

"Blueprint" for Approval of Application No. 18446

BZA Case No. 17991 – Approved by the Board in November, 2009.

The Office of Planning recommended approval of Application No. 17991. See Attached Report and Summary BZA Order.

The following is a comparison of that case with the present case.

BZA Case No. 17991 – 2034 N. Capitol St NW – Approved by the Board in 2009.	BZA Case No. 18446 – 1308 Euclid Street NW – Before the Board Today.
Surrounding area was predominately row dwellings and flats.	Surrounding area is predominately apartment houses and flats. There are only two one-family dwellings on this side of Euclid Street (both of which have submitted letters of support in this case). See attached Map.
Subject building was 2.5 stories.	Subject building is 4 stories, counting the lower level.
Prong 1 - Exceptional Situation or Condition with the Property.	
Subject building was previously a rooming house (7 rooms), considered by the Office of Planning and the BZA to be an exceptional situation with the property.	Subject building was previously a rooming house (# of rooms unknown).
After rooming house use, the subject building was converted to a 3-unit apartment house by a previous owner, a situation considered to be an exceptional condition of the property by the BZA and the Office of Planning.	After rooming house use, the subject building was converted to a 3-unit apartment house by a previous owner.
The applicant purchased the subject property without knowledge of the conversion being done without necessary approval. Both the Office of Planning and the BZA noted this as an exceptional situation with the property.	The applicant purchased the subject property without knowledge of the conversion being done without necessary approval.
Once converted, the subject building was continuously operated as a 3-unit apartment house.	When this Applicant discovered that he did not have zoning approval to operate 3 units shortly after purchase in 1987, he left the ground floor level idle, and operated the apartment unit on the first floor, and resided in the apartment unit on the second and third floors.
The three units had no internal connection, which the BZA and the Office of Planning considered to be an exceptional condition .	The three units have no internal connection.

Prong 2 - Practical Difficulty	
Reconnecting the basement and first floor into one unit was determined by the BZA and the Office of Planning to be a practical difficulty because of the lack of marketability of a large two-story apartment unit.	The Applicant will testify to the lack of marketability and the practical difficulty in renting a 1,900 square foot, two-story apartment house in this neighborhood dominated by smaller apartments.
The work necessary to reconnect the basement and first floors was considered by the Office of Planning to be costly and difficult and therefore a practical difficulty .	The Applicant's architect will testify to the fact that a reconnection of the basement and first floor in this building will be a practical difficulty , as it requires work very similar to that described in Case No. 17991.
Prong 3 - No Substantial Detriment to the Zone Plan or to the Public Good.	
The Office of Planning noted that the fact that building would not be expanded beyond its current form was a positive factor in determining no detriment to the zone plan or the public good .	The building will not be expanded.
The Office of Planning noted that the fact that the building was formerly a 7-unit rooming house was a positive factor in determining no detriment to the public good and to the zone plan .	The subject building was formerly a rooming house, albeit number of units is unknown.
Comp Plan Land Use Map Designation was Moderate Density Residential.	Comp Plan Land Use Map Designation Straddles Moderate and (higher) Medium Density Categories.
ANC 5B submitted a report in support of the Application. There was a petition from neighbors in support.	ANC 1B submitted a unanimous report in support of the Application and there are multiple letters of support from neighbors.
Applicant had recently purchased the subject property.	The Applicant has owned the Property since 1987, and occupies a unit with his family.



MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Jennifer Steingasser, Deputy Director

DATE: November 10, 2009

SUBJECT: BZA Application No. 17991 – 2034 N. Capitol St., NW
Square 3117, Lot 74

I. OP RECOMMENDATION

The Office of Planning:

- **recommends approval** of a variance to the minimum lot area requirements (900 sq ft./unit) under § 401.3.

II. APPLICATION-IN-BRIEF

Applicant: Robert A. Spelke

Zoning: R-4

Proposal: Retain existing 3 unit apartment house. No physical expansion of the existing building is proposed.

III. SITE AND AREA DESCRIPTION

Property: Square 3117, Lot 74

ANC: 5C-04



The subject property (2,001 sq ft.) is located on the west side of N. Capitol St. NW at the corner of V St. NW. The property, which has alley access, is developed with a 2.5 story, 4,200 sq ft. house containing 3 apartments, converted by a past owner from a 7 room rooming house.



Surrounding area; property indicated as "A"

IV. ZONING

The site is zoned R-4. In 1992, the Board of Zoning Adjustment (BZA) granted a variance from the off-street parking requirements to allow a seven-room rooming house (BZA Case #15479). The applicant for the parking variance was the prior owner of the property. The Certificate of Occupancy was issued in 1993.

Notwithstanding the occupancy permit, the building was converted to a three unit apartment building by the prior owner in 2002. The applicant purchased the property in 2003 without knowledge of the conversion being done without necessary approval, making the apartment a non-conforming use.

The applicant proposes to continue the existing configuration of the building as a three unit apartment building. Therefore, the following relief is required:

Item	Section	Regulation	Existing	Proposed	Relief
Lot Area	401	900 sq ft. / unit (apt. conversion)	2,001 sq ft. (entire lot)	667 sq ft./ unit	Requested

V. ANALYSIS

In order to be granted a variance, the applicant must demonstrate how they meet the three-part test described in § 3103. The three-part test will be examined below.

Lot Area Variance Analysis

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

The existing structure is unique in that, according to residential CAMA data, it is the largest building in Square 3117. The conversion of the 7 unit rooming house to a three unit rental apartment building was completed without approvals by a past owner, resulting in units averaging 1,260 sq ft. each (one unit per floor with no internal connections). According to the applicant, these units significantly exceed the size of most apartment units throughout the neighborhood.

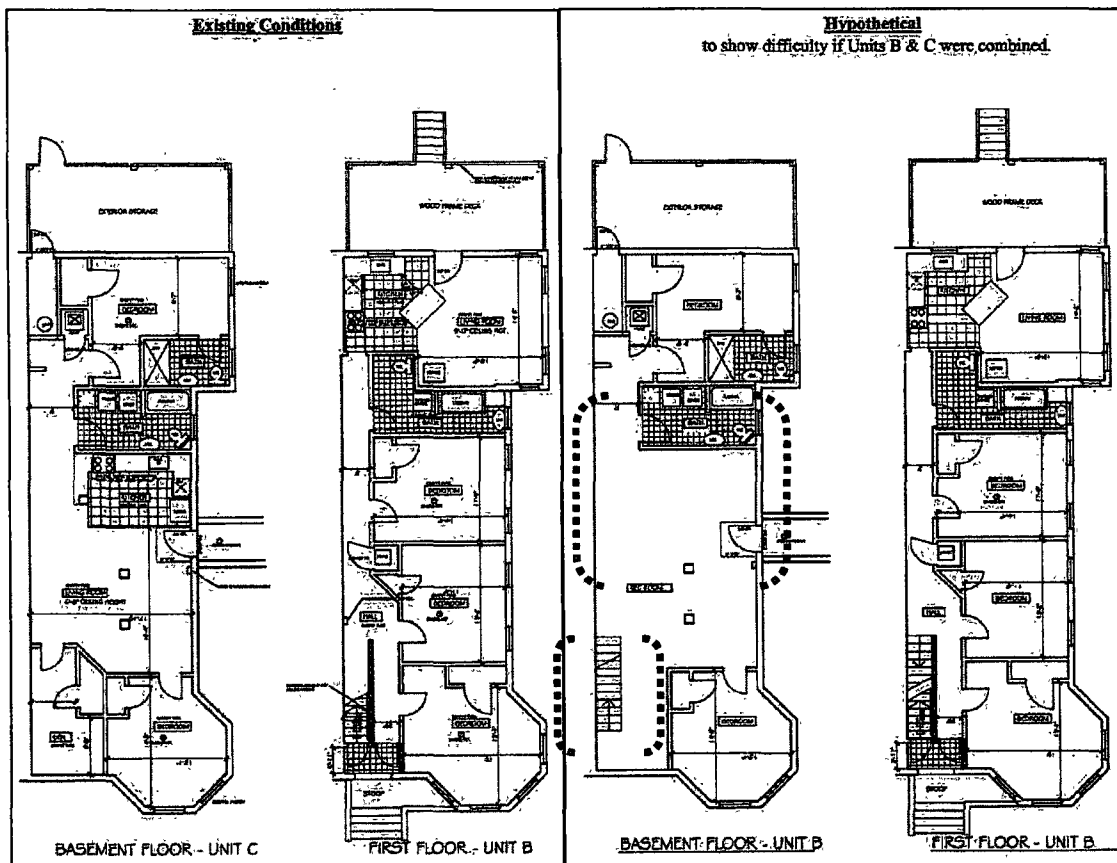
- 2. Does the extraordinary or exceptional situation impose a practical difficulty which is unnecessarily burdensome to the applicant?**

In order to satisfy zoning requirements, the applicant would need to further reduce the total number of units on site to two. According to the applicant's architect, the most likely combination of units would be the two bedroom basement unit and the three bedroom first floor unit. This would result in one unit containing 2,520 sq ft. and 5 bedrooms. The applicant maintains that it would be difficult to market a large 5 bedroom market rate rental unit, as most families looking for a four- or five-bedroom apartment would likely be looking for a single family home or rowhouse with outdoor recreation space and at least one parking space, of which the proposed unit would have neither. According to the applicant, only 10 such units have been listed in DC since 1996, and only one of these was in an apartment building.

Additionally, the applicant would face practical difficulty reconfiguring the units. Currently, there is one unit per floor. If the three units were reduced to two, it would require the removal of a kitchen, removal of two walls, relocation of HVAC system, modification of gas piping and electrical wiring, and installation of an interior stairwell (see floorplan diagram on the next page), which would be costly and difficult to perform.

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?

Normally, OP is strongly opposed to this form of relief in the R-4 zone and has consistently recommended denial of such applications. In this case, the requested relief could be granted without substantial detriment to the public good or the integrity of the zoning regulations. The building would not be expanded beyond its current form. The apartment house has been in non-conforming operation without complaint for nearly seven years, and was previously approved by the BZA for a 7 unit rooming house, so the applicant is requesting a continuation of a potentially less impacting use. Because there would be no further alterations to the building, which has operated as a 3 unit apartment building since 2003, there should be no impacts on neighborhood character or on adjacent properties.



The attached Existing plan and Hypothetical plan show the current layout and alternative. The basement kitchen (Unit C) would have to be removed so as not to duplicate the one on the first floor (Unit B) and a new stairway would have to be installed in the Unit B. Affected areas indicated by dotted red line.

VI. HISTORIC PRESERVATION

The property is not located in a historic district.

VI. OTHER DISTRICT AGENCY REPORTS

The Office of Planning has not received reports from any other District agency.

VII. COMMUNITY COMMENTS

OP has received a petition for approval of the variance by 25 neighbors. This project is in ANC 5C-04. OP has not yet received a recommendation from the ANC.

VIII. CONCLUSION

OP consistently strongly opposes relief to allow conversions of rowhouses to apartments not meeting the lot area requirements. Typically, these cases are inconsistent with neighborhood character and the integrity of the zone plan. In this case, there are unique circumstances that satisfy the variance test. The subject building was converted to a three unit apartment building by the prior owner in 2002. The applicant purchased the property in 2003 without knowledge of the conversion being done without necessary approvals, making the apartment a non-conforming use. The subject building is the largest on the square, and contains larger than average rental units. The applicant would face practical difficulty reconfiguring the units, including costly and difficult renovations resulting in units that are difficult to rent.

The building would not be expanded beyond its current form, has been in non-conforming operation without complaint for nearly seven years, and would allow continuation of a potentially less impacting use. For these reasons, OP **recommends approval** of a variance to the minimum lot area requirements (900 sq ft./unit) under § 401.3.

JS/sv

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 17991 of Robert A. Spelke, pursuant to 11 DCMR § 3103.2, for a variance from the minimum 900 square feet of land area per dwelling unit requirements under subsection 401.3, to allow the conversion of an existing building into a three (3) unit apartment house in the R-4 District at premises 2034 North Capitol Street, N.W. (Square 3117, Lot 74).

HEARING DATE: November 17, 2009
DECISION DATE: November 17, 2009

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board provided proper and timely notice of the public hearing on this application by publication in the D.C. Register, and by mail to Advisory Neighborhood Commission (ANC) 5C and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 5C, which is automatically a party to this application. ANC 5C submitted a report in support of the application. The Office of Planning also submitted a report in support of the application.

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to § 3103.2, for a variance from § 401.3. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking a variance from § 401.3, the applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

BZA APPLICATION NO. 17991

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Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application, pursuant to Exhibit No. 15 (Architectural Plans & Elevations) is hereby **GRANTED**.

VOTE: **4-0-1** (Marc D. Loud, Michael G. Turnbull, Shane L. Dettman, and Meridith H. Moldenhauer to **APPROVE**; one Mayoral appointee (vacant) not participating)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A Majority of the Board members approved the issuance of this order.

ATTESTED BY:


JAMISON L. WEINBAUM
Director, Office of Zoning

FINAL DATE OF ORDER: **NOV 25 2009**

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSES OF SECURING A BUILDING PERMIT.

PURSUANT TO 11 DCMR § 3125 APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE, UNLESS THE BOARD ORDERS OTHERWISE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD.

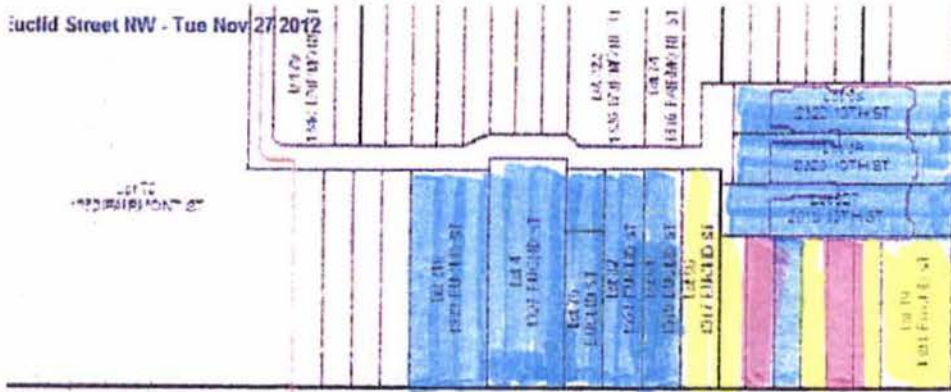
IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE §§ 2-1401.01 *ET SEQ.* (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR,

Apartment House – 3 units or more

Flats – 2 units

One-Family Dwellings

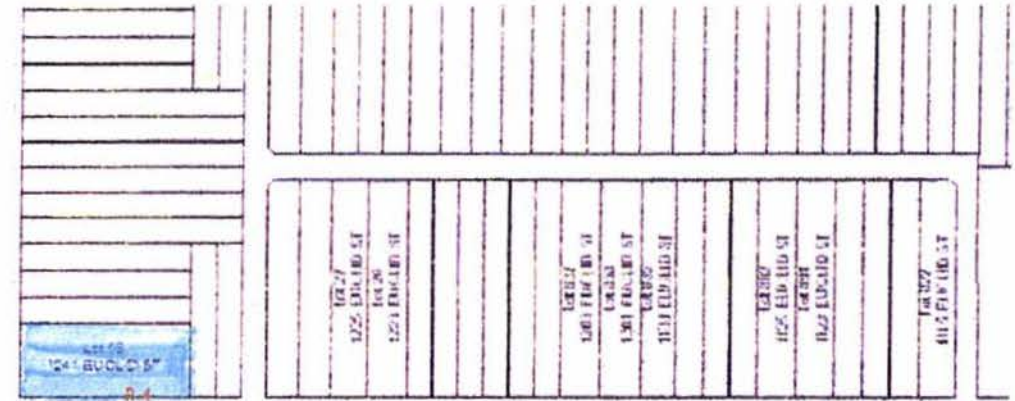
Euclid Street NW - Tue Nov 27 2012



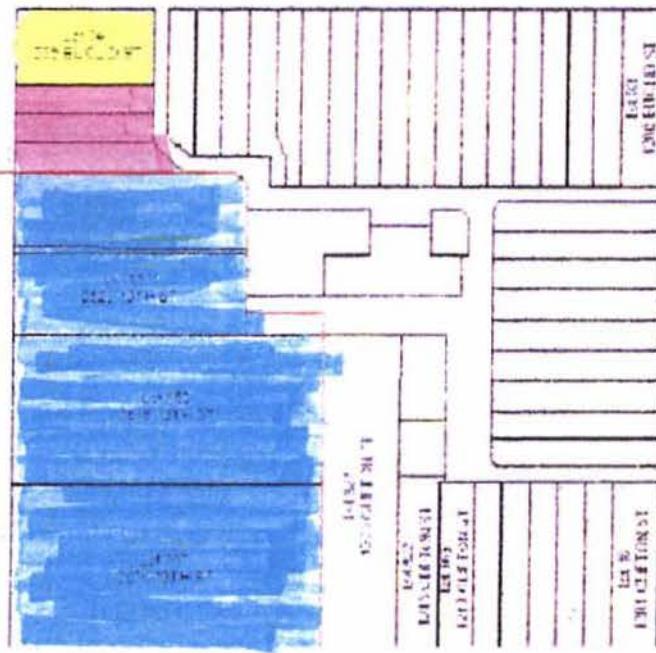
EUCLID ST

1308

13th St NW



EUCLID ST



12TH ST

