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MEMORANDUM

TO: District of Columbia Board of Zoning Adjustment

FROM: Karen Thomas, Project Manager
Joel Lawson, Associate Director Development Review

DATE: July 9, 2013

SUBJECT: BZA Case 18560 - Request pursuant to DCMR 11 § 3103 for variance relief under § 401, lot area, to convert an existing flat to a four-unit apartment building at 3545 13th Street, NW

I. SUMMARY RECOMMENDATION

The Office of Planning (OP) recommends denial of the variance request for relief from § 401 – Lot area (3,600 sq. ft. required; 2,936 sq. ft. existing), in order to convert an existing flat into a four-unit apartment building.

No practical difficulty has been established and it is beyond the scope of the Regulations to grant relief in anticipation of a higher return on an applicant's investment and not in response to an established practical difficulty derived from a lot's unique condition.

Should the BZA decide to consider this request however, OP has no objection to the applicant's additional request for relief from the parking requirements of §§ 2115.2 and 2115.4 to permit 3 on-site compact spaces.

II. AREA AND SITE DESCRIPTION

BOARD OF ZONING ADJUSTMENT
District of Columbia

Address	3545 13 th Street NW	CASE NO. <u>18560</u>
Legal Description	Square 2833, Lot 0120	EXHIBIT NO. <u>32</u>
Ward	1/ANC 1A	
Lot Characteristics	2,936 square foot rectangular lot with public alley access, located near the northeast corner of Otis and 13th Streets NW	
Existing Development	Two-and a half story, brick and row building.	
Zoning	R-4 – Row dwellings and flats permitted.	
Adjacent Properties	North and East: 2-story single-family residential; South: 2-story vacant residential building; West: 3-story multi-family residential building.	
Surrounding Neighborhood Character	Low to moderate density residential buildings and institutional uses. Largely rowhouses with some multi-family residential buildings. C-2-A zones to the west along 14 th Street and southeast of the site along 11 th Street.	

III. APPLICATION-IN-BRIEF

3545 13th Street LLC, the property owner, has requested zoning relief to convert the existing flat at 3545 13th Street NW to a four-unit residential apartment building. The building's most recent renovation was in 2008 when the Department of Consumer and Regulatory Affairs (DCRA) issued a permit to a previous owner to convert the existing single-family dwelling to a 2-family flat (B0801004), a conforming use in the R-4 zone.



A certificate of occupancy was then issued in 2009 for a two-family flat and storage basement (CO0901282).

The property recently sold, in February, 2013, to the current owner for \$615,000¹, significantly less than the listed price of \$750,000. The current owner and applicant for this case received a similar variance in October, 2012 (case 18421), under a separate LLC, for an R-4 zoned property at 3620 16th Street NW – also to convert a rowhouse to a 4 unit apartment building. The two properties are about a half mile, or 10 minute walk, from each other.

The current proposal would include a complete renovation of the existing structure to create four (4), two-bedroom apartments, one each located in the basement through the third floor. The second and third floors would be significantly expanded over the existing single-story brick portion at the rear. A deck would be added and the dilapidated garage structure (316 sf) would be removed to provide a parking area for three compact vehicles. The resulting lot occupancy would remain within the permitted 60% maximum, based on information recorded on the submitted plat (Tab 3), provided by the applicant as follows:

Item	Measurement	Area	Lot Occupancy
Lot Area	20.25 x 145 sf = 2936.25 sf		
Existing front porch	9.2 ft. x 18.8ft	172.96 sf	
Existing house footprint with a one-story brick addition at the rear	41.8 ft. x 20.2 ft = 844.36 sf 20 ft. x 16.6 ft. = 332 sf	1176.36 sf	
Garage (to be removed)	18.3 ft. x 17.3 ft	316.59 sf	
Total - existing structure		1,665.91 sf	56.7%
Deck addition	8 ft. x 20.25 = 162 sf	1,827.91 sf	62.32%
Total – Proposed structure (Garage removed)	1,827.91 sf - 316.59 sf	1,511.32	51.47 %

The applicant informed OP via email on July 1, 2013, that additional relief would be required per §§ 2115 to provide 3 on-site compact spaces. The provision of the additional spaces beyond that required by the regulations is an attempt to mitigate potential on-street parking by future residents, as expressed by the community.

IV. OFFICE OF PLANNING ANALYSIS

Standard	R-4 Requirement	Existing Property	Proposed Construction	Relief Required
<i>Lot Area § 401.3</i>	<i>900 s.f./unit or 3,600 sq. ft.</i>	<i>2,936.25 sq. ft.</i>	<i>2,936.25 sq. ft. No change</i>	<i>Yes</i>
Lot Occupancy § 403.2	60% (1,761.75 sq. ft.)	56.7% (1,665.91 sq. ft.)	51.47% (1,511.32 sq. ft.)	No
Height § 400.1	40'3 stories	2.5 stories	2.5 stories	No
Parking § 2101 § 2115.2, 2115.4	1 space per 3 d.u.	1 space	3 compact spaces	Yes

The requested variance relief must satisfy the following criteria for area variances:

a. Variance relief from § 410- Lot Area

¹ According to online property sales information. The application notes that the purchase price was \$630,000.

1. *Exceptional Situation Resulting in a Practical Difficulty*

The property is rectangular in shape and one of several similarly-sized and shaped lots on the subject square. The existing building was originally constructed in 1910 and meets the current lot occupancy, lot width and area requirements for the R-4 zone; measuring 20.25 feet wide by 145 feet deep, at 2,936.25 square feet in area. Only 3 improved lots within the square are 1,800 square feet or less, as shown in green on the map to the right. The property has no significant grade changes and is served by alley access at its rear.

The applicant intends to renovate the existing structure due to the existing layout, prior uses, noncompliance with the building code and the deteriorated condition of the property. The applicant cites a financial hardship as the justification for the additional dwelling unit due to construction costs and the building's current condition.

However, the current state of the property does not constitute a unique physical characteristic of the property, and is the condition that the property was in when purchased by the current owner in February of 2013, as reflected in the purchase price (almost 20% below the list price). There are no apparent unique characteristics or circumstances affecting the property that directly relate to the financial hardship described. The applicant would be improving a "shell structure" to meet current code requirements, and is proposing to undertake extensive additions to the existing building to further facilitate the additional units. The current physical configuration of the existing building does not preclude its use for a flat, or three units, which would be permitted as a matter-of-right, and eliminate the need for the zoning relief.



Highlight of lots in Square 2833 with 1800 sq. ft. or less
(see attachment)

2. *Substantial Detriment to the Public Good*

The development of an apartment building where it is not contemplated under current regulations is detrimental to the neighborhood's character, and therefore the public's good.

3. *Substantial Harm to the Zoning Regulations*

As noted above, the property is not unique. Thus, given the lack of any unique physical condition of the lot and no other extraordinary circumstances affecting the property, the first part of the variance test is not satisfied. The existing property currently satisfies the R-4 area requirements. The applicant's request for conversion to a four-unit apartment building, where three units would be permitted as a matter-of-right would exceed the permitted development density anticipated for the site.

The applicant states that grant of the relief would add to the current texture and mix of the block. To the contrary, continued apartment conversion (particularly ones also involving significant additions to facilitate the additional units) conflicts with the clearly stated purpose of the R-4 zone found in §401.1 and would impact the purpose and integrity of the R-4 zone and the minimum lot area provisions. The purpose of the R-4 zone is to stabilize low-density, single-family residential areas by allowing new construction of single-family and two-unit buildings. The Zoning Regulations explicitly state (at Section 330.3) that "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." [emphasis added] In other words, the regulation is intended to allow for the reasonable conversion of existing large structures in the R-4 zone that are considered too large for current living standards, not to allow for speculative conversions of typically sized rowhouses into apartment buildings.

b. Variance Relief from § 2115.2 and 2115.4 – Size of Parking Spaces**i. *Exceptional Situation Resulting in a Practical Difficulty***

The applicant originally proposed two legal (9x19) on-site parking spaces. However, due to community requests to mitigate potential on-street parking, the applicant has revised the site's parking plan. The revision would provide 3 compact spaces in tandem, and a bike rack for up to four bikes. Given the lot's width only two legal sized vehicle spaces could be reasonably accommodated. Therefore, the lot's width creates a practical difficulty for the applicant in providing more than the required number of spaces on the lot.

ii. *No Substantial Detriment to the Public Good*

No substantial detriment to the public good is anticipated with the provision of the additional spaces, made at the community's request to mitigate the effects of additional on-street parking.

iii. *No Substantial Harm to the Zoning Regulations*

No harm to the Regulations would be realized as the applicant would be satisfying the parking requirement for the number of required on-site spaces, and compact spaces are permitted in the Regulations, subject to certain area requirements.

V. AGENCY COMMENTS

Early conversations with the District Department of Transportation (DDOT) did not highlight any concerns with the proposal.

VI. COMMUNITY COMMENTS

ANC 1A discussed the request at their May 8, 2013 meeting, and voted to oppose the requested zoning relief. The applicant has provided letters of support from neighbors within the square and two blocks from the subject property.

VII. CONCLUSION AND RECOMMENDATION

OP recommends denial of the requested area variance to allow the conversion of the recently purchased rowhouse into a four-unit apartment building on the subject property. No practical difficulty has been established in this case, and the proposal is clearly contrary to the intent and the integrity of the zoning regulations.