

**BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

**OPPOSITION BRIEF
OF RICHARD KLUGMAN
AND ELIAS WOLFBERG**

**BZA APPLICATION NO: 18448
HEARING DATE: November 27, 2012
ANC 1A**

STATEMENT OF THE OPPONENT PARTIES

I. NATURE OF RELIEF SOUGHT

This statement is submitted by Richard Klugman and Elias Wolfberg (the “Neighbors”), who each own row houses that abut the property at issue here, 1221 Otis Place, N.W., Washington DC, 20010, Lot 0057 in Square 2829 (the “Property”), which is owned by 3579 Warder Street, LLC (the “Applicant”). The Neighbors oppose the Applicant’s request for a variance from the lot area requirement under §401.3 because, counter to its claim, the Applicant is seeking to convert a single-family dwelling house, protected by and classified under R-4, into a three-story, four-unit condominium complex. Moreover, the Applicant has a non-conforming structure on its lot and thus needs a variance – which the Applicant has not sought – under §403.1 from the percentage of lot occupancy.

II. JURISDICTION OF THE BOARD

The Board of Zoning Adjustment (the “Board” or “BZA”) has jurisdiction to consider, and either grant or reject, the variance relief requested by the Applicant, pursuant to §3103.2 of the Zoning Regulations.

III. EXHIBITS IN OPPOSITION TO THE APPLICATION

The Neighbors submit their own Exhibits, recorded as Exhibits 1, 2, 3, etc., and will additionally reference the Applicant’s exhibits, submitted to the BZA in the Supplemental

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18448
EXHIBIT NO. 34

Board of Zoning Adjustment
District of Columbia
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Statement of the Applicant, which was filed with the BZA on November 1, 2012. When referencing the Applicant's Exhibits, the Neighbors will reference those exhibits as "Applicant's Exhibit C, D etc."

- Exhibit 1: Scale drawing of the footprint of 1221 Otis Place NW (the Property).
- Exhibit 2: D.C. Surveyor's Plat of 1221 Otis Place NW (the Property).
- Exhibit 3: Photograph of 1221 Otis Place NW with adjacent row houses.
- Exhibit 4: Photographs of houses on Otis Place NW between 13th and 14th Streets.
- Exhibit 5: Photograph of interior of 1221 Otis Place NW, as it exists today.
- Exhibit 6: Photograph of Property's roof and back yard, taken from deck of Elias Wolfberg.
- Exhibit 7: Signatures of more than 50 residence opposed to the Applicant's plan to build four units at 1221 Otis Place.
- Applicant's Exhibit C: Certificate of Occupancy.
- Applicant's Exhibit D: Applicant's Form 135 – Zoning Self-Certification
- Applicant's Exhibit E: Applicant's Photographs of "the Surrounding Community".

IV. BACKGROUND

A. Information About the Property

Contrary to the Applicant's representations, the Property is no longer an 11-bedroom rooming house and the Applicant does not have a Certificate of Occupancy ("Certificate") nor a business license that would allow him to operate a rooming house. Applicant's Exhibit C. The

Property at one time was used as a rooming house and run by Leon Toston. Id. However, the rooming house Certificate did not transfer to the Applicant at the time of sale. Id. The Certificate clearly states that the rooming house, "... IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificated VOID and a NEW certificate must be obtained." Id. Therefore, when the prior owner, Leon Toston, sold and transferred the Property to the Applicant on July 24, 2012, that sale simultaneously suspended the rooming house designation as to the Applicant. See id.¹

Moreover, the Property, although a two-story row-house, is a nonconforming structure. Contrary to the Applicant's Form 135-Zoning Self-Certification, the property takes up approximately 68 percent of 1,800 square foot lot - far more than the 54 percent that Applicant has claimed. See Applicant's Exhibit D; Exhibit 1. Pursuant to §403.2, a row house in the R-4 District will be considered a nonconforming structure if its footprint takes up more than 60 percent of the lot occupancy. §403.2. Critically, the certified plat submitted by the Applicant on July 25, 2012, with its Application No. 18448, shows that the existing improvement/house on the Property occupies approximately 68 percent of the land. See Applicant's Exhibit D; Exhibit 1. The Neighbors contend that the BZA Form 135- Zoning Self Certification that the Applicant submitted on November 1, 2012, with its Supplemental Statement of the Applicant, is factually inaccurate and misleading as to a material aspect of its variance application. See Applicant's Exhibit D.

¹ The Applicant has not applied for a new rooming house certificate, nor does he have a business license to operate a rooming house.

B. Description of the Surrounding Area

The Property is located in the R-4 District and, as constructed fits in with the two-story row houses and single-family homes that make up the R-4 District. As the Board knows well, the R-4 district “is designed to include those areas now developed primarily with row dwellings ... [and] shall not be an apartment house district” §330.1, 3. The Property as it exists today, exemplifies the type of housing contemplated by the R-4 District. See Exhibits 3, 4. The Property is one of seven contiguous, two-story row houses that sit on the north side of Otis Street running between 11th and 13th Streets. Id. To the west along Otis Place, the housing stock is typically two-story houses with attics. Exhibit 4. Along the surrounding streets there are large apartment buildings that typically have multiple units, as captured in pictures submitted by Applicant in its Exhibit E. However, the vast majority of the houses on Otis Place are two-story row houses, typically either one or two-family homes. See Exhibit 3, 4. Critically, every row house next to the Property between 11th and 13th Street that has an Otis Place address is a two-story row house with only one or two units. Exhibit 3.

V. NATURE OF RELIEVE SOUGHT AND STANDARD OF REVIEW

As the Applicant states in its Supplemental Application, it is seeking variance relief from §401.3 in order to turn a single family row-house into a four-unit condominium project. The Neighbors urge the board to reject is application and not grant a variance. Moreover, the Neighbors contend that, as the Property is a nonconforming structure pursuant to §403.2 (the existing structure occupies more than 60 percent of the property), the Applicant does not have the authority to construct an additional third floor without first seeking a different variance from BZA. See §402.2.

The standard for obtaining an area variance is well-settled law. Under D.C. Code §6-641.07(g)(3) and 11 DCMR §3103.2, the Board is authorized to grant an area variance where it finds that an applicant has satisfied each of three conditions. In order to obtain variance relief, an applicant must show that:

- (1) There is an extraordinary or exceptional condition affecting the property;
 - (2) Practical difficulties will occur if the zoning regulations are strictly enforced;
- and
- (3) The requested “relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan”

Washington Canoe Club v. District of Columbia Zoning Com'n, 889 A.2d 995, 1000 (D.C. 2005) (*quoting* Palmer v. District of Columbia Bd. of Zoning Adjustment, 287 A.2d 535, 538 (D.C. 1972)). The statute places the burden on the Applicant to meet the three criteria before a variance can be granted. Myrick v. District of Columbia Bd. of Zoning Adjustment, 577 A.2d 757, 760 (D.C. 1990) (*quoting* Capitol Hill Restoration Society, Inc. v. District of Columbia Bd. of Zoning Adjustment, 534 A.2d 939, 941 (D.C. 1987)). In this matter, the Applicant does not meet its burden of proof for any of the three prongs and therefore the Board should reject the Applicant’s request for a variance. Moreover, the Board should find that the Property is non-conforming, and therefore the Applicant must seek an additional variance if it wants to construct an additional third floor.

A. **There is Nothing Extraordinary, Unusual, or Unique About the Property**

The facts the Applicant presents to the Board are not sufficient to establish the “uniqueness” of the property, and thus the Applicant cannot meet its legal burden to prove that there is an extraordinary or exceptional condition affecting the property. See Capitol Hill Restoration Society, 534 A.2d at 942. “The threshold requirement to show that the property is unique with respect to the hardship or difficulty asserted as grounds for the variance means the property owner must present proof that ‘the circumstances which create the hardship *uniquely* affect the *petitioner’s property...*’” Id., quoting Taylor v. District of Columbia Board of Zoning Adjustment, 308 A.2d 230, 234 (D.C. 1973). The Applicant states that (a) the deteriorated condition of the structure combined with (b) its former use as an 11-room boarding house “leaves the existing structure with a number of unnecessary walls and an unconventional layout”, and that these factors, to be cured, would cost the Applicant a great deal of money, and therefore this confluence of exigencies result in a recognizable extraordinary and exceptional circumstance. See Supplemental Statement of the Applicant, p. 6. However, the facts do not support the Applicant’s claim.

The building is structurally sound. Until the Applicant purchased the Property in July, 2012, the building (i.e., the improvement) was home to a single family which had lived there for more than eleven years. Moreover, the Applicant himself has already stripped out every single interior wall, and nothing remains of the prior layout of the house. Exhibit 5. It is therefore factually incorrect for the Applicant to argue that a variance is needed to alleviate the vestiges of the Property’s former use as a rooming house (notwithstanding the fact that the property had stopped being used as a rooming house *eleven years* ago). As of the submission of Applicant’s

Supplemental Statement, the house had been reduced to a basement and one large room - no interior walls, electricity, plumbing, heat, or insulation exist. Id.

Additionally, the Applicant is not being candid when it states that should a variance not be granted, “the Property will continue to lie vacant and continue to physically deteriorate.” Supplemental Statement of the Applicant, p. 6. The Applicant is seeking a variance to add four units. Id. at 1. But with today’s Columbia Heights real estate market, one could easily make a profit – just not one quite so large – if one were to convert the property to fewer units.

Critically, nothing in the facts presented by the Applicant make the Property sufficiently “unique” that the Board should grant the Applicant a variance. The Applicant purchased a 100-year old, two-story row house that was once used as a rooming house. Such a scenario is common in the Columbia Heights neighborhood. Moreover, the fact that a 100-year old building needs restoration does not brand it unique – rather it is the standard condition for homes in the area. The Board should not be open to the Applicant’s argument that the cost of repairing and upgrading a 100-year old building makes his situation sufficiently “unique” that the Board should grant him a variance.

B. No Practical Difficulties Will Occur if Zoning Regulations are Strictly Enforced

The Applicant does not meet the second prong of the area variance test because it would suffer no exceptional practical difficulty from the strict application of the R-4 zoning regulation. See Carliner v. District of Columbia Brd. of Zoning Adjustment, 412 A.2d 52, 54 (D.C. 1980). As the Applicant acknowledges, the R-4 district allows that “only two units are permitted as a matter of right” in row-houses. Supplemental Statement of the Applicant p. 6. However, the Applicant claims that the alleged high expenses affiliated with renovating the Property into

presumably luxury condominiums amount to “practical difficulties” sufficient to meet the second prong of the area variance test. See id. The Applicant is simply wrong on the law. In Myrick, the Court of Appeals overturned a BZA decision granting an area variance because the Court found that the extraordinary expense of renovating a property was not sufficient to satisfy the “practical difficulty” prong. Id. In that case, the Court of Appeals was not persuaded by a Georgetown resident who wanted to combine and renovate two adjacent row houses which sat on two narrow plots, and who claimed that the cost of renovating the homes in the manner he wanted would be prohibitively expensive. Id. The Court of Appeals wrote:

We conclude, however, that while renovating the existing space may indeed have been more costly and more difficult, that fact alone does not present the kind of “exceptional practical difficulties” necessary to establish that the property is unique. *Barbour v. District of Columbia Bd. of Zoning Adjustment Whipain Township Bd of Supervisors v. Whipain Township Zoning Hearing Bd.*, 121 Pa.Commw. 418, 428-430, 550 A.2d 1355, 1361 (198) (economic hardship does not constitute uniqueness necessary to justify issuance of a variance).... [emphasis added]. Id.

Similarly, in Carliner v. District of Columbia Board of Zoning Adjustment, the Court of Appeals upheld a denial of an area variance request in part because the Court found that the petitioner had a self-created hardship. 412 A2d 52, 54 (D.C. 1980). In Carliner, the petitioner purchased three adjacent properties, gave one away and retained two of the lots. Id. The Petitioner claimed that the two properties he retained were economically “useless” unless he was granted an area variance to tear down an existing garage and construct in its place a house (which would be a nonconforming improvement). Id. The Court of Appeals found that the petitioner had himself split the property up in such a way that he was left with only a “useless” garage, and the Court would not overturn a decision by the Board to deny a variance. Id. The Court wrote:

We are unwilling to disturb the decision of the Board when it determines that the affirmative action of the applicant in making his property non-conforming ...

warrants the application of the hardship doctrine and thereby justifies denial of the variance. Id.

Similar to both Carlin and Myrick, the Applicant, with his plans to cram four luxury condominiums into a single-family row house, has created his own economic hardship and the Board should not reward him with a variance. See id.; Myrick, 412 A.2d 54. The Applicant claims that it will lose money unless it can create four units. Supplemental Statement of the Applicant, p. 7. Yet the Applicant is a professional developer who in a private auction held over one weekend, outbid several other developers to pay \$465,000 for the Property. Even in the Columbia Heights real estate market of today this is an exorbitant sum of money for a 100-year old row-house. Importantly, it is not the Board's job to mitigate the Applicant's poor economic decisions.

Finally, the D.C. Court of Appeals has weighed in on scenarios similar to this Application, and has clearly stated their opposition to granting variances under these circumstances. As the Court of Appeals in Capitol Hill Restoration, wrote: "If the BZA were to grant variances where the hardship or difficulty is not peculiar to a particular piece of property, similar requests could follow from property owners similarly situated, 'which, as a matter of due process, would have to be granted.' [Internal citations omitted]. The effect of such decisions by the BZA would be an amendment of the zoning regulations by that body, an action which the BZA is not empowered to take." 534 A.2d 942.

Here, if the Board grants this developer a variance to build four condominium units because the developer overpaid for a piece of property, then it is inevitable that other developers intent on overdeveloping row houses in Columbia Heights will come before this Board seeking their own variances for four units under self-imposed "financial hardship." See id. And the Board will be pressed to grant those variances by case law. However, the Board should instead

find consistent with past precedent, that the Applicant has not met the “practical difficulty” prong, and should therefore deny his variance application.

C. A Variance Would Substantially Impair the Intent, Purpose and Integrity of the Zone Plan

The Applicant’s variance application fails the third prong of the area variance test because a variance would substantially impair the intent, purpose and integrity of the R-4 zoning district by creating a four-unit condominium in a two-story row-house. Section 330.3, clearly 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.” However, the Applicant’s plan of placing a four unit condominium complex in the legal space designated for, at most, two families would irreparably harm the R-4 zoning plan.

In its Supplemental Statement, the Applicant presents – at best – incomplete facts to suggest a variance would not harm the intent of the R-4 Zoning plan. Supplemental Statement of the Application, p. 8. The Applicant states that his plan would limit the density of the neighborhood; in reality, the opposite is true. The Property has not been used as a rooming house for more than 10-years. Prior to its purchase by the Applicant, a single family lived in the Property (the family moved out just prior to the Applicant purchasing the Property). Moreover, more than 50 neighbors who live in Columbia Heights signed a petitioned opposing putting four units into this property. Exhibit 7.

Additionally, the Applicant bizarrely claims that its proposed addition of a third floor – which it does not have the authority to construct without a different variance – is needed to provide privacy for the “roofs” and “rear yards” of the “string of row houses along Otis Place.”

Supplemental Statement of the Applicant, p. 8. As Exhibit 6 clearly shows, there is no reason roofs requires privacy, and the balconies referenced can barely see into the Property's yard, let alone any other property's yard. Id.

Finally, it's important to reiterate that the R-4 zoning plan was implemented to protect the current status of Columbia Heights as a family community. While there are larger, multi-units on larger lots 13th and 14th Streets NW, Otis Place has remained an enclave of single-family homes. See Exhibits 3, 4. The Property is one of seven single-family, two-story row houses on its block (between 11th and 13th Streets), and there are only two-story row houses on Otis Place between 13th and 14th Streets. See id.

A four-unit apartment building in a simple row house on 1800 square feet of land does not exist in Columbia Heights. This alone demonstrates that the Applicant's development plan is not consistent with the intent, purpose, and integrity of the R-4 zoning plan, nor is it in the interests of over the more than 50 residents who opposed this plan. See Exhibit 7.

VI. CONCLUSION

For the reasons stated above, the variance request does not meet the applicable standards for variance relief under the Zoning Regulations. Accordingly, the Neighbors respectfully request that the Board reject the application.

EXHIBIT 1

Otis Place

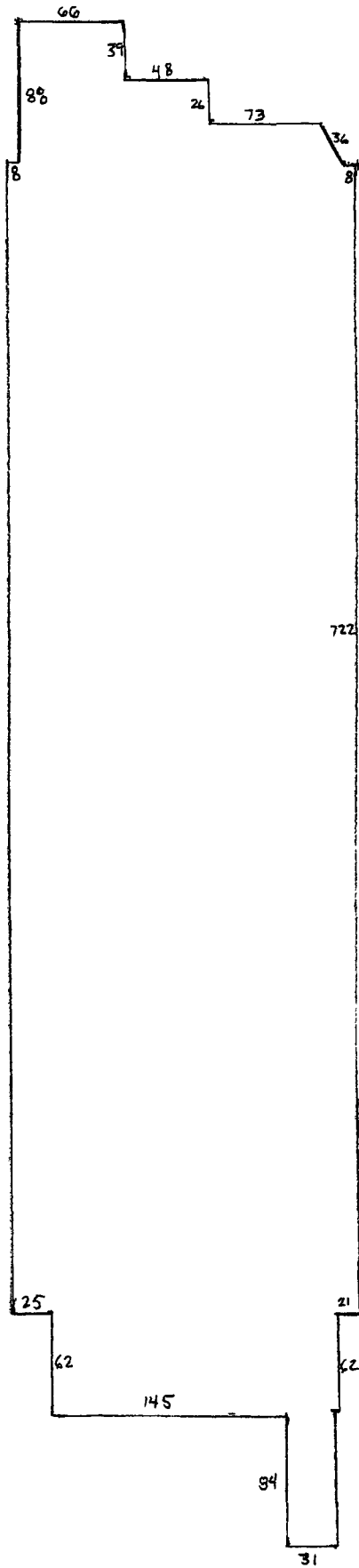


EXHIBIT 2

DISTRICT OF COLUMBIA GOVERNMENT
OFFICE OF THE SURVEYOR

Washington, D.C., July 24, 2012

Plat for Building Permit of: SQUARE 2829 LOT 57

Scale: 1 inch = 20 feet Recorded in Book Co. 17 Page 92

Receipt No. 12-05241

Furnished to: JAMES K.

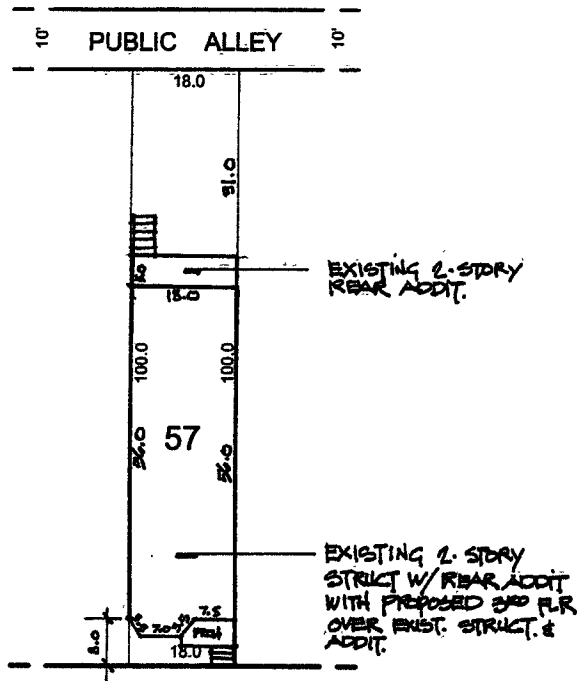
I hereby certify that all existing improvements shown hereon, are completely dimensioned, and are correctly platted; that all proposed buildings or construction, or parts thereof, including covered porches, are correctly dimensioned and platted and agree with plans accompanying the application; that the foundation plans as shown hereon is drawn, and dimensioned accurately to the same scale as the property lines shown on this plat; and that by reason of the proposed improvements to be erected as shown hereon the size of any adjoining lot or premises is not decreased to an area less than is required by the Zoning Regulations for light and ventilation; and it is further certified and agreed that accessible parking area where required by the Zoning Regulations will be reserved in accordance with the Zoning Regulations, and that this area has been correctly drawn and dimensioned hereon. It is further agreed that the elevation of the accessible parking area with respect to the Highway Department approved curb and alley grade will not result in a rate of grade along centerline of driveway at any point on private property in excess of 20% for single-family dwellings or flats, or in excess of .12% at any point for other buildings. (The policy of the Highway Department permits a maximum driveway grade of 12% across the public parking and the private restricted property.)

T.S. M.
Surveyor, D.C.

Date: 07/25/12
[Signature]
(Signature of owner or his authorized agent)

By: A.S. [Signature]

NOTE: Data shown for Assessment and Taxation Lots or Parcels are in accordance with the records of the Department of Finance and Revenue, Assessment Administration, and do not necessarily agree with deed description.



OTIS PLACE, N.W.

EXHIBIT 3



EXHIBIT 4







EXHIBIT 5



EXHIBIT 6

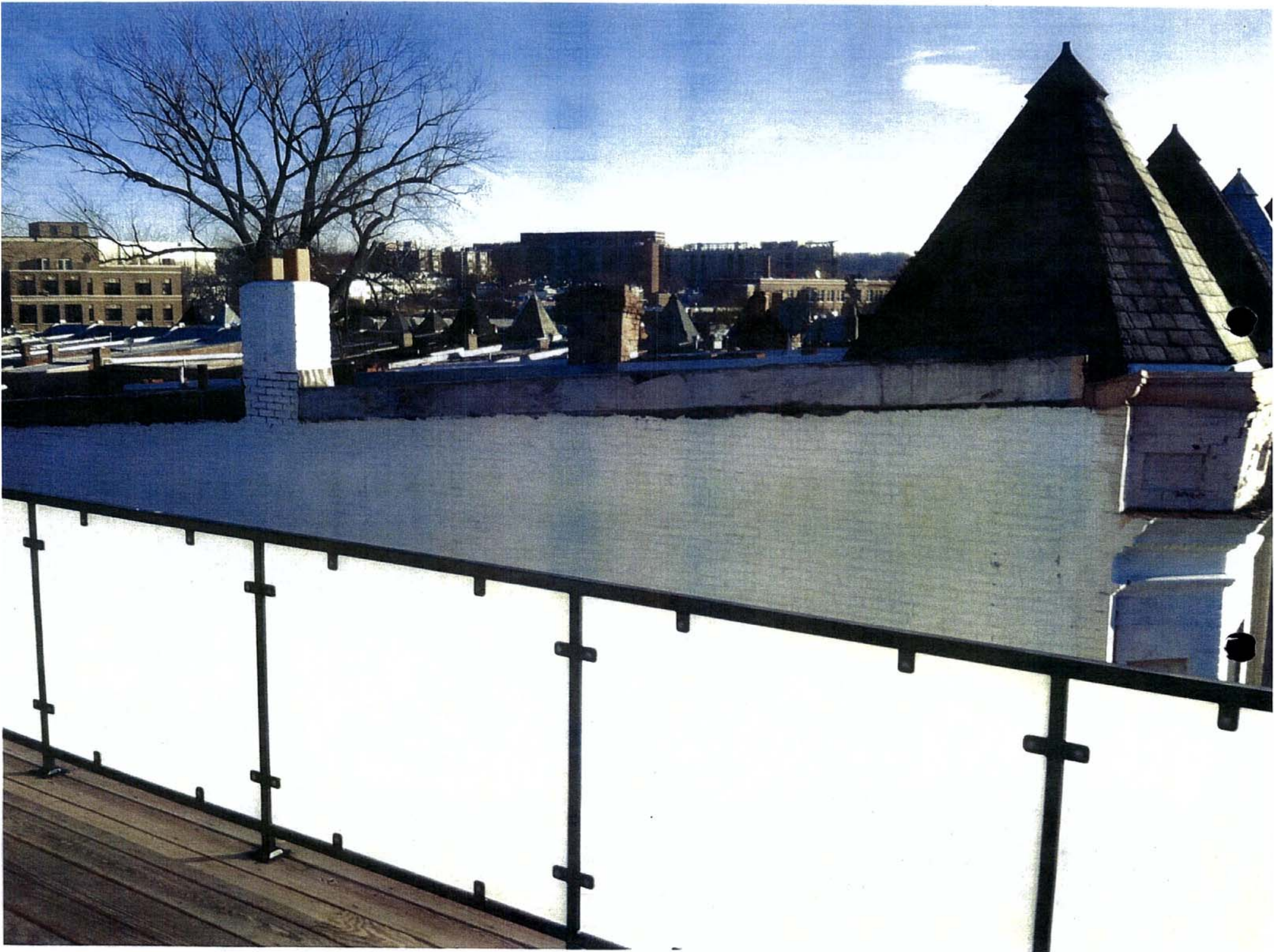




EXHIBIT 7

ANC -1A

Columbia Heights

Washington DC 20010

Dear ANC -1A,

We the undersigned do hereby protest the proposed conversion of 1221 Otis Place NW into a four unit apartment building. The zoning of Columbia Heights into an R-4 residential zone was done with the specific intent of preserving the neighborhood for single family dwellings. The conversion of this row house into a four unit apartment building would further erode the residential fabric of our community, and encourage additional overdevelopment of the neighborhood by outside developers. As homeowners and residents of the neighborhood, we urge ANC-1A to reject the motion by 3579 Warder Street LLC to convert 1221 Otis place NW into a three story, four unit apartment building. All of the undersigned have made our homes in this section of Columbia Heights and oppose outside developers intent on altering the neighborhood we call home.

NAME

ADDRESS

| | |
|--------------------------|--|
| <u>FRANCOIS WINTER</u> | <u>3551 13TH ST, WASH DC 20010</u> |
| <u>M S. PORTILLO</u> | <u>3549 13TH</u> |
| <u>Murion Boudinot</u> | <u>3529 13th ST NW</u> |
| <u>LITA SHAW</u> | <u>3531 13TH ST.</u> |
| <u>Lucy J. Ika</u> | <u>3525 13th St</u> |
| <u>Mary Boudon</u> | <u>3521 13th ST. NW</u> |
| <u>Helen Scary</u> | <u>2521 13th ST, NW Wash DC</u> |
| <u>Eileen C. Reid</u> | <u>3521 13th St NW, DC-20010</u> |
| <u>M R O'Donnell</u> | <u>3544 13th St. N.W. DC 20010</u> |
| <u>William J. M</u> | <u>3546 13th St NW #2, DC 20010</u> |
| <u>Annette Patterson</u> | <u>3572. 13th N.W Wash DC 20010</u> |
| <u>ALEXANDER LAYTIN</u> | <u>1105 PARK RD, NW Wash DC 20010</u> |
| <u>Julia Pieper</u> | <u>1105 Park Rd, NW Washington, DC 20010</u> |

ANC -1A

Columbia Heights

Washington DC 20010

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NAME

ADDRESS

| | |
|-----------------------------|--|
| <u>PAUL SCOTT DI POMPEO</u> | <u>3609 13th ST NW #2 W. DC 20010</u> |
| <u>Eddie Whitehurst</u> | <u>3609 13th ST NW #2 Wash DC 20010</u> |
| <u>Shuta Kobayashi</u> | <u>3609 13th ST NW #3 W DC 20010</u> |
| <u>Alex Hardin</u> | <u>3609 13th ST NW #3 W DC 20010</u> |
| <u>James Larner</u> | <u>1215 Otis Place N.W Wash DC 20010</u> |
| <u>Terrance Payton</u> | <u>1219 Otis Place, NW WDC DC 20010</u> |
| <u>LUCRECIA LEDESMA</u> | <u>3600 11th ST NW Wash DC 20010</u> |
| <u>Charlotte Hansen</u> | <u>3609 11th ST NW Wash DC 20010</u> |
| <u>John Bremer</u> | <u>3611 11th ST NW Wash DC 20010</u> |
| <u>Liz Mortimer</u> | <u>3611 11th ST NW</u> |
| <u>Joan Alvarez</u> | <u>3611 11th ST NW DC 20010</u> |
| <u>Emily Ward</u> | <u>3605 11th ST NW 20010</u> |
| <u>Brett Schaffer</u> | <u>3633 11th ST NW 20010</u> |

ANC -1A

Columbia Heights

Washington DC 20010

Dear ANC -1A,

We the undersigned do hereby protest the proposed conversion of 1221 Otis Place NW into a four unit apartment building. The zoning of Columbia Heights into an R-4 residential zone was done with the specific intent of preserving the neighborhood for single family dwellings. The conversion of this row house into a four unit apartment building would further erode the residential fabric of our community, and encourage additional overdevelopment of the neighborhood by outside developers. As homeowners and residents of the neighborhood, we urge ANC-1A to reject the motion by 3579 Warder Street LLC to convert 1221 Otis place NW into a three story, four unit apartment building. All of the undersigned have made our homes in this section of Columbia Heights and oppose outside developers intent on altering the neighborhood we call home.

NAME

ADDRESS



3616 11th St NW Washington DC

Patrick Manning/^{Olga} Patacius

3614 11th St NW Washington DC

Thomas Thompson

3608 11th St NW, Wash DC

Lisa Kehl

3600 11th St NW Wash DC

Milli Hansen

3603 11th St NW Wash. DC

Sara Green

1317 Irving St NW DC

Brian Damron

3607 11th St NW, Apt B, Wash DC

Daniel Lebednik

3607 11th St NW Washington DC

~~Charles Green~~

3602 11th St N.W. Washington D.C. 20010

James Tremorin

3613 11th St. NW Wash DC. 20010

Rob Saccardi

3618 11th St #1 WDC. 20010

Cy Salado

3620 11th St #1 WDC 20010

Elias Wolfberg

3601 13th St NW #1, WDC 20010

ANC -1A

Columbia Heights

Washington DC 20010

Dear ANC -1A,

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NAME

ADDRESS

| | |
|---------------------------|---------------------------------|
| <u>Tom Hallora</u> | <u>3633 11th St. NW</u> |
| <u>Eleni McCabe</u> | <u>3635 11th St NW</u> |
| <u>Dawn Bass</u> | <u>3641 11th St. NW</u> |
| <u>Eastwick-Haskell</u> | <u>3647 11th St. NW</u> |
| <u>David Constantine</u> | <u>3642 11th St NW</u> |
| <u>Renata Lana</u> | <u>3605 13th St. NW</u> |
| <u>Reynolds Sherwood</u> | <u>3410 11th St NW 20010</u> |
| <u>Ryan Wick</u> | <u>3555 11th St NW 20010</u> |
| <u>Ethan Kellogg</u> | <u>3538 11th St. NW 20010</u> |
| <u>Spencer Thumkayser</u> | <u>3534 11th St. NW 20010</u> |
| <u>Richard Klugman</u> | <u>3603 13th St NW</u> |
| <u>Paul DeBe</u> | <u>1102 Monroe St. NW 20010</u> |
| <u>Theodore Cherry</u> | <u>3607 13th Street NW</u> |

November 24, 2012

Board of Zoning
441 4th St NW Suite 200-S
Washington DC 20001

Dear Board of Zoning Adjustment members,

I am the owner of the market at 3582 13th St NW and a long-time resident of Columbia Heights. When I was approached by Mohammed Pishvaeian to sign his letter of support, I told him that condominiums were not good for the neighborhood and Columbia Heights should be protected for families. He said the house was on 11th Street and that it would be good for the neighborhood.

Mr. Pishvaeian did not tell me the house was at 1221 Otis Place NW, nor did he tell me he wants to build four condominiums there. I regret signing his petition without reading it more closely and protest his plan to build an apartment building at 1221 Otis Place.

Yours truly,

A handwritten signature in black ink, appearing to read 'Kebadshaeian' followed by a stylized initial or name.

November 26, 2012

Board of Zoning Adjustment (BZA)
441 4th St NW Suite 200-S
Washington DC 20001

Dear BZA Members,

I was approached by Mohammed Pishvaeian outside of the market at 3582 13th St NW and was asked to sign his petition. It was dark and I could not read it, so I told him I would need to read it under proper light before I would sign anything.

Having read the petition and attended the ANC hearing on the issue, I wish to voice my opposition of Mr. Pishvaeian's plan. I have lived in the neighborhood for 28 years and do not believe a four unit apartment building at 1221 Otis Place will be the right addition to our community

Sincerely,

Deborah Jackson
1319 Otis Place N.W.
Washington, D.C. 20010
202-957-2957

APPLICANT'S EXHIBIT C

BLRA-17
(Rev 12/95)

District of Columbia Government
Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration Zoning Division
P.O. BOX 37200 — Washington, D.C. 20013-7200

CO 187818
3436

CERTIFICATE OF OCCUPANCY

5/3/00
(date)

Permission is hereby granted to LEON TOSTON
to use suite(s) _____ on the 1ST & 2ND FLR floor(s)
of the building located on lot(s) 57 square 3829
known as premises 1221 GUIS PL. N.W. for the following
purpose(s) ROOMING HOUSE-11 ROOMS.
NOT SEXUALLY ORIENTED [su]

RZA # _____ EXPIRATION _____
THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PRE-
MISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is
stated, ONLY for the premises or part thereof, and for the purpose(s), indicated
above, and IS NOT TRANSFERABLE to another person or premises under ANY
conditions. ANY CHANGE in the type of business, ownership of business, or part
of premises used therefor, will render this Certificate VOID and a NEW Certificate
must be obtained.

Store# 0001
Reg# 0 05/03/00
Receipt# 055929 Amount \$17.00
EH22001216
D.C. GOVERNMENT
DIR/DCA CASHIER OFFICE

FEE \$ 32.00
Director L. JORDAN
Designee

Revenue #32402

*** GOVERNMENT
OF THE DISTRICT
OF COLUMBIA
BRA-71
(Rev 4/90)

Department of Consumer and Regulatory Affairs
Building and Land Regulation Administration

00609978

Occupancy Payer's Receipt

This is Not a License

Leon Toston
1221 GUIS PL, NW

Store# 0001
Reg# 0 05/03/00
Receipt# 055929 Amount \$25.00
EH22001216
D.C. GOVERNMENT
DIR/DCA CASHIER OFFICE

5/3/2000
amount \$ 25.00
credit: 9216
32402
Pay to D.C. Treasurer

Note: A Fee of \$15.00 is imposed
for Dishonored Checks

WHITE—APPLICANT

CANARY—FINANCE & REVENUE

0-2411 w9-27

This Space For Use by D.C. Treasurer Only

APPLICANT'S EXHIBIT D

INSTRUCTIONS

Any request for self-certification that is not completed in accordance with the following instructions shall not be accepted.

1. All self-certification applications shall be made on this form. All certification forms must be completely filled out (front and back) and be typewritten or printed legibly. All information shall be furnished by the applicant. If additional space is necessary, use separate sheets of 8½" x 11" paper to complete the form.
2. Complete one self-certification form for each application filed. Present this form with the Form 120 - Application for Variance/Special - Exception to the Office of Zoning, 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001. (All applications must be submitted before 3:00 p.m.)

| ITEM | EXISTING CONDITIONS | MINIMUM REQUIRED | MAXIMUM ALLOWED | PROVIDED BY PROPOSED CONSTRUCTION | VARIANCE Deviation/Percent |
|--|---------------------------|-------------------------------|-------------------|-----------------------------------|----------------------------|
| Lot Area (sq. ft.) | 1800 sq. ft. | 3600 (4 units @ 900 per unit) | - | 1800 sq. ft. | 50% |
| Lot Width (ft. to the tenth) | 18 ft. | None | - | 18 ft. | - |
| Lot Occupancy (building area/lot area) | 54% | - | None | 54% | - |
| Floor Area Ratio (FAR) (floor area/lot area) | 1.61 | None | - | 2.16 | - |
| Parking Spaces (number) | 2 | 1 (4 du @1 space/3 du) | - | 2 | - |
| Loading Berths (number and size in ft.) | - | - | - | - | - |
| Front Yard (ft. to the tenth) | 9 ft. | - | - | 9 ft. | - |
| Rear Yard (ft. to the tenth) | 34 ft. | 20 ft. | - | 34 ft. | - |
| Side Yard (ft. to the tenth) | - | - | - | - | - |
| Court, Open (width by depth in ft.) | - | - | - | - | - |
| Court, Closed (width by depth in ft.) | - | - | - | - | - |
| Height (ft. to the tenth) | 20 ft. (est.) (2 stories) | - | 40 ft (3 stories) | 39 ft. (est.) (3 stories) | - |

If you need a reasonable accommodation for a disability under the Americans with Disabilities Act (ADA) or Fair Housing Act, please complete Form 155 - Request for Reasonable Accommodation.



APPLICANT'S EXHIBIT E

Nearby Apartments and Surrounding Community within ½ Mile from 1221 Otis Place, NW



ALLEGRO APARTMENTS
3460 14th Street NW
297 Units



HIGHLAND PARK APARTMENTS
1400 Irving Street NW
229 Units



DC USA SHOPPING CENTER
3100 14th Street Northwest



PARK TRIANGLE APARTMENTS
1375 Kenyon Street Northwest
117 Units