

Jill & Blaise Marion
1116 K Street NE
Washington, DC 20002
DCRA BZA Application #18527

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Applicant's Burden of Proof for Variances and Special Exception

Use Variances

1. The physical characteristics of the property create exceptional practical difficulties and undue hardship for the owner in using the property consistent with the Zoning Regulations (use variance)

a. Variance from §2001.3 to permit a 3rd floor addition to an existing non-conforming structure & conversion to a new (SFD) row structure which will increase the nonconformity (§3103.2):

It is our belief that a variance from §2001.3 should be granted, according to the provisions for relief described in §3103.2:

- a) In repurposing this grocery store into a livable residential space, we are confronted with the following 5 exceptional characteristics related to its original intent as a commercial space, and the level of disrepair into which it has fallen:
 - Exceptional narrowness (14 ft wide interior space)
 - Exceptional shallowness (18 ft deep interior space)
 - Exceptional shape (21 ft tall)
 - Exceptional condition (no remnant of the roof is left and a completely new roof must be built)
 - Exceptional situation (commercial property rezoned to R-4)
- b) This leaves us with 3 practical difficulties:
 - How to create a residential space that honors the building's past but tastefully reintegrates this building architecturally and usefully into the spirit of the surrounding R-4 neighborhood (see examples of pre- and post-renovation work already done at the property).
 - How to design a building that meets with neighborhood approval and please potential tenants. Unnecessarily conforming what used to be a commercial structure to a commercial look in a now R-4 zone would not only go against the intent, purpose, and integrity of the current zone plan, it would also reduce the potential residential appeal and value of this property, causing us undue hardship as we seek to rent it.
 - Where to place the air conditioning condenser unit so it will neither be a visible eyesore from the street, nor encroach on the usefulness of the already tiny backyard.
- c) We have chosen to resolve these 3 difficulties by building a mansard roof instead of a flat roof. We are thus able to:
 - Place the condenser unit on the roof but still hide it from the street view
 - Create a more traditional-looking exterior space that still respects the building's grocery store past but blends tastefully into the neighborhood (see photographs of similar-sized 1920's DC grocers in the supporting documentation).
 - Avoid detriment to the public good. The neighbors have consistently criticized the shape of the building as warehouse-looking and extremely different from the typical attractive residences on K Street NE. By deemphasizing the warehouse-like features of this building (short, flat look with visible condenser unit), we are acting to the benefit of the surrounding neighborhood (see Petition for the

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18527

EXHIBIT NO. 26

Board of Zoning Adjustment
District of Columbia
CASE NO. 18527
EXHIBIT NO. 26

Restoration of 1109 Florida Avenue, signed neighbor letters of support, and verbal testimony from neighbors.)

- Avoid impairing the intent, purpose, and integrity of the zone plan for the neighborhood, which was rezoned from C2A to R4 pursuant to zoning commission order #753, by repurposing a commercial-looking building into a residential-looking one.

- d) Please note: The current building is a non-conforming 2-story structure, and when the proposed improvements are complete, it will still be a non-conforming 2-story structure. The footprint will remain exactly the same, and the roofline will still be below the 35 ft allowable height for R-4 districts. The roofline will in fact be lower than that of the principle 2-story house, as well as lower than all the other 2-story houses on the block.

- b. Variance from §404.1 to permit a (SFD) row structure without having a minimum required rear yard setback (§3103.2):

With respect to §3103.2 and §404.1, it is impossible to both restore this structure and provide a minimum rear yard setback of 20 feet. With only 8.3 feet of combined rear space available for both existing structures, Lot 7 is too small to create a conforming rear yard setback for either structure. Complying with this regulation is physically impossible and would cause financial hardship by forcing us to keep an unrenovated shell on our lot.

- c. Variance from §2101.1 to permit a (SFD) row structure without providing one required parking space (§3103.2):

With respect to §3103.2 and §2101.1, it is impossible to both restore this structure and provide the one required parking space. The structure on Lot 7-B faces an emergency back alley access that has no curb. Creating a parking space would be impossible because the dimensions of the structure and proposed Lot 7-B are too small. Complying with this regulation is physically impossible and would cause financial hardship by forcing us to keep an unrenovated shell on our lot.

- 2. Granting the application will not be of substantial detriment to the public good – i.e. traffic, noise, lighting, etc.

In fact granting the application will improve the public good by restoring one of the neighborhood's landmarks to an appealing residential space and eliminating the complications associated with this currently vacant property, i.e. loitering, trash dumping, etc. Both immediate neighbors at 1114 and 1118 K Street NE (Mr Eugene Lyons and Mrs. Iveracottis Short) fully support the application for variances, as does the rest of the local neighborhood (See Petition for the Restoration of 1109 Florida Avenue and additional signed letters of support).

- 3. Granting the application will not be inconsistent with the general intent and purpose of the Zoning Regulations and Map

The commercial structure on proposed Lot 7-B was perfectly compliant with the C2-A Zoning Regulations and Map when it was first built in 1910, and remained in compliance until the neighborhood was rezoned from C2-A to R-4 in 1994. My request for the above variances are designed to restore an existing structure with a prior commercial use, to a usable and visually appealing residential space in accordance with the general intent of the R-4 Zoning Regulations.

Special Exception

Special exception pursuant to §2516.1 to permit (2) principal buildings on a single subdivided lot of record in the R-4 residential zone district (§3104.1):

It is our belief that the above special exception should be granted, according to the provisions for relief described in §3104.1:

1. How the proposed special exception will be consistent with the general intent and purpose of the Zoning Regulations and Map:

There have always been 2 existing principle buildings on Lot 7, the footprints of which have remained unchanged since 1910 and will remain unchanged if this application is approved. Although subdividing a lot in an R-4 district is unusual, what is more unusual is having 2 principle buildings on one lot of land. Historically this property was handled as two separate legal and financial entities (see Existing and Intended Use of the Property) and this remains the most logical way to preserve the structures as separate residential properties with separate uses. The historical addresses were 1116 K Street NE for proposed Lot 7-A and 1109 Florida Avenue NE for proposed Lot 7-B. Although some have expressed concern about the legal possibility of creating 2 flats at 1109 Florida Avenue NE once the lot is subdivided, in fact it is physically impossible to house 2 flats at 1109 Florida Avenue NE due to the size constraints of the building. Thus subdividing lot 7 does not change the intended use of the property, and is in harmony with the general purpose and intent of the zoning regulations and zoning maps.

2. How allowing the use will not adversely affect the use of the neighboring property – i.e. traffic, noise, lighting, etc:

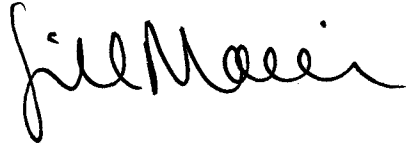
In fact allowing the use will improve the public good by renovating one of the neighborhood's landmarks and eliminating the complications associated with this currently vacant property, i.e. esthetically unappealing look, loitering, trash dumping, etc. Both immediate neighbors at 1114 and 1118 K Street NE (Mr. Eugene Lyons and Mrs. Iveracottis Short) fully support this special exception, as does the rest of the neighborhood (See Petition for the Restoration of 1109 Florida Avenue and neighbors' signed letters of support). Since subdivision will not and cannot change the use of this property given the size constraints, it will not and cannot have an adverse effect on the neighboring properties.

3. Although a new building is not being erected, we have addressed the other provisions of section §2516:

- a) **The lot is located within a Residence District (§2516.2)**
- b) **(4) site plans for all new rights-of-way and easements (unchanged from current rights-of-way and easements), and existing and final landscaping and grading plans have been submitted (unchanged from current landscaping/grading), along with (2) sets of floor plans and elevations (§2516.3)**
- c) **Issues around use, height, bulk, etc. have been addressed in this document and Existing and Intended Use (§2516.4)**
- d) **§2516.5 is not applicable as each building has street frontage.**
- e) **Means of ingress and egress remain unchanged for each building (§2516.6)**
- f) **The height of each building has been measured from the finished grade at the middle of the front of each building (§2516.7)**
- g) **§2516.8 is not applicable as it has been repealed.**
- h) **As explained above, the subdivision cannot and will not have an adverse effect on the present character and future development of the neighborhood (§2516.9)**
- i) **The DC Office of Planning has reviewed the various impacts of this project (§2516.10)**

j) Additional provisions may be required by the Board on or prior to the BZA hearing (§2516.11)

Thank you for considering our application,

A handwritten signature in cursive script, appearing to read "Jill Marion".A handwritten signature in cursive script, appearing to read "Blaise Marion".

Jill & Blaise Marion