. Council action and expects that the 13th Street BRL will be removed.

virtually impossible to provide off-street parking. Also, Section 2110.5(f)(2) requires that a driveway be located at least 25 feet from an intersection, so the possible locations for a curb cut would be limited to a small area. Ultimately, the Applicant's only option for providing off-street parking would be in the rear yard via a curb cut on 13th Street.

Because the Property has no alley access, there would be no way to provide off-street parking without a curb cut on 13th Street (the rear or side of the site), but obtaining approval for a curb cut would be virtually impossible. The presence of a curb cut close to an intersection of two streets would violate DDOT's policy against the placement of a curb cut so close to an intersection, and DDOT generally disfavors curb cuts on pedestrian streets, such as 13th Street, because of the potential for conflicts between pedestrians and cars. Thus, it is very unlikely that DDOT would contravene its policies to allow a curb cut in this situation.

Even if it were possible to obtain approval for a curb cut on 13th Street, then it would be very burdensome to locate a conforming parking space in the rear yard because this is the narrowest part of the triangular site with little room for a parking space. Such a parking space would be difficult to provide without reconfiguring and shrinking the building to make room, which would ultimately jeopardize the viability of the project. Of course, the Zoning Regulations do not permit providing the required parking in the wider front yard, so the Applicant is left with no options for providing the required parking space on-site.

C. Relief can be Granted without Substantial Detriment to the Public Good and without Impairing the Intent, Purpose, and Integrity of the Zone Plan

A variance from the off-street parking requirement can be granted without substantial detriment to the public good and without impairing the intent, purpose, and integrity of the zone plan. The amount of variance relief – one off-street parking space – is so negligible that it will not

adversely affect the traffic and parking conditions in the surrounding neighborhood. Indeed, providing parking in the only feasible area of the rear yard would adversely impact the neighboring property to the south. Because of the Property's triangular shape, the parking would be visible from the adjacent property's front yard and would be uniquely out of character with the neighborhood, where off-street parking is not typically visible from the front yards. Thus, in this respect, providing the off-street parking would impair the intent, purpose, and integrity of the zone plan.

Further, the Property is in a very transit-rich location. The Columbia Heights Metro station is less than three blocks away, multiple Metro bus routes run along 13th Street, the Circulator bus stops approximately three blocks away, and two Capital Bikeshare stations are within two blocks. Accordingly, project residents will have few incentives to own cars. In the event that a resident or residents desire off-street parking, the Applicant is willing to look for options in the vicinity of the Property to provide off-street parking. Because the requested relief will not have an adverse impact on traffic or parking in the vicinity of the Property, it will not violate the intent, purpose, and integrity of the zone plan.

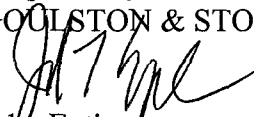
VI. EXHIBITS

EXHIBIT A	Application Form, Self-Certification Form, and Authorization Letters
EXHIBIT B	Statement in Support
EXHIBIT C	Surveyor's Plat
EXHIBIT D	Excerpt of Zoning Map
EXHIBIT E	Architectural Plans and Drawings, including Photos of Property
EXHIBIT F	Names and Addresses of all Property Owners within 200 Feet of the Property

VII. CONCLUSION

Because of the foregoing reasons, the Applicant satisfies the criteria for area variance relief and respectfully requests that the Board approve this application.

Respectfully submitted,
GOULSTON & STORRS, P.C.



John Epting



Cary Kadlecek