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October 31, 2012

VIA HAND DELIVERY

Board of Zoning Adjustment
441 4th Street, NW
Suite 210S
Washington, DC 20001

Re: Application No. 18443 – 3616 14th Street NW (Square 2689, Lot 860)
Prehearing Statement of the Applicant

Honorable Members of the Board:

On behalf of the Applicant in the above-referenced case and pursuant to 11 DCMR §3113.8, we hereby supplement the filings made with the initial application and supplemental submission and offer the following as the Prehearing Statement of the Applicant. This statement is submitted on behalf of 3616 14th Street, LLC (the "Applicant"), the owner of the property located at 3616 14th Street NW, Lot 860 in Square 2689 (the "Property") in support of its application for an area variance from (i) nonconforming structure requirements (§2001.3) regarding lot occupancy (§772.1) and rear yard (§774.1) requirements, (ii) the floor-to-area ratio requirement (§771.2), and (iii) the parking requirement (§2101.1) to allow the Applicant to convert a retail/office building to a retail/multi-unit apartment building in the C-2-A District at the Property.

Area Variance Criteria

The Board is authorized to grant an area variance where it finds: (1) The property is affected by exceptional size, shape or topography or other extraordinary or exceptional situation or condition; (2) The owner would encounter practical difficulties if the zoning regulations were strictly applied; and (3) The variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map. *See French v. District of Columbia Board of Zoning Adjustment*, 658 A.2d 1023, 1035 (D.C. 1995) (*quoting Roumel v. District of Columbia Board of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)); *see also*, *Capitol Hill Restoration Society, Inc. v. District of Columbia Board of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987). The Applicant is seeking an area variance from (i) nonconforming structure requirements (§2001.3) regarding lot occupancy (§772.1) and rear yard (§774.1) requirements, (ii) the floor-to-area ratio requirement (§771.2), and (iii) the parking requirement (§2101.1).

I. Exceptional Circumstance:

The Property is exceptional due to a confluence of factors. First, the existing structure is nonconforming because it has a lot occupancy of 100%, has no rear yard, and exceeds the permitted non-residential FAR. Very few other lots in Square 2689 or with frontage along 14th Street have 100% lot occupancy or lack a rear yard. Second, the lot is short and wide while the majority of the surrounding lots are long and narrow. Thus, while surrounding lots may develop toward the rear of the lot without developing vertically, the Property is restricted from developing in this manner. The Applicant has enclosed a rendering of the front elevation (attached hereto as Exhibit A).

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

Under the Zoning Regulations, no addition can be made to the structure without conforming to lot occupancy. Adherence to the 60% lot occupancy requirement would require the Applicant to tear down 40% of the existing structure. As a technical matter, no variance is required from the rear yard requirement because the rear yard nonconformity is not being expanded. That being said, creating a 15-foot rear yard would also require the Applicant to tear down a significant portion of the existing structure. Such drastic measures would be wasteful and would make the project economically infeasible. In addition, the first floor of the existing structure is currently leased to La Tienda 3 por 10, a tenant the

Applicant seeks to retain. La Tienda 3 por 10 is part of the neighborhood and contributes to the area's local character and community. Compliance with 60% lot occupancy or a 15-foot rear yard would not only require La Tienda 3 por 10 to relocate, and possibly even shut down for the duration of construction, but also significantly reduce the square footage available for lease upon its return. If the resulting disruption or loss of square footage causes the tenant to seek an alternative location, the Applicant would suffer a practical difficulty due to the loss of a valuable tenant and loss of rental income during the time it takes to lease the space to another tenant.

The Applicant requires relief from the 2.5 FAR requirement to make the project financially feasible. The existing structure conforms to total FAR requirements but exceeds the non-residential FAR. The proposed project brings the Property into conformity with the nonresidential FAR requirement but exceeds the permitted total FAR by 0.33 or 792 square feet. The financial feasibility of the proposed project is based on 8 rental units on two residential floors (see Pro forma, attached hereto as Exhibit B). Compliance with the FAR requirement would prevent the full build out of the second residential floor. While compliance with the FAR requirement would permit 6 units, a reduction in the number of units would increase the renovation cost per unit and operating expenses per unit. The primary reason is that whether the Applicant builds a partial third floor or full third floor, the roughly 160 square feet allocated to the common stairwell and costs associated with its construction remain the same. Spreading these costs over rental income from eight units is economically feasible while spreading them over rental income from only six units, while compliant with the FAR requirement, is not. Removing the second residential floor from the proposed structure altogether would provide rental income from only one residential floor with four units, which would not cover the carrying costs and expenses.

Given the 100% lot occupancy and lack of rear yard of the existing nonconforming structure, no space is available on the lot for the required four parking spaces. Partially demolishing the existing structure to provide parking on site would be impracticable and wasteful, particularly because the area is well serviced by public transit. In light of the existing nonconformities, it would be practically difficult and economically infeasible to construct a below-grade garage to accommodate the additional parking. DDOT submitted a Memorandum dated September 11, 2012 indicating no objection to approval of the requested variances (see DDOT Memorandum, attached hereto as Exhibit C and included as Exhibit 20 in the Board of Zoning Adjustment's case file).

III. No Detriment to Public Good or Inconsistency with Zone Plan

The proposed project will not cause detriment to the public good or be inconsistent with the Zoning Regulations. The footprint of the existing structure will remain the same. In addition, the project injects new life into an underutilized space, adds to the housing supply, and brings non-residential FAR into compliance. The proposed project is in keeping with the character of other three-story structures in the surrounding area (see Photos of the Surrounding Neighborhood, attached hereto as Exhibit D). The Applicant conducted extensive outreach to the neighboring property owners and received 7 letters of support. The Applicant presented the project at the ANC 1A meeting on September 12, 2012 and obtained a resolution in support.

A draft of the 14th Street Corridor Vision and Revitalization Strategy (the "Revitalization Strategy") prepared by the Office of Planning and presented to the District Council supports the type of project proposed in this Application. The Revitalization Strategy has labeled the area on 14th Street from Shepherd Street to Spring Road as Node One. The Office of Planning's primary goal for Node One is to draw on the success of Columbia Heights by pulling additional customers from that area. The Revitalization Strategy states:

> The key for implementing revitalization along Node One from Spring Street to Shepherd Street is to draw on its connection south to Columbia Heights. **Strengthening the visual, pedestrian, and business connections to Columbia Heights will help Node One capitalize on the economic activity there** and seek to draw consumers to shops and services in the node. Instead of trying to compete with the national retailers and big box stores to the south, **businesses should offer alternative retail options and experiences not available in the Columbia Heights** to draw in customers. Improvements to the streetscape and more active sidewalks will help solidify this connection.

The 14th Street Corridor Vision and Revitalization Strategy, p25-26 (emphasis added).

The proposed project adequately balances the Zoning Regulations' goals of protecting neighboring properties and modernizing a property to a more desirable use and fits perfectly into the Office of Planning's goals in Node One.

Witnesses

The following witnesses will appear on behalf of the Applicant:

1. Ryan Samuel, Developer on behalf of 3616 14th Street, LLC
2. Hugo Roell, Architect on behalf of Roell Architects PC

Conclusion

For the reasons stated above, and for the reasons enumerated in the Applicant's prior filings in this case, we hereby submit that the application meets the requirements for area variance relief. We look forward to presenting our case to the Board on November 13, 2012.

Sincerely,
GRIFFIN & MURPHY, LLP

By: Meridith H. Moldenhauer

Enclosures:
Advisory Neighborhood Commission 1A
Stephen Gyor, Office of Planning