

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

Application of Greg and Ina Igbozuruike

APPLICANT'S PRE-HEARING STATEMENT

December, 2012

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This Pre-Hearing Statement ("Statement") outlines the existing and proposed use of the property of application and the manner in which the application ("Application") complies with the specific tests and burden of proof for the variance sought in this application before the Board of Zoning Adjustment (BZA)

NATURE OF RELIEF SOUGHT

This is an application pursuant to 11 DCMR § 3103.2 for variance to allow the subdivision of a single lot of record into three record lots not meeting the minimum width of lot prescribed under § 401.3 for row dwellings and flats in the underlying R-4 Zone District within which the subject property is located.

SUMMARY OF APPLICATION

The applicant seeks the above area variance pursuant to 11 DCMR § 3103.2 under § 401.3, to allow the construction of three structures, each containing two family dwelling units, or flats, as that term is defined in § 199.1.

The subject property is located within the R-4 zone district within which the proposed use as a flat is permitted as a matter of right. The applicant seeks relief only from the minimum width of lot prescribed for the proposed use under § 401.3 in the underlying R-4 Zone District.

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District of Columbia**

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EXHIBIT NO. 4

Board of Zoning Adjustment
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The proposed project complies with all other applicable provision of the Zoning Regulations, including maximum lot occupancy, minimum lot area, height, number of stories, and required parking.

JURISDICTION OF THE BOARD

The application is properly before the BZA. The Board is authorized to grant the requested variances under § 8 of the Zoning Act, DC Official Code § 6-641.07 (g) (3) (2001), as further set forth in 11 DCMR § 3103.2

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PROPERTY LOCATION AND PROJECT DESCRIPTION

The property is located in the Park View neighborhood in Ward 1, west of the Soldiers Home, the Federal facility for veterans. The subject property is currently unimproved, near rectangular in shape, fifty feet (50 ft.) in width and approximately one hundred and forty two feet (142 ft.) in depth with street frontage only on Newton Place in its former configuration; therefore an interior lot by definition.

The subject properties are legally described as being located within Square 3935, Lots 82 and 83 (formerly Lot 0812) and consists of approximately seven thousand and eighty eight square feet (7,088 ft²) in lot area combined in its former configuration.

Prior to the instant application and in an effort to attempt a matter of right development of subject property, the applicant undertook the subdivision of lot 812 into two lots (lots 82 & 83), but further submissions will attest, the impracticality of such development in the context of the market-ability, and the fact of their non-compatibility to the character of the neighborhood precipitates the instant application before the Board.

The applicant seeks to subdivide the existing lot into three lots of record, evenly divided at street frontage for an approximate lot width of 16.66 feet each, short of the prescribed

minimum width of 18 feet for its underlying R-4 Zone District. Each subdivided lot at over 2,300 ft² of lot area will meet and exceed the minimum 1800 ft² lot area prescribed for the proposed use.

The applicant seeks to construct three row structures, each to contain two family dwelling units, or flats. Each structure will occupy far less than the sixty percent maximum lot occupancy allowed, and will comply with all other applicable restrictions or provisions of the Zoning Regulations, as project plans depict.

STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

The Applicant, by preponderance of the materials submitted with this Application, facts to be presented in the course of the public hearing and further evidence to be submitted fourteen days prior to the hearing date, will prove compliance with the three prong test necessary for the granting of the area variance sought, as outlined below.

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The Board is authorized to grant an area variance where a property demonstrates three characteristic elements:

1. The subject property must demonstrate a unique physical characteristic of shape or size, exceptional narrowness or shallowness which existed as of the time of the original adoption of the Zoning Regulations, or that there exists exceptional topographical conditions or other extraordinary or exceptional situation or condition of property;
2. That the physical characteristic(s), or extraordinary or exceptional situation or condition of the property makes the strict application of the Zoning Regulations result in peculiar and exceptional practical difficulties to the owner of the property;

3. That the Board is able to grant the variance without substantial detriment to the public good and without substantial impairment of the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

UNIQUE PHYSICAL CHARACTERISTIC OF SHAPE OR SIZE

The Subject Property at approximately 7,088 ft² is the largest undeveloped property in its square of location and this unique characteristic of size, which has been in existence since the original adoption of the Zoning Regulations, results in an extraordinary condition of property.

The subject property is located within the R-4 residence zone district which as set forth in § 330.1 of its General Provisions section, is designed to encompass areas developed primarily with row dwellings and where substantial conversions of existing structures into two or more family dwelling are contemplated to occur and continue to occur.

Section 401.3 prescribes a minimum lot width and area of 18 feet and 1,800 square feet respectively. The subject property is nearly four (4) times the minimum prescribed lot area for a typical row dwelling in the R-4 zone district. The subject property is over two thousand square feet larger than the minimum lot are prescribed in the second most restrictive of the Residence Districts, the R-1-B Zone District and at 50 feet wide is equal to the prescribed minimum width of lot for that same underlying zone district..

The share size of the subject property, a condition in existence at the time of the original adoption of the Zoning Regulations, imposes the unique condition of entrapped location in the wrong zone district.

PECULIAR AND PRACTICAL DIFFCULTIES TO OWNER OF PROPERTY

A matter of right development of the subject property is impractical, unfeasible in its Market area, and will be incompatible in the neighborhood, which is predominantly developed with row dwellings on approximately sixteen feet (16 ft.) wide lots

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The subject property could be subdivided into two equal lots, each 25 feet where it abuts the street, resulting in an approximate lot size of over 3,500 square feet in area each. Whereas the lot area in such a scenario complies with the minimum lot area for the construction of a single family semi-detached dwelling, the proposal would still require relief from the BZA for non-compliance with the minimum width of lot prescribed for that type of structure/use in the underlying R-4 zone district. More poignant is the fact that evidence shall be provided to the effect that the market area will not support this type of development.

Given the foregoing, the subject property is constrained to constructing two row structures, each twenty five feet (25 ft.) wide, or two, two-family dwellings or flats, within semi-detached structures seventeen feet (17 ft.), each with an 8 foot side yard on alternate sides.

As part of the final submission and in the course of the hearing the applicant shall provide graphic illustrations of the these two development outcomes, and evidence of their impracticality, incompatibility with the character of the neighborhood, which directly impacts their unsuitability for the market area, and which invariably result in peculiar and practical difficulties on the owner of the property.

SUBSTANTIAL DETRIMENT TO PUBLIC GOOD AND SUBSTANTIAL IMPAIRMENT OF INTENT, PURPOSE AND INTEGRITY OF THE ZONE PLAN

The applicant seeks to construct three row structures, each on a lot that is approximately 16.66 feet wide where each abuts the street. This width of lot is consistent with the prevailing condition of existing lot width in the subject property's square of location, and more specifically on lots adjacent to it.

The proposed project complies with all other requirements and provisions of the Zoning Regulations and would cause to be improved, an otherwise unimproved/vacant lot which is likely to remain unimproved due to market variables related to its size, absent the relief sought before the BZA.

The proposed project is intended to result in a development which will not be incompatible with the scale and character of the neighborhood.

Under the Inclusionary Zoning (IZ) provisions, set forth in § 2604.3, the BZA is authorized to approved lot width of 16 feet, less than requested in the instant application so there should be no detriment to public good and substantial impairment of the intent, purpose and integrity of the zone plan impacted by the grant of the relief sought, if approved.

WITNESS

1. Gregory & Ina Igbozuruike.

CONCLUSION

The Applicant submits that the instant application complies with all conditions for the granting of the requested area variance as outlined above and as shall be further documented, and respectfully requests that the application be granted.

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