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MEMORANDUM

TO: District Board of Zoning Adjustment

FROM: Paul Goldstein, Case Manager
Joel Lawson, Associate Director Development Review

DATE: October 31, 2012

SUBJECT: BZA No. 18436 - Request for variance relief pursuant to § 401.3 to permit the conversion of a flat to a three unit apartment building in an R-4 zone.

I. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) **recommends denial** of the conversion of an existing residential flat to a three-unit apartment building at 2703 11th Street NW (Square 2858, Lot 17) as being inconsistent with the intent of the R-4 zone to not be an apartment zone. The application requires the following area variance relief:

- § 401.3: minimum lot area (2,700 square feet required for the requested 3 units; 1,506 square feet existing)

II. AREA AND SITE DESCRIPTION

Address:	2703 11 th Street NW
Legal Description:	Square 2858, Lot 17 (hereinafter, the "Property")
Ward/ANC:	1/1B
Lot Characteristics:	The Property is trapezoidal in shape and measures 1,506 square feet in size. It has street frontage to the west (11 th Street) and borders an improved 15' wide public alley to the east.
Zoning:	R-4: Row dwellings and flats
Existing Development:	The Property is improved with a three-story row dwelling which appears to date from 1912.
Historic District:	None
Adjacent Properties:	The Property is adjacent to three-story row dwellings to the north and south. To the Property's east, across the alley, is a three-story multi-family apartment building.
Surrounding Neighborhood Character:	The subject Square is comprised of two to three-story single family and multi-family residential buildings. More broadly, the surrounding neighborhood consists of residential and institutional uses zoned R-4, with a pocket of commercial zoning a block and a half to Property's north and along Georgia Avenue about two blocks to the Property's east. The Howard University Campus is located approximately three blocks east of the Property.

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18436
EXHIBIT NO. 30



III. PROJECT DESCRIPTION IN BRIEF

Applicant:	David Benson (the "Applicant") ¹
Proposal:	The Applicant proposes to convert underused basement space in an existing flat to a third residential unit. The existing dwelling configuration contains one residential unit on the main floor and a second residential unit spanning the second floor and the partial third floor. The units are accessed via a common front vestibule and above-grade external stairway. The basement space is accessible from a depressed external stairway from 11th Street, a rear external entry leading to the public alley, and an internal staircase connecting the basement to the main floor's residential unit. The Applicant indicates that the basement may historically have functioned as overflow space for the main level unit. The basement currently is unfinished and contains gas meters and electrical panels serving both above-grade residential units. It also holds a laundry sink. The existing basement ceiling height is approximately 7'. According to the application and pictures provided, the basement needs renovation and does not meet building code standards. OP understands that the entire dwelling is currently unoccupied. The Applicant proposes to remove the internal stairway connection and to install a kitchen and bath in the basement in order to create an independent 2-bedroom basement unit. The basement apartment would measure 1,042 square feet. No building additions are proposed. The Property also would have two surface parking spaces in the rear yard.
Relief Sought:	§ 401.3: minimum lot area for an apartment conversion in an R-4 zone

IV. IMAGES AND MAPS



Aerial view of the subject site (highlighted in blue and identified with arrow)

¹ OP notes that the DC Office of Tax and Revenue website indicates that the property owner is "Sally Greenbaum (Life Estate) Thomas D Walsh Inc." The Applicant has provided OP a copy of the property deed demonstrating David Benson's ownership.



View of the subject block looking east across 11th Street (Property identified);
Google Streetview (2009 image)

V. RELIEF REQUESTED & OP ANALYSIS

The application proposes to convert a residential flat to a 3 unit apartment building. Flats are permitted uses in R-4 zones, whereas a conversion of an existing building to an apartment use is permitted only where there is 900 square feet or more of lot area per unit. The application proposes 502 square feet of land area per unit.

Area Variance Relief (§ 401.3)

- 1. Does the property exhibit specific uniqueness with respect to exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situations or conditions?**

The Property does not exhibit a specific uniqueness leading to a practical difficulty. The lot is a typical shape and size for residential properties in the Square, and the existing dwelling already accommodates two units as permitted under R-4 zoning. The Applicant identifies several other Property features, including: 1) the two existing external entries to the basement; 2) the configuration of the building with two above grade apartments rather than a single family unit above one basement unit (which the Applicant indicates is a more typical design); and 3) the costs of renovating the Property and the potential financial value created by adding a third unit. These features do not appear unique or exceptional to the Property, nor do they impose a practical difficulty as further described below.

- 2. Does the extraordinary or exceptional situation impose a practical difficulty which is unnecessarily burdensome to the applicant?**

Since there is no uniqueness, there can be no practical difficulty to the Applicant. Nevertheless, OP notes that the basement could be renovated and more successfully incorporated into an enlarged main floor unit. There already is an internal stairway connecting the main floor to the basement. The basement also could remain surplus dwelling space. Under either scenario, the dwelling is able to function as a flat consistent with zoning.

- 3. Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?**

Relief likely could be granted without substantial detriment to the public good. The Applicant provided to OP fifteen letters of support from neighbors and has indicated that ANC 1B voted unanimously to support the proposal.

However, absent a clear demonstration of the existence of exceptional property circumstances leading to a practical difficulty, the proposed conversion of an existing house to a three unit apartment building would substantially impair the intent of the Zoning Regulations by creating an apartment on a property that zoning explicitly states is too small for this use. Section 330.3 states "The R-4 District shall not be an apartment house district as contemplated under the General Residence (R-5) Districts, since the conversion of existing structures shall be controlled by a minimum lot area per family requirement." The addition of § 401.11 by Zoning Commission Order 06-47 further reinforced the 900 square foot minimum lot area requirement for apartment conversions in the R-4 zone. The proposed use of the Property would be contrary to the purpose of the R-4 District.

VI. ANC/COMMUNITY COMMENTS

The Applicant indicated that ANC 1B voted unanimously in support of the application. To date, OP has not received any submission from the ANC. OP has reviewed fifteen letters in support of the application from neighbors. To date, OP has not received any letters in opposition to the application.