

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

Application of Adolfo Briceno

APPLICANT'S PRE-HEARING STATEMENT

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This 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 construction of an addition which includes an extension of a second floor, a partial third floor and a canopy over a roof service bar and egress enclosure to an existing tow-story building proposed to be occupied primarily as a restaurant. The building is also intended to serve as laboratory residency for students undertaking culinary training under the executive chef/owner under the Careers through Culinary Arts Program (C-CAP), as shall be further expounded in supplemental submissions and in the course of the public hearing of the instant application.

The proposed use will exceed the maximum floor area ratio (FAR) allowed for a permitted commercial use for its underlying zone district and will not provide the minimum number of on-site parking spaces required as set forth in §§ 771.2 and 2101.1 respectively. The building will also require variance relief from the loading facilities provisions of § 2201.1

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18591
EXHIBIT NO. 4

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SUMMARY OF APPLICATION

The applicant seeks the above area variance pursuant to 11 DCMR § 3103.2 under §§§ 771.2, 2101.1 and 2201.1 to allow the construction of the additions as described above and as depicted in architectural plans and renderings submitted to the case folder

The designated underlying zone district within which the subject property is located is C-2-A, whereas the Overlay zone district is within the H Street Overlay District, and additionally, the Arts sub-district of the Overlay; therefore the subject property is located in the HS-A/C-2-A zone district.

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

PROPERTY LOCATION AND DESCRIPTION

The property is located in the H Street corridor of the Capitol Hill neighborhood in Ward 6 in the northeast quadrant of the city. The subject property is situated at the southwest corner of the intersection of 13th and H Streets, within the arts and entertainment thematic area of the Small Area Plan (SAP) of the H Street Plan spanning 12th – 15th Street NE

The subject property, in its current configuration is approximately 2,338 square feet in lot area. An L-shaped lot, the legal description of the subject property locates it in Square 1004 and record lot 343.

BACKGROUND

Adolfo Briceno, the owner of the subject property, is also a partner in the proposed restaurant which is to be a tenant, along with executive chef Troy Williams, a graduate of the acclaimed Culinary Institute of America.

The former Executive Chef of Georgia Brown, Chef Troy Williams is presently the Program Coordinator for C-CAP Program in Prince Georges County and the District of Columbia Public Schools. C-CAP is a non-profit organization that works with public schools across the country to prepare underserved high school students for college and career opportunities in the restaurant and hospitality industry.

The foregoing is mentioned to underscore the fact that the proposed building is not only intended for the purpose of the farm-to-table restaurant vision concept of Chef Troy, but it is proposed to serve as the C-CAP living classroom project program where students in the program are provided “classroom” instructions and are able to apply lessons to practical real life situations in the restaurant, including special events, such as Grand Buffet for students to showcase their skills for potential employers.

Hence the additional space to accommodate the program functionality which merges real restaurant customer service, class instruction and special events to showcase the culinary skills of trainees.

The current lot (Lot 343) which is the subject of the instant application is the combination of two lots (Lots 810 and 811). The two-story building which existed on lot 810 was constructed prior to May 12, 1958 and occupied the lot in entirety (100%). Lot 811 was vacant and unimproved prior to consolidation with Lot 810 into a single lot of record. The applicant will provide evidence at the hearing to the effect that the additional cost of structurally stabilizing the existing building and the need to provide for program space

demands precipitate the necessity for the relief sought before the Board of Zoning Adjustment (BZA)

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.

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.

EXTRAORDINARY OR EXCEPTIONAL SITUATION OR CONDITION OF PROPERTY

The subject property is located within the OLD CITY 1 neighborhood, and as is common with most buildings constructed in the early 1900s, the existing building on former lot 810 did not have footings, necessitating excavation to underpin the building around its perimeter for the express purpose of stabilizing the structural integrity of the structure. At two floors occupying one hundred percent (100%) of the previous lot, the pre-1958 structure was already nonconforming with respect to FAR because both floors had previously been occupied for commercial use purposes.

To accommodate program needs therefore, the applicant was consigned to constructing cellar floor area in order to manage the significant construction cost associated with stabilizing the structural integrity of the existing structure. The applicant submits that this constitutes the extraordinary or exceptional situation or condition of property

PECULIAR AND PRACTICAL DIFFICULTIES TO OWNER OF PROPERTY

The applicant submits that the significant construction cost associated with structurally stabilizing the pre-1958 building and accommodating program space combine to frustrate the viability of establishing the proposed use at subject property without the relief sought before the BZA in the instant application.

The pre-1958 building was located on former lot 810 and is narrow at 18 feet where it abuts H Street and occupied 100% of the lot. To accommodate program and business needs, the applicant purchased an adjacent vacant lot to construct a contiguous addition, necessitating the combination of the two lots in order to make the building one building, as required by both the building codes and the zoning regulations.

As aforementioned, the pre-1958 building was nonconforming with respect to maximum allowed FAR, and the construction of cellar floor area did not increase that nonconforming aspect of the building, when analyzed separately and independently. The

roof of the pre-existing building is reserved to accommodate roof top seating, and partial roof coverage over the area of the service bar and the stair enclosure required to comply with the minimum number of egress to allow safe exit of the roof terrace.

That portion of the third floor over the new addition is to accommodate support program space for C-CAP trainees in addition to the support of the roof terrace occupants.

The fact is that the most cellar floor area as the restaurant use will accommodate given building codes limitations which constrain such space to ancillary function space; not conducive for assembly seating space.

The relief sought will permit a balance between program function space demand and the necessary seating capacity which enables a viable commercial public restaurant enterprise, while accommodating a unique hybrid concept as envisioned by the Chef proprietor.

As to the practical difficulty of meeting the parking and loading facilities requirements, neither the lot as exists currently in its L-shaped configuration, nor in its former existence on a lot completely occupied by the pre-1958 building, is conducive for said purpose by virtue of narrowness of lot and configuration, and even if possible, without significant adverse impact on neighboring properties, particularly since a residence district is only separated from the subject property by a ten feet (10 ft.) public alley.

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

The purposes of the HS Overlay District, in pertinent part to the instant application are the implementation of the policies and goals of the Comprehensive Plan and the H Street NE Strategic Development Plan and to encourage the clustering of uses into unique destination districts along the corridor specifically “an arts and entertainment district from 12th Street to 15th Street, N.E.” and as further set forth in § 1323.1

The proposed restaurant is not inconsistent with the objectives and goals intended in the Arts Sub-district.

The proposed project brings on line and makes adaptive use of a building that has been vacant and detracts from progress that the H Street corridor is experience due to catalysis of the Strategic Development Plan.

The design is consistent with the design intent of the design requirements of § 1324.

The proposed FAR at 1.83 is less than the 2.0 permitted under § 1323.4 for new construction that preserves an existing façade constructed before 1958, and but for the technicality of what is deemed new construction, the project achieves similar objective in preserving the façade of the existing pre-1958 building.

For all the foregoing reasons, the applicant submits that the reliefs sought mat be granted be the Board 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

WITNESS

1. Adolfo Briceno
2. Troy D. Williams

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 relief be granted.