

August 27, 2013

By Hand Delivery

Lloyd Jordan, Chairperson
Board of Zoning Adjustment
441 4th Street, NW
Suite 210S
Washington, DC 20001

Re: Post-Hearing Submission; Application No. 18598; 3612 – 3614 Park Place NW

Dear Chairman Jordan and Board Members:

Enclosed are documents from the Applicant in response to the Board's request for additional information to address the Board's comments at the hearing for Application No. 18598 on July 30th

Summary of Exhibits in Response to the Board's Concerns

- 1) Comparative pro formas for all other matter-of-right restoration scenarios for the subject structures (attached as Exhibit A) Scenarios include restoration as 2 one-family dwellings with no additional floor area, and 4, 5, and 6-unit scenarios
- 2) A report from the Applicant's structural engineer (i) identifying in detail the extraordinary aspects of the poor condition of the structures and the expense required to correct those conditions and (ii) describing the unique aspects of the property and the improvements thereon, including the slope of the land surrounding the building and the concomitant lack of a storm water management measures (report attached as Exhibit B)
- 3) A photographic comparison of the condition of the subject structures with the surrounding neighborhood, in response to questions seeking more information on the unique aspect of the structures' condition of disrepair (attached as Exhibit C)
- 4) PIVS Reports noting repeated housing violations for both structures beginning in 2004 (attached as Exhibit D)
- 5) Portions of BZA precedents (Orders and transcripts) providing context for evaluation of the evidence submitted herein (attached as Exhibit E).

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BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18598

EXHIBIT NO. 33

Board of Zoning Adjustment
District of Columbia

CASE NO. 18598
www.sullivanbarros.com
EXHIBIT NO. 33

Exhibit A - Matter-of-Right Pro Formas.

The pro formas included in Exhibit A show the financial scenarios for restoration of the Property under all matter-of-right scenarios, with and without additions. These pro formas calculate the gross profit for the different scenarios, and these scenarios, for simplicity sake, do not include overhead allocations for project manager and in-house administrative functions, which the Applicant notes are typically about seven percent (7%) of the total cost of a project. These pro formas provide evidence that the six-unit configuration with the addition is the only scenario that is likely to provide a net profit to the Applicant.

Exhibit B – Engineer’s Report

The Engineer’s Report details the extent of the extraordinary cost to repair and restore the structures. Many years of neglect have resulted in shifting slabs and foundations, failing masonry and joists, and other major structural deficiencies. In addition to these major structural deficiencies, restoration of the buildings requires extensive work to replace windows, repair the roof, repair failing porches, and other items. The level of disrepair testified to in this Engineer’s Report and the expense necessary to restore the structures meets or exceeds levels in most of the previous Board approvals for the requested relief. The reason that none of the other matter-of-right scenarios provide a reasonable return is primarily because of the extraordinary cost to repair and restore the dilapidated structures. Those costs represent a fixed amount, regardless of the development scenario, i.e., both the 2-unit scenario and the 6-unit scenario incur the same extraordinary restoration amounts noted in Appendix 2 of the Engineer’s Report.

Exhibit C – Comparison for Uniqueness

The state of disrepair of these structures is in stark contrast to all other buildings in the surrounding area. The photos exhibit a stabilized neighborhood whose only blemish is the 9 + year nuisance of these two buildings. In line with the cases discussed below, the level of disrepair is the type of condition which the Board has often recognized as being worthy of relief from strict compliance with the 900-foot rule. We have also included photos showing the rear wall of the structures, which was clearly failing prior to the Applicant’s demolition of that wall.

Exhibit D – PIVS Reports.

The Applicant has been unable to find reliable evidence of exactly how long these two buildings have been vacant. However, based on the PIVS Reports for the properties, the buildings have likely been vacant since at least 2004, when the buildings began to accrue numerous housing violations as noted in the reports. As noted in the hearing, the period of vacancy itself is not necessarily a unique condition leading to a practical difficulty. However, this period of vacancy was, as noted by the Engineer's Report and the PIVS Report violations, accompanied by an outright neglect that over the years has resulted in an extraordinary state of disrepair causing extraordinary expense to repair and restore. A building's state of disrepair, and the resulting cost to restore and repair, have regularly been considered to be unique conditions and practical difficulties for purposes of granting relief from the 900-foot rule, as discussed below.

Exhibit E – Case Precedents.

In numerous BZA cases for variance relief from the 900-foot rule, this Board has considered unique conditions to include the disrepair of the building and/or the deferred maintenance of a building, a history of vacancy, and other factors related to the improvements on a lot. In almost all of these cases, the unique condition springs not from the land itself, but from the improvements on the land.¹ Most cases have involved rectangular, flat lots which exhibit no unique characteristics other than those that relate to the condition of the improvements. Likewise, in these cases, the Board has acknowledged repeatedly that the cost to restore a vacant, neglected building in disrepair is a legitimate aspect of the unique condition/practical difficulty analysis. The present application fits within this category of cases, although it exhibits significantly greater levels of disrepair and restoration expense.

Recent BZA Approvals Include

BZA Case No. 18436 - 2703 11th Street, NW

In Application No. 18436 of David Benson, for 2703 11th Street, NW, decided February 12, 2013, the Board granted approval for the conversion from a flat to a 3-unit apartment house on a standard 1,506 square

¹ A property's uniqueness is not limited to physical aspects of the land and may be determined by "some difficulty not shared by the entire neighborhood." *Id.* at 1098. The Court of Appeals held in *Clerics of St. Viator v. D.C. Bd. of Zoning Adjustment*, 320 A.2d 291 (D.C. 1974) that the exceptional situation or condition standard goes to the property, not just the land, and that " property generally includes the permanent structures existing on the land." *Id.* at 293-94.

foot lot, based on an exceptional condition/practical difficulty of renovation expense. In that case, the subject structure was fully in service and occupied at the time of the Application, and the Applicant's architect testified that the structure was, as quoted by the Board chair, "generally the same" as surrounding properties. The expense cited by the Board as satisfying the practical difficulty test involved relatively minor – and not required – interior reconfigurations.²

BZA Case No. 18448 - 1221 Otis Place, NW

In Application No. 18448 of 3579 Warder Street LLC for 1221 Otis Place, N.W., decided January 15, 2013, the Board unanimously approved – over strong objection from a next-door neighbor – a request for a four-unit apartment conversion on a standard 1,800 square foot lot. The approval included lot occupancy relief for the addition of a third story, as well. In that case, the Board based its approval on the unique condition that the subject building was, 11 years previous, used as a rooming house, and the practical difficulty was in the expense of reconfiguring internal walls – even though the Applicant had already removed all the interior walls. In addition, the Board identified the "deteriorated condition of the existing structure" as a unique condition causing a practical difficulty. The Board found that:

"[d]ue to the past deterioration of the building and deferred maintenance by prior owners, the Applicant must expend considerable funds to ensure the building's compliance with the Construction Code and to construct marketable dwelling units."

In the Otis street case, the subject building had been inhabited as a one-family dwelling just prior to the Applicant's purchase, in contrast to the present case, where the two structures have not been habitable for at least nine years. The relatively minor expense needed to renovate the Otis Street building – just recently inhabited – pales in comparison to the extraordinary expense required to make the Park Place buildings safe and secure, let alone habitable in a productive manner.

² This case probably represents lower end of the scale of practical difficulty and exceptional condition for 900-foot rule cases, but it nevertheless provides the precedent that this Board does consider the structure itself, and not only the land, when considering 900-foot rule variance requests. Following that precedent, and weighing the relative degree of exceptional condition and practical difficulty, the Applicant asserts that this Application is at the other end of the scale from the Benson approval, because the Property in this case exhibits significant and credible structural conditions caused by many years of neglect, and the expense necessary to correct those conditions far exceeds that contemplated in the Benson or almost any other previous 900-foot rule approval.

BZA Case No. 18297 - 3609 13th Street

In Application No 18297 of Mohammed Pishvaeian for 3609 13th Street, NW, decided on February 7, 2012, the Board unanimously granted approval for a conversion to a 3-unit apartment house on a standard lot of 1,800 square feet. In that case, in considering the exceptional condition and practical difficulty, the Board found it convincing that the property had been unoccupied for over a year and then on the market for 6 months (p 15 and 18 of the Transcript). The Board also noted that the cost “to renovate the property” was an acceptable factor in considering practical difficulty, (p.19 of the Transcript), that there would be considerable expense involved in bringing the building “up to code” and a significant amount of expense in “renovation and remodeling that would have to be done.” (p 23 of the Transcript). The Board also noted that “there is a practical difficulty on how you afford to be able to do this kind of renovation ” (p 24 of the Transcript)

In the 3609 13th Street case, the subject building can best be described as being in merely a moderate state of disrepair; certainly nothing approaching the near-failing condition of the structures at 3612-14 Park Place.³

BZA Case No 18197 - 1211 10th Street NW

In Application No 18197 of 1211-10th Street N W LLC for 1211 10th Street, NW, decided on January 10, 2012, the Board approved a conversion to 3 units. Among the factors considered in approving the request was “the poor condition of the structure” (p. 59) and “the existing condition of the building, which is clearly in very, very bad shape.” (p. 62 and 63). The structure at 1211 10th Street may be the closest analogy to the structures at 3612-14 Park Place, although even 1211 10th Street did not have the major structural problems of a sinking slab and foundation

BZA Case No 18312 - 1341 Irving Street, NW

In Application No. 18312 of Rashid Salem, for 1341 Irving Street, NW, decided on March 13, 2012, the Board approved a conversion to four units on a standard lot of 2,472 square feet. In approving, the Board noted that the first extraordinary condition was that the property had been vacant for fifteen years. (FOF #14)

³ The 13th Street case is one of the “rooming house” conversion cases, which cite a previous rooming house use as one of the unique conditions. While that aspect is not present in this case, it’s important to note that (i) the Board in that case also identified the vacancy and the building condition as factors in determining the practical difficulty from a unique condition, and (ii) the rooming house practical difficulty results from an expense due to interior reconfiguration, which is no different, and probably less persuasive – for purposes of determining practical difficulty – than the expense due to the necessary repair of major structural deficiencies, as in the present case.

The Board also noted prominently that the building was in a state of disrepair. (FOF# 16) As in almost every other 900-foot rule variance case, none of the property's unique conditions were related to the land or the lot itself, but were related instead to the condition of the improvements on the property. The principal practical difficulty in the Irving Street case was noted as the "additional expense to restore the subject building, caused by the building's extraordinary state of disrepair" (FOF #21)

Summary of Precedents.

The cases above are a substantial sample of the 900-foot rule variance requests in recent years. The common thread for these cases (other than OP opposition) is that the practical difficulty involved the additional expense necessary to repair a building in a state of disrepair. In some cases, the building had been vacant for some time, which the Board apparently found to be reliable evidence of that state of disrepair and of the practical difficulty to the Applicant in repairing that state of disrepair.⁴

These cases exhibit situations and conditions similar to the present case at Park Place, with the only exception perhaps being that the state of disrepair of the Park Place structures far exceeds the purported state of disrepair of all of these other properties, as shown by the photos filed with the Applicant's prehearing statement, as testified to by the Applicant at the hearing, and as noted in the Engineer's Report. Another difference is that the degree of relief being requested in this case (one additional unit over five permitted) is less than in the other cases.

The Board has consistently granted approvals – and issued denials – based on the state of disrepair of a property, the history of a property, including its status as vacant and blighted, and a comparison of such conditions to surrounding properties and a comparison to "typical" renovations that may not involve significant structural repairs. While it is true that the Board must consider each application on a case by case basis, this does not mean that previous decisions do not form a context for future decisions. The Board's consistent interpretations of cases such as this have formulated a general policy that property owners should be able to rely on in deciding whether or not to pursue variance relief.

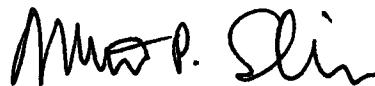
⁴ The Board regularly cites economic justification for area variances. The D.C. Court of Appeals has ruled on this point as well. From Tyler v BZA 606 A 2d 1362: "But we have recently eliminated any doubt that "[e]conomic use of property" may properly be "considered as a factor in deciding the question of what constitutes an unnecessary burden or practical difficulty in [area] variance cases." *Gilmartin*, 579 A 2d at 1170."

Lloyd Jordan, Chairperson
August 27, 2013

Summary

The Applicant asserts that the condition of disrepair of these buildings is indeed a unique condition of the Property according to 900-foot rule variance law, as such law has been interpreted by this Board over the years. The Applicant also asserts that the extraordinary expense to restore this Property presents a practical difficulty in complying with a strict application of the Zoning Regulations, also as found in Board precedent. The ANC voted overwhelmingly to support this Application, both immediate neighbors strongly support this Application, and nobody has spoken in opposition to the Application. Approval of this relief will facilitate the successful stabilization of the Property, and restore it back to productive use after 9 or more years of being a nuisance and eyesore in the Park View community. For these reasons, the Applicant respectfully requests approval of the Application.

Sincerely,

A handwritten signature in black ink, appearing to read "Martin P. Sullivan". The signature is fluid and cursive, with the first name "Martin" and last name "Sullivan" clearly distinguishable.

Martin P. Sullivan, Esq

Enclosures

EXHIBIT A

Pro Formas for Matter-of-Right Scenarios

**Showing a Near Loss, Prior to the Overhead Allocation for the 5-unit Scenario, and
a Loss for All Other Scenarios.**

Market Analysis - Recent Condo Sales in Park View Area - Larger Condos

Address	Beds	Baths	Levels	Living Area	Sold Price	Price/SqFt
732 Lamont Street NW #403	2	2	1	1,059	\$ 482,500	\$ 455.62
527 Irving Street NW #03	2	2.5	1	1,200	\$ 446,000	\$ 371.67
471 Luray Place NW #A	3	2	2	1,224	\$ 450,500	\$ 368.06
732 Lamont Street NW #303	2	2	1	1,059	\$ 449,000	\$ 423.98
732 Lamont Street NW #203	2	2	1	1,059	\$ 450,000	\$ 424.93
732 Lamont Street NW #401	1	1	1	870	\$ 425,000	\$ 488.51
732 Lamont Street NW #101	2	2.5	1	1,250	\$ 427,500	\$ 342.00
732 Lamont Street NW #103	2	2	1	1,115	\$ 390,000	\$ 349.78
754 Park Road NW #06	2	1.5	1	850	\$ 386,000	\$ 454.12
754 Park Road NW #04	2	1.5	1	850	\$ 380,000	\$ 447.06
Average				1,054	\$ 428,650	\$ 412.57

Market Analysis - Recent Condo Sales in Park View Area - Smaller 1 BR Units

Address	Beds	Baths	Levels	Living Area	Sold Price	Price/SqFt
732 Lamont Street NW #401	1	1.5	1	870	\$ 340,000	\$ 390.80
701 Lamont Street NW #46	1	1.5	1	782	\$ 340,000	\$ 434.78
754 Park Rd #01	1	1	1	600	\$ 289,000	\$ 481.67
739 Newton Place #201	1	1	1	600	\$ 287,000	\$ 478.33
754 Park Rd #03	1	1	1	600	\$ 259,000	\$ 431.67
739 Newton Place #104	1	1	1	550	\$ 249,000	\$ 452.73
Average				667	\$ 294,000	\$ 445.00

Sales Assumptions - 3612-3614 Park Place NW - 4 Units within existing Building - No Addition

	Beds	Baths	Levels	Living Area	Sales Price	Price/SqFt
Unit 4 - Upper Unit - 1-1/2 Stories	1	1	1.5	729	\$ 360,000	\$ 493.83
Unit 3 - Upper Unit - 1-1/2 Stories	1	1	1.5	729	\$ 360,000	\$ 493.83
Unit 2 - Lower Unit - 1-1/2 Stories	1	1	1.5	729	\$ 289,000	\$ 396.43
Unit 1 - Lower Unit - 1-1/2 Stories	1	1	1.5	729	\$ 289,000	\$ 396.43
Total - 4 Unit Scenario (Within existing square footage)				2,916	\$ 1,298,000	
Average - 4 Unit Scenario (Within existing square footage)				729	\$ 324,500	\$ 445.13

Sales Assumptions - 3612-3614 Park Place NW - 4 Units - With a 2,982 sq ft addition

	Beds	Baths	Levels	Living Area	Sales Price	Price/SqFt
Unit 4 - Upper Unit - 2 Stories	2	2	2	1,400	\$ 550,000	\$ 392.86
Unit 3 - Upper Unit - 2 Stories	2	2	2	1,400	\$ 550,000	\$ 392.86
Unit 2 - Lower Unit - 2 Stories	2	2	2	1,400	\$ 450,000	\$ 321.43
Unit 1 - Lower Unit - 2 Stories	2	2	2	1,400	\$ 450,000	\$ 321.43
Total - 4 Unit Scenario (With an addition of 2,982 gross sq. ft.)				5,600	\$ 2,000,000	
Average - 4 Unit Scenario (With an addition of 2,982 gross sq. ft.)				1,400	\$ 500,000	\$ 357.14

Sales Assumptions - 3612-3614 Park Place NW - 5 Units within existing Building - No Addition

	Beds	Baths	Levels	Living Area	Sales Price	Price/SqFt
Unit 5 - Upper Unit (Duplex)	2	2	2	972	\$ 500,000	\$ 514.40
Unit 4 - Upper Unit	1	1	1	486	\$ 300,000	\$ 617.28
Unit 3 - Middle Unit	1	1	1	486	\$ 280,000	\$ 576.13
Unit 2 - Lower Unit	1	1	1	486	\$ 250,000	\$ 514.40
Unit 1 - Lower Unit	1	1	1	486	\$ 250,000	\$ 514.40
Total - 5 Unit Scenario (Within existing square footage)				2,916	\$ 1,580,000	
Average - 5 Unit Scenario (Within existing square footage)				583	\$ 316,000	\$ 541.84

Sales Assumptions - 3612-3614 Park Place NW - 5 Units - With a 4,619 sq ft addition

	Beds	Baths	Levels	Living Area	Sales Price	Price/SqFt
Unit 5 - Upper Unit	2	2	1	1,007	\$ 500,000	\$ 496.52
Unit 4 - Upper Unit	2	2	1	1,015	\$ 400,000	\$ 394.09
Unit 3 - Middle Unit	2	2	1	1,007	\$ 400,000	\$ 397.22
Unit 2 - Lower Unit - Duplex	3	3	2	2,030	\$ 550,000	\$ 270.94
Unit 1 - Lower Unit - Duplex	3	3	2	2,014	\$ 550,000	\$ 273.09
Total - 5 Unit Scenario (With an addition of 4,619 gross sq. ft.)				7,073	\$ 2,400,000	
Average - 5 Unit Scenario (With an addition of 4,619 gross sq. ft.)				1,415	\$ 480,000	\$ 339.32

Market Analysis - Recent One-Family Home Sales in Park View Area

Address	Beds	Baths	Levels	Living Area	Sold Price	Price/SqFt
624 Princeton Place NW	4	3.5	3	2,780	\$ 770,000	\$ 276.98
619 Lamont Street NW	4	3.5	4	2,400	\$ 700,000	\$ 291.67
719 Princeton Place NW	4	3.5	3	1,696	\$ 710,000	\$ 418.63
453 Irving Street NW	5	3.5	3	2,568	\$ 700,000	\$ 272.59
626 Princeton Place NW	4	3	4	1,920	\$ 660,000	\$ 343.75
629 Kenyon Street NW	4	3.5	3	1,510	\$ 630,000	\$ 417.22
616 Irving Street NW	4	3.5	3	1,818	\$ 691,000	\$ 380.09
629 Otis Place NW	3	3.5	3	1,330	\$ 639,500	\$ 480.83
633 Keefer Place NW	4	3.5	3	1,830	\$ 637,000	\$ 348.09
3604 Park Place NW	3	3.5	3	1,620	\$ 654,000	\$ 403.70
Average				1,947	\$ 679,150	\$ 363.35

Sales Assumptions - 3612-3614 Park Place NW - 2 Single Family homes - No Addition

	Beds	Baths	Levels	Living Area	Sales Price	Price/SqFt
3612 - Single Family	3	2.5	3	1,040	\$ 650,000	\$ 625.00
3614 - Single Family	3	2.5	3	1,040	\$ 650,000	\$ 625.00
Total - 2 Single Family Homes Scenario (Within existing square footage)				2,080	\$ 1,300,000	
Average - 2 Single Family Homes Scenario (Within existing square footage)				1,040	\$ 650,000	\$ 625.00

Sales Assumptions - 3612-3614 Park Place NW - 2 Single Family Homes - With a 2,376 sq ft addition

	Beds	Baths	Levels	Living Area	Sales Price	Price/SqFt
3612 - Single Family	3	4	4	2,808	\$ 770,000	\$ 274.22
3614 - Single Family	3	4	4	2,808	\$ 770,000	\$ 274.22
Total - 2 Unit Scenario (With an addition of 2,376 gross sq. ft.)				5,616	\$ 1,540,000	
Average - 2 Unit Scenario (With an addition of 2,376 gross sq. ft.)				2,808	\$ 770,000	\$ 274.22

Pro Forma Analysis - Under 6 Unit Scenario

	Total	Per Unit	% of Sales
Purchase Price	\$ 600,000	\$ 100,000	21%
Closing Costs of Acquisition	\$ 19,030	\$ 3,172	1%
Construction Costs	\$ 1,240,344	\$ 206,724	43%
Pre-development	\$ 94,000	\$ 15,667	3%
Interest and Carry	\$ 327,740	\$ 54,623	11%
Estimated Closing Costs	\$ 129,050	\$ 21,508	4%
Sales Commissions	\$ 174,000	\$ 29,000	6%
Total Costs Before Overhead	\$ 2,584,164	\$ 430,694	89%
Gross Sales Revenue	\$ 2,900,000	\$ 483,333	100%
Gross Profit	\$ 315,836	\$ 52,639	11%

Pro Forma Analysis - Under 5 Unit Scenario (With 4,619 Sq Ft Addition)

	Total	Per Unit	% of Sales
Purchase Price	\$ 600,000	\$ 120,000	25%
Closing Costs of Acquisition	\$ 19,030	\$ 3,806	1%
Construction Costs	\$ 1,084,680	\$ 216,936	45%
Pre-development	\$ 94,000	\$ 18,800	4%
Interest and Carry	\$ 302,680	\$ 60,536	13%
Estimated Closing Costs	\$ 106,800	\$ 21,360	4%
Sales Commissions	\$ 144,000	\$ 28,800	6%
Total Costs Before Overhead	\$ 2,351,190	\$ 470,238	98%
Gross Sales Revenue	\$ 2,400,000	\$ 480,000	100%
Gross Profit	\$ 48,810	\$ 9,762	2%

Pro Forma Analysis - Under 5 Unit Scenario (Build within existing - no addition)

	Total	Per Unit	% of Sales
Purchase Price	\$ 600,000	\$ 120,000	25%
Closing Costs of Acquisition	\$ 19,030	\$ 3,806	1%
Construction Costs	\$ 991,325	\$ 198,265	41%
Pre-development	\$ 94,000	\$ 18,800	4%
Interest and Carry	\$ 228,200	\$ 45,640	10%
Estimated Closing Costs	\$ 70,310	\$ 14,062	3%
Sales Commissions	\$ 94,800	\$ 18,960	4%
Total Costs Before Overhead	\$ 2,097,665	\$ 419,533	87%
Gross Sales Revenue	\$ 1,580,000	\$ 316,000	66%
Gross Profit	\$ (517,665)	\$ (103,533)	-22%

Pro Forma Analysis - Under 4 Unit Scenario (With 2,982 Sq Ft Addition)

	Total	Per Unit	% of Sales
Purchase Price	\$ 600,000	\$ 150,000	31%
Closing Costs of Acquisition	\$ 19,030	\$ 4,758	1%
Construction Costs	\$ 1,100,840	\$ 275,210	57%
Pre-development	\$ 94,000	\$ 23,500	5%
Interest and Carry	\$ 287,000	\$ 71,750	15%
Estimated Closing Costs	\$ 89,000	\$ 22,250	5%
Sales Commissions	\$ 100,000	\$ 25,000	5%
Total Costs Before Overhead	\$ 2,289,870	\$ 572,468	119%
Gross Sales Revenue	\$ 2,000,000	\$ 500,000	104%
Gross Profit	\$ (289,870)	\$ (72,468)	-15%

Pro Forma Analysis - Under 4 Unit Scenario (Build within existing - no addition)

	Total	Per Unit	% of Sales
Purchase Price	\$ 600,000	\$ 150,000	31%
Closing Costs of Acquisition	\$ 19,030	\$ 4,758	1%
Construction Costs	\$ 914,445	\$ 228,611	48%
Pre-development	\$ 94,000	\$ 23,500	5%
Interest and Carry	\$ 188,720	\$ 47,180	10%
Estimated Closing Costs	\$ 57,761	\$ 14,440	3%
Sales Commissions	\$ 64,900	\$ 16,225	3%
Total Costs Before Overhead	\$ 1,938,856	\$ 484,714	101%
Gross Sales Revenue	\$ 1,298,000	\$ 324,500	68%
Gross Profit	\$ (640,856)	\$ (128,171)	-27%

Pro Forma Analysis - Under 2 Unit Scenario (With 2,376 Sq Ft Addition)

	Total	Per Unit	% of Sales
Purchase Price	\$ 600,000	\$ 300,000	63%
Closing Costs of Acquisition	\$ 19,030	\$ 9,515	2%
Construction Costs	\$ 909,199	\$ 454,600	95%
Pre-development	\$ 33,515	\$ 16,758	3%
Interest and Carry	\$ 222,600	\$ 111,300	23%
Estimated Closing Costs	\$ 68,530	\$ 34,265	7%
Sales Commissions	\$ 77,000	\$ 38,500	8%
Total Costs Before Overhead	\$ 1,929,874	\$ 964,937	201%
Gross Sales Revenue	\$ 1,540,000	\$ 770,000	160%
Gross Profit	\$ (389,874)	\$ (194,937)	-41%

Pro Forma Analysis - Under 2 Unit Scenario (Build within existing - no addition)

	Total	Per Unit	% of Sales
Purchase Price	\$ 600,000	\$ 300,000	63%
Closing Costs of Acquisition	\$ 19,030	\$ 9,515	2%
Construction Costs	\$ 760,683	\$ 380,342	79%
Pre-development	\$ 17,515	\$ 8,758	2%
Interest and Carry	\$ 95,000	\$ 47,500	10%
Estimated Closing Costs	\$ 57,850	\$ 28,925	6%
Sales Commissions	\$ 65,000	\$ 32,500	7%
Total Costs Before Overhead	\$ 1,615,078	\$ 807,539	168%
Gross Sales Revenue	\$ 1,300,000	\$ 650,000	135%
Gross Profit	\$ (315,078)	\$ (157,539)	-33%

EXHIBIT B

Engineer's Report

**Showing the Extraordinary Level of Disrepair of the Property and the
Extraordinary Cost to Restore**



3D STRUCTURAL ENGINEERS, INC.

4903 Auburn Ave , Suite 204, Bethesda, md-20814
TEL (301) 986 8458 ■ FAX (301) 986 8459 ■ www 3dsengineers.com

RE: 3612-3614 Park Place NW, Washington, DC 20010

Structural Engineering Report
Date of Inspection 3-11-13

The following is a detailed description of the severe structural conditions existing with the property and improvements at 3612-3614 Park Place, NW These conditions are directly related to these properties being neglected for many years

Water saturated soils:

- 1 Mortar deterioration – calcium and other agents in wet soils lead to the deterioration of mortar over time. The mortar loses its adhesion and often crumbles or flakes away from the mortar joints and leads to weakening of the structural integrity of the masonry walls and footings
- 2 Hydrostatic Pressure – soils commonly found in the area of the site are prone to shrinking and swelling as the moisture content of the soils changes The swelling soils exert pressure on the foundation walls, resulting in masonry displacement, cracks, and ultimately failure of the structure
- 3 Frost Heave – Wet soils surrounding basement footings in an un-heated building can freeze, causing layers of the soil to lift, which causes movement of footings and slabs in the affected areas

There is ample evidence of all of three of these conditions at the subject property The structure of the building has been severely compromised as a result and it is imperative that the property owner take immediate steps to correct these problems in order to save the building from structural failure. Cracks in the plaster and in the brick walls in numerous areas, bowed masonry walls, disintegrating mortar, and displaced sections of the basement slab are all indications that the water saturated soils are having damaging effects on the building's structural integrity

Before beginning any repair work, it is recommended that the drainage conditions that have led to the damage be corrected (1) the ground should be re-graded in the rear of the property to slope away from the building at a minimum grade of 2%, (2) gutters and downspouts need to be installed, with downspouts discharged at least 10 feet from the outside walls of the building, (3) areaway drains, foundation drain tile systems and sump pumps need to be properly installed, with sump discharge also directed at least 10 feet away from the building

Once these drainage-correcting measures are undertaken, it is recommended that the following repairs be made (1) In areas where the footings and/or slab has dropped, all areas of the displaced slab and masonry walls should be removed, the footings should be

replaced/underpinned, and the masonry walls should be properly reconstructed on the new/repared footings. There are two areas in particular where this will be required. In the front corner of 3612 Park Place where it abuts 3610 Park Place in the area where the slab has dropped, and also along the wall of 3614 Park Place where it abuts the property of 3616 Park Place where the foundation wall has become bowed. (2) The soils on the front, right side, and rear of the building should be excavated to expose the deteriorated masonry. Tuck-pointing should be done on the inside and the outside of the building to shore up weakened and missing mortar joints. All buried portions of the masonry foundation walls should be water-proofed with an approved waterproofing membrane or bituminous coating.

Damage from Water Intrusion Through the Roof:

There are numerous areas in the roofs of the subject properties where roof leaks over a prolonged period of time have led to wood rot, termite damage, mold, and rust and deterioration of beams and columns supporting the structure. While in many similar projects, significant portions of the floor, wall, and roof framing can be retained in constructing the revised building configuration, the extent of the termite damage, mold, wood rot, and rusting beams now existing in the subject property is such that it would be impractical to retain any of the wood framing or the metal columns and beams in these structures. Mold growth is pervasive throughout on all wood surfaces, and as a practical matter it would be difficult to remove or contain the existing mold without total replacement of the framing, particularly due to the amount of termite damage and rot. The metal columns and beams are severely rusted, and we would not certify the structural integrity of these supports without complete replacement.

Damage from Lack of Rain Gutters and Downspouts:

The lack of gutters and downspouts on the building, coupled with the lack of proper flashing, have allowed rainwater to run down the face of the masonry walls over many years. As a result, there has been deterioration of the mortar on many areas of the buildings' exterior. We recommend tuck pointing the masonry to correct the problem. Wood joists that were let-in to the masonry walls are poorly supported due to deterioration of the mortar in these areas, and the front wall of 3614 Park Place is severely weakened due to the mortar deterioration. All of the mortar on the exterior and in some areas of the interior on both the front and side of both buildings comprising the subject property will need to be tuck-pointed in order to properly restore the structural integrity of the property.

Damage from Previous Fire in the Property:

Joists and rafters are charred from a fire that occurred in the past at the property. It is recommended that all of the charred joists and rafters in 3614 Park place be removed and replaced.

Front Porches on 3612 and 3614 Park Place NW:

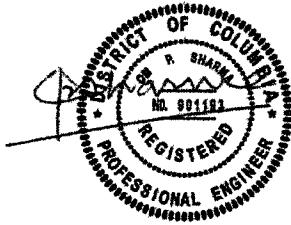
The front porches on both buildings at the subject property will need to be completely removed and replaced. Tree roots from a large tree in the front yard have displaced the piers supporting the front porches. The piers also have sunk due to moisture surrounding shallow footings, and the porches now slope significantly towards the street. Porch roofs

that were not properly maintained over a period of years have led to significant rot and termite damage of the columns and framing on these porches

Conclusion:

In conclusion, we would recommend that all of the measures stated in this report be undertaken in order to properly restore these properties and ensure the structural integrity of the buildings. Phases of this type of construction work can be dangerous, and it is recommended that safety precautions be taken during construction and all OSHA regulations be strictly followed.

Sincerely,



Om Sharma, P.E.
3D Structural Engineers, Inc.

Appendix 1 – Rear Yard Grading

Some of the most serious issues which have caused structural damage to the buildings located at 3612-3614 Park Place NW in Washington DC are related to the negative slope in the rear yards of these properties. From site observations and confirmed by the attached civil engineering plan prepared by Kris Consultants, LLC (stamped by Mirali Mirtaghavi, a DC licensed P.E.), there is a negative grade from the rear edge of the property up to the rear of the existing buildings, meaning that the ground up against the buildings sits at a lower elevation than the ground at the rear of the property at the public alley. The alley behind the property sits at an elevation of approximately 205 feet above sea level, vs. 204.8 feet at the rear of 3612 Park, dropping to 204 feet at 3614 Park. Considering the grade difference and that there is no existing defined drainage swale or drain to divert rain water away from the building, the abandoned properties have suffered the consequences of saturated soil conditions for an extended period of time.

Existing negative grade is a relatively simple condition to mitigate in most cases; however this condition has been left unattended, and has resulted in ponding of water next to the building after each rainfall and continued saturation of the underlying soils. As is covered in the structural engineering report, the continued presence of these saturated soils conditions leads to the following problems, all of which have contributed to the severe structural damage at the property as outlined in detail in the report:

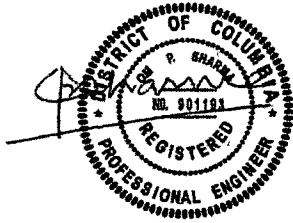
1. Mortar Deterioration – calcium and other agents in wet soils lead to the deterioration of mortar over time. The mortar loses its adhesion and often crumbles or flakes away from the mortar joints and leads to weakening of the structural integrity of the masonry walls and footings.
2. Hydrostatic Pressure – soils commonly found in the area of the site are prone to shrinking and swelling as the moisture content of the soils changes. The swelling soils exert pressure on the foundation walls, resulting in masonry displacement, cracks, and ultimately failure of the structure.
3. Frost Heave – Wet soils surrounding basement footings in an un-heated building can freeze, causing layers of the soil to lift, which causes movement of footings and slabs in the affected areas.

As shown in appendix 2, the cost of repairs to correct structural damage existing in these buildings is significant, and is not typical of other renovation projects we have worked on in the District of Columbia. In order to correct the drainage at the property so these conditions do not lead to continued structural damage, the following measures are recommended:

1. Grading - the ground should be re-graded in the rear of the property to slope away from the building at a minimum grade of 2%, by raising the grade against the building in the rear, and sloping the earth down towards a swale that would be designed to divert rainwater towards a low point in the alley where the northern edge of the property abuts it.
2. Gutters and Downspouts - gutters and downspouts need to be installed, with downspouts discharged at least 10 feet from the outside walls of the building,

3. Drain Tile - areaway drains, foundation drain tile systems and sump pumps need to be properly installed, with sump discharge also directed at least 10 feet away from the building.

Sincerely,



Om Sharma, P.E.
3D Structural Engineers, Inc.

Appendix 2 – Extraordinary Repair Items

Below is a list of the extraordinary costs to rectify the existing structural conditions of the buildings, regardless of which type of development scenario is pursued for the property:

Demolition and Removal of Debris **\$30,000** - Removal of water damaged framing, joists, roof framing, rotted front porches, piers, and stoops:

Concrete **\$60,000** - Removal of displaced concrete slabs and masonry walls, foundations, and footings. Replace damaged masonry and concrete with new. Includes underpinning + bracing and safety measures required during construction.

Framing/Structural **\$125,000** - Reframe damaged areas of the building removed during Demolition. Construct new brick walls in areas that need replacement.

Parging and Tuck Pointing **\$7,500** - Repair damaged mortar in existing masonry

Excavation and Drain tile **\$8,500** - Excavate around foundation and install new drain tile to repair existing building

Gutters/Downspouts, Re-grading **\$6,000** - To correct drainage swales and install gutters and downspouts

Stairs & Interior Rails **\$6,500** - Existing stairs and rails full of termites and currently unsafe

Exterior Cornice and Porch Features **\$7,000** - Cornice and Porch Features rotten and need full replacement

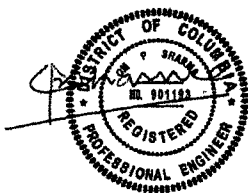
Roofing on existing area of building **\$12,000** - Existing roofing leaking in many areas needs full replacement

Landscape walls and lead-walks and steps **\$6,500** - Retaining walls, steps, lead walks, and stoops at the front of the property are damaged and need significant repairs, also includes removal of overgrown trees which are causing movement of front porch piers

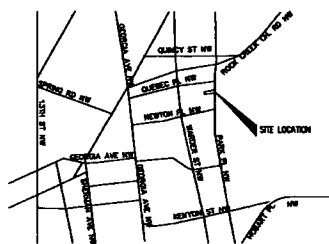
Contingency **40,350** - Industry standard of 15% contingency applied to remodeling/renovation work

Subtotal **309,350** - Extraordinary repair items (beyond the scope of similar complete gut/renovation projects of similar homes in the District of Columbia).

Sincerely,



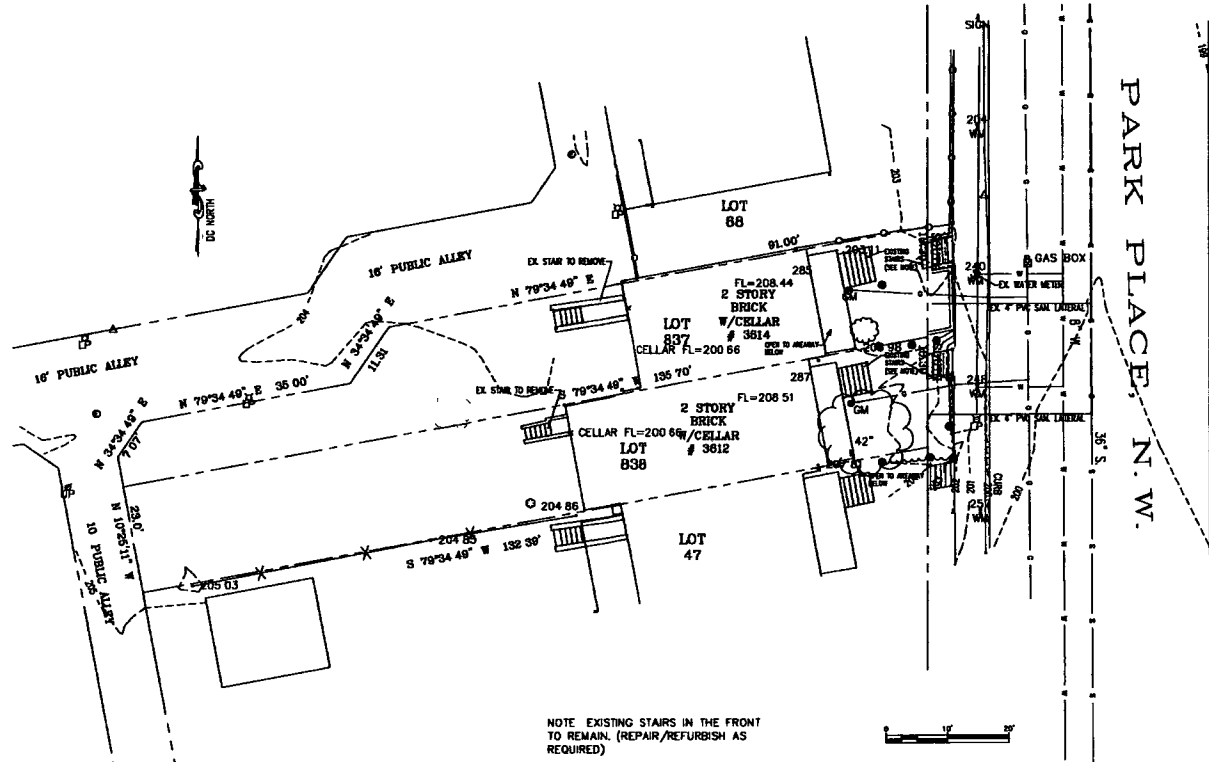
Om Sharma, P.E.
3D Structural Engineers, Inc.



VICINITY MAP
SCALE 1"=1000'

LEGEND

○	WATER LINE	—	IRON RAIL FENCE
●	TREE	—	AC UNIT
○	SHRUB	—	SEWER LINE
○	GAS METER	—	PROPERTY LINE
○	GUY WIRE	—	LIMIT OF DISTURBANCE
○	MANHOLE	—	SILT FENCE
○	STORM/RAIN MANHOLE	—	WOOD FENCE
○	SIGN	—	CHAIN LINK FENCE
○	SEWER MANHOLE	—	REMOVE TREE
○	SPT9		
○	SPT10		
○	TRAVERSE POINT		
○	UTILITY POLE		
○	WATER MANHOLE		
○	SHRUB		



General Construction Notes

1. **Construction Impacts:** The following DC Water departments must be notified prior to the commencement of utility construction: a) Department of Water Services at 302-461-2440 or 3450 at least one week prior to the commencement of water utility construction; b) Department of Sewer Services at 302-364-1821 or 3429 at least one week prior to the commencement of sewer utility construction.
2. **Standards:** All construction, materials, and equipment shall comply with the latest editions of the DC Water Project Design Manual, Standard Details & Bridge Guidelines, and Specifications.
3. **Lead Service Replacement:** If the project involves the replacement of a water main that has existing lead water service laterals, the Contractor is responsible for obtaining the DC Water permit to perform the replacement and for providing the necessary information to allow adequate time to initiate standard lead service replacement project. Lateral replacement includes the full length of pipe to public space.
4. **Cover Responsibility:** The Contractor is responsible for all work and cover associated with excavation, installation, and maintenance of public space to provide a safe and secure environment. Once the Contractor has obtained a Public Space Permit, the Contractor shall be responsible for all damage to existing structures and utilities caused by a water main leak.
5. **DC Water Responsibility:** DC Water is only responsible for installation of water service up to 12" diameter and laterals to the public main, and water service up to 12" diameter from the public main to the building. It is the Contractor's responsibility to install the water in public space, and to provide all necessary permits for the work.
6. **Site Utility:** Contact DC Water at 302-375-7777 at least one week prior to the start of work.
7. **Site Safety:** A set of signs shall be installed and DC Water Street Signs shall be kept at all times at the job site to indicate all changes or variations in the work, including all existing utilities, up to be installed and/or removed.
8. **Abandonment:** The Contractor must physically document existing water, sewer, and gas lines that are to be abandoned in accordance with the public main.
9. **Unauthorized Work:** There shall be no construction activities in the City's water system, including excavation, bypassing, or any other activity that may interfere with the water system.
10. **Provision of Water:** The Contractor shall provide water to the site for all construction activities.
11. **Water Meter Installation:** To schedule the installation of a domestic water meter contact DC Water at 302-461-2440. DC Water will install and seal the meter after the connection to the public main has been made and the meter pit has been installed.



General Construction Notes

12. **Cross Construction Channel:** ASCE 100 certified backflow prevention assemblies are required on all fire service and water to be located under the building (unless an alternate location is necessary or required by DC Water) where it is installed, closed, opened, and maintained by the Owner. DC Water does not provide backflow prevention for double-check detector for protection backflow prevention assemblies.
13. **Utility Services/Obstructions:** Plans of utility work to maintain utility services to the surrounding area during all phases of construction. Lead required utility shut-downs to smaller and smaller. Coordinate these shut-downs with DC Water Construction Inspection staff.
14. **Water Utility Operations:** The Contractor is required to coordinate with DC Water for all necessary water main shut-downs with adequate advance notice. Only DC Water employees may shut down a public water main. A certified plumber is not authorized to shut down water main service.
15. **Water Gate Valve Location:** Locate gate valves for domestic and fire service on along the public water main as far as possible. However, if necessary, gate valves may be located on private property, coordinate with DC Water Inspector.
16. **Abandonment:** The Contractor is responsible for submitting the plan to the appropriate DC Water office for approval or obtaining a DC Water permit. If the work is to be done in public space in advance of construction, only approved materials may be used.
17. **Temporary Construction Detention:** A temporary detention of water to be installed for all water service of 12" and larger. Contact DC Water for more information.
18. **As-Built:** Develop, construct and maintain as-built plans for all construction as-built information to the appropriate DC Water department for review and approval. Upon completion of construction of new water or sewer service, the Contractor shall submit the as-built information to the appropriate DC Water department for review and approval. The as-built information shall be submitted to the appropriate DC Water department for review and approval.
19. **Excavation:** The Contractor shall notify the location of existing underground utilities prior to excavation of proposed utilities. A minimum of one foot vertical and one foot horizontal clearance shall be maintained from any existing and public water and sewer main.
20. **Site Safety:** The use of a fire hydrant as a water source is prohibited unless a permit has been obtained from DC Water. The use of a fire hydrant as a water source is prohibited unless a permit has been obtained from DC Water. The use of a fire hydrant as a water source is prohibited unless a permit has been obtained from DC Water.
21. **Fire Hydrant:** The Contractor shall notify DC Water at 302-375-7777 prior to using any fire hydrant and of services or installing any fire hydrant for use as a water source. The Contractor shall be responsible for the location of any fire hydrant and for the location of any fire hydrant.
22. **DC Water Safety Office:** The DC Water Safety Office may be contacted at 302-375-7777.
23. **Water Backflow Prevention:** The backflow prevention system must be in accordance with Section 711 of the 2005 International Plumbing Code which states a backflow preventer is required for all plumbing fixtures below the elevation of the outside cover of the fire hydrant assembly in the public street.

NOTES

- 1) THE SUBJECT PROPERTY IS LOCATED AS TAX ASSESSMENT NO. 3035 LOT 0837 & LOT 0838. THE SITE ADDRESS IS 3812 - 3814 PARK PLACE, NORTH WEST WASHINGTON, DC.
- 2) THE HORIZONTAL DATUM IS BASED ON PLAN FROM THE OFFICE OF THE SURVEYOR, DISTRICT OF COLUMBIA.
- 3) ON SITE BENCH MARK (NONE).
- 4) THE VERTICAL DATUM IS BASED ON DC SEWER MANHOLE.
- 5) NO TITLE REPORT FURNISHED.
- 6) CONTRACTOR SHALL HAND DIG TEST PIT LOCATIONS AT ALL UTILITY LOCATIONS PRIOR TO CONSTRUCTION.

SHEET INDEX

- SHEET 1 EXISTING SITE CONDITIONS AND DEMOLITION PLAN
- SHEET 2 SITE UTILITY PLAN
- SHEET 3 EROSION AND SEDIMENT CONTROL PLAN
- SHEET 4 EROSION AND SEDIMENT CONTROL SPECIFICATIONS AND DETAILS
- SHEET 5 EROSION AND SEDIMENT CONTROL NOTES AND DETAILS
- SHEET 6 WATER METER SIZING CALCULATIONS

MARIA MATHIAS, P.E.
DC REG. NO. 12297

EXISTING CONDITIONS AND
DEMOLITION PLAN
LOT 837-838 SQUARE 3035

SHEET NO. 1
FILE NO. 13-12

KRIS CONSULTANTS, LLC
801 PINEY ROCK DRIVE, SILVER SPRING, MD 20910
TEL (301) 439-1881 FAX (301) 439-8838
EMAIL: kris@krisconsultants.com

OM P. SHARMA, P.E.
PRINCIPAL

Mr. Sharma attended the Indian Institute of Technology, Roorkee, India, where he received his Bachelor of Engineering degree in 1979. Thereafter, he joined Asian Institute of Technology, Bangkok, where he obtained his Master of Engineering degree in 1981, specializing in Structures. He also completed his graduate studies at Clarkson University, New York, and received his Master degree in Structural Engineering in 1991. Mr. Sharma has over thirty years of experience as a design professional with an extensive background in the design of large-scale projects. He has designed numerous high-profile projects in various parts of the World. Mr. Sharma has performed peer reviews, investigative studies of several projects and has six technical papers to his credit. He has extensive knowledge in the design of structures subjected to seismic forces. He is currently registered as a Professional Engineer in the State of Maryland, District of Columbia, and the Commonwealth of Virginia. Mr. Sharma established **3D Structural Engineers, Inc.** in 2005 and is currently the Principal of the firm. Prior to forming **3D Structural Engineers, Inc.**, Mr. Sharma was an Associate partner with a structural engineering consulting firm in the Washington, D.C. metropolitan area and Chief Engineer with a large organization in Singapore.

Partial List of Projects worked on:

- The Sovereign, 24th M St. (9-story Mixed-Use Building w/3-Lvl below-grade Parking), WDC.
- Student Housing, University of Baltimore (11-story residential building), Baltimore
- Gunther Square, (400,000 square feet mixed used development), Baltimore
- The Patterson Building (220,000 square feet residential complex), Baltimore
- 210 Rock, (7-story Mixed-Use Residential Building, Waterfront), Richmond, Virginia
- Fallline Condominium (7-story Waterfront Condominium), Rocketts Landing, Richmond, Virginia
- Skyline Condominium (7-story Waterfront Condominium), Rocketts Landing, Richmond, Virginia
- The Hilton Garden Inn, (6-story Hotel), Aberdeen, MD
- The Hampton Inn Suites (6-Story Hotel), Aberdeen, MD
- The Paramount at Reston (15-story Condominium w/2-Lvl below-grade Parking), Reston, Virginia
- 2020 Lofts Condominium (9-story condominium w/3-Lvl Below-grade Parking), Washington DC
- Harbor View (9-story Waterfront Condominium), Woodbridge, Virginia
- Halstead Tower (16-story condominium w/3-Lvl below-grade Parking), Alexandria, Virginia
- Lexington Square (23-story condominiums w/2-Lvl below-grade Parking), Arlington, Virginia
- 1210 Massachusetts Ave. (12-story condominium w/3-Lvl Below-grade Parking), Washington DC
- 555 Massachusetts Ave. (12-story condominium w/3-Lvl Below-grade Parking), Washington DC
- 101 Constitution Ave. (12-story w/5-Lvl below-grade office bldg.), Washington DC
- Ballston Gateway (8-story w/2-Lvl below-grade office building), Arlington, VA
- IBM Towers (42-story office building), Singapore
- MAS Building (33-story office building), Singapore
- Dulles Town Center (7-Story Office Building), Virginia
- Union Center Plaza (12-story office building w/4-Lvl below-grade Parking), Washington DC
- Ballston Point (12-story office building w/3-Lvl below-grade Parking), Arlington VA,
- John Wilson Office Building, Washington DC
- Anacostia Gateway Office Building, Washington DC
- The Department of Employment Services Office Building, Washington DC
- Lincoln Square (12-story Office Building w/3-Lvl below-grade parking), Washington DC
- 2001K St. (12-story Office Building), Washington DC
- 1957 E Street, George Washington University, Washington DC
- Mowad Hotel (32 story structure), Beirut, Lebanon
- Ethiopian Embassy, Washington DC
- Chancery of Nigeria, Washington DC
- Brunei Embassy, Washington DC
- Changi International Airport, Singapore

EXHIBIT C

Photographs of the Property and the Surrounding Neighborhood

**Showing the Unique Condition of the Property in Relation to Surrounding
Structures (in Addition to Photos Submitted Previously Detailing the Disrepair)**



The Subject Property



Rear Exterior- Masonry Structural Damage



Rear Exterior- Masonry Structural Damage



The Subject Property and Immediate Property to the North



Park Place Immediately South of the Subject Property



Park Place Near Newton Street



Northwest Corner of Newton Street and Park Place



Southwest Corner of Newton and Park Place



South Side of Newton Street Near Park Place



Park Place Near Otis Place



Otis Street



Otis Street



Otis Street

EXHIBIT D

PIVS Reports for the Subject Properties

**Showing Multiple Housing Violations for Compliance, Trash, Debris, and
Infestation beginning in 2004.**

Property Information	
Address:	3614 PARK PL NW
SSL:	3035 0837
Ward:	Ward 1
ANC:	ANC 1A
SMD:	SMD 1A08
Census Tract:	003200
Zone:	R-4

ATTENTION - Please see the below alerts for this property

PIVS found the conditions on this property. See below for details. Conditions reflect areas of special jurisdiction or sensitivity. The required permit reviews do not allow for online postcard or supplemental permit applications.

Property Conditions

Property Conditions : No. of Records = 1						
Address	Unit	SSL	Type	Date Issued	Description	Detailed Description
3614 PARK PL NW		3035 0837			Stop Work Order	STOP WORK ORDER - ILLEGAL CONSTRUCTION/WORKING WITHOUT A PERMIT - APPLY 50% PENALTY ON PERMIT Applied via Script

Issued Permits

Issued Permits : No. of Records = 2								
Address	Unit	SSL	Id	Type	Date Issued	Completion Status	Completion Date	Detailed Description
3614 PARK PL NW		3035 0837	D1300382	Construction/ Demolition	2013/03/28	Permit Issued	2013/03/28	INTERIOR DEMO NO LOAD BEARING WALLS
3614-3612 PARK PL NW		3035 0836	R0900118	Construction/ Raze	2009/03/25	Permit Issued	2009/03/25	TWO STORY COLLAPSED ENCLOSED REAR PORCH ADDITION.REMOVE DEBRIS.

Property Maps

No map available for this property

Property Photo



3035 0836 06/14/2004

Owners

Owners : No. of Records = 3			
Address	Unit	SSL	Owner
3612 PARK PL		3035 0836	
More Details are >>		Use Code : 011 Exemption Code : Tax Class : Tax Rate : 0 Sale Price : \$0.00 Sale Date : Deed : Sale Type : Deed Date : Other Owner : CPMS Address : . . .	
3612 PARK PL		3035 0838	3612 PARK PLACE LLC
More Details are >>		Use Code : 011 Exemption Code : Tax Class : 004 Tax Rate : 10 Sale Price : \$260,000.00 Sale Date : 2013/02/13 Deed : Sale Type : SPECULATIVE Deed Date : 2013/02/13 Other Owner : CPMS Address : , 7501 WISCONSIN AVE # 125W, BETHESDA, MD 20814-6519	
3614 PARK PL		3035 0837	3612 PARK PLACE LLC
More Details are >>		Use Code : 011 Exemption Code : Tax Class : 004 Tax Rate : 10 Sale Price : \$260,000.00 Sale Date : 2013/02/13 Deed : Sale Type : SPECULATIVE Deed Date : 2013/02/13 Other Owner : CPMS Address : , 7501 WISCONSIN AVE # 125W, BETHESDA, MD 20814-6519	

CAMA

CAMA : No. of Records = 2						
Address	SSL #	Building #	Complex #	Unit #	Units	Actual Year Built
3614 PARK PL	3035 0837	1			0	1915
More Details are >>			Material : Style : 2 Story Gba : 1716 External Wall : Common Brick			

Wall Height :
 Roof : Meta
 # Bath Rooms : 1
 # Half Baths : 0
 Heating Type : Forc
 AC : N
 Internal Wall : Hardwood
 # Rooms : 7
 # Bed Rooms : 3
 # Kitchens : 1
 # Fireplaces : 0
 Year Remodeled :
 Eyb : 1949
 Stories : 2

3612 PARK PL 3035 0838 1 0 1915

More Details are >>

Material :
 Style : 2 Story
 Gba : 2690
 External Wall : Common Brick
 Wall Height :
 Roof : Meta
 # Bath Rooms : 1
 # Half Baths : 0
 Heating Type : Forc
 AC : N
 Internal Wall : Hardwood
 # Rooms : 8
 # Bed Rooms : 4
 # Kitchens : 1
 # Fireplaces : 0
 Year Remodeled :
 Eyb : 1951
 Stories : 2

Residential Cases

Residential Cases : No. of Records = 23

Address	Unit	SSL	Id	Type	Completion Status	Completion Date	
3614 PARK PL NW		3035	0836	BCIB1000295	Compliance/BCIB	Case Opened	2010/06/22
3614 PARK PL NW		3035	0836	COA1000220	Compliance/Housing/Open and Accessible	NOV Served - Mail	2010/09/16
3614-3612 PARK PL NW		3035	0836	ECH100287	Compliance/Housing/Vacant	Abated	2007/02/23
3614-3612 PARK PL NW		3035	0836	ECH105650	Compliance/Housing/Trash and Debris	Not Abated	2006/11/27
3614-3612 PARK PL NW		3035	0836	ECH105651	Compliance/Housing/Trash and Debris	No Cause	2006/09/06
3614-3612 PARK PL NW		3035	0836	ECH105652	Compliance/Housing/Trash and Debris	No Cause	2006/09/06
3614-3612 PARK PL NW		3035	0836	ECH109808	Compliance/Housing/Open and Accessible	Abated	2006/12/20
3614-3612 PARK PL NW		3035	0836	ECH109928	Compliance/Housing/Vacant	Abated	2007/02/23
3614-3612 PARK PL NW		3035	0836	ECH110444	Compliance/Housing/Open and Accessible	Abated	2007/03/29
3614-3612 PARK PL NW		3035	0836	ECH121114	Compliance/Housing/Routine	Not Abated	2007/06/19

Maintenance						
3614-3612 PARK PL NW	3035	0836	ECH125829	Compliance/Housing/Trash and Debris	Abated	2007/09/13
3614-3612 PARK PL NW	3035	0836	ECH34156	Compliance/Housing/Routine Maintenance	No Cause	2004/04/24
3614-3612 PARK PL NW	3035	0836	ECH43682	Compliance/Housing/Trash and Debris	No Cause	2004/11/16
3614-3612 PARK PL NW	3035	0836	ECH50180	Compliance/Housing/Trash and Debris	Abated	2004/10/06
3614-3612 PARK PL NW	3035	0836	ECH50922	Compliance/Housing/Trash and Debris	Abated	2007/02/07
3614-3612 PARK PL NW	3035	0836	ECH51001	Compliance/Housing/Routine Maintenance	Not Abated	2004/10/06
3614-3612 PARK PL NW	3035	0836	ECH58142	Compliance/Housing/Routine Maintenance	Not Abated	2005/04/28
3614-3612 PARK PL NW	3035	0836	SVP0902783	Compliance/Housing/Vacant Property	Vacant	2009/03/25
3614 PARK PL NW	3035	0836	SVP1001823	Compliance/Housing/Vacant Property	4-Point Survey Scheduled	2010/08/03
3614 PARK PL NW			SVP1101818	Compliance/Housing/Vacant Property	4-Point Survey Scheduled	2011/05/25
3614 PARK PL NW	3035	0837	SVP1201116	Compliance/Housing/Vacant Property	Vacant	2012/02/16
3614 PARK PL NW	3035	0837	SVP1300322	Compliance/Housing/Vacant Property	Blighted	2013/01/15
3614 PARK PL NW	3035	0837	SVP1301419	Compliance/Housing/Vacant Property	Cancelled	2013/01/15

Commercial Inspections

Commercial Inspections : No. of Records = 5							
Address	Unit	SSL	Id	Type	Completion Status	Completion Date	Detailed Description
3614-3612 PARK PL NW		3035	0836	ECC191247	Site Test Construction	Abated	2007/07/24
3614 PARK PL NW		3035	0837	CIC1301328	Initial Inspection	Stop Work Order	2013/04/30
3614-3612 PARK PL NW		3035	0836	ECC176525	Complaint Construction	Cause	2007/03/06
3614 PARK PL NW		3035	0836	CRA0900003	Follow Up	Not Abated	2009/02/27
3614 PARK PL NW		3035	0836	CRA0900003	Initial Inspection	Posted	2009/02/27

Occupancy

Occupancy : No. of Records = 0								
Address	Unit	SSL	Id	Type	Date Issued	Completion Status	Completion Date	Detailed Description
No Occupancy Records								

BBL

BBL : No. of Records = 1												
Address	Unit	SSL	License #	Description	Detail	Last Name	First Name	Corporate Name	Trade Name	Start Renewal	End Renewal	License Status
3614 PARK PL		3035 0836	955583	Housing: Residential	Apartment	SPELL	THOMAS	THOMAS B SPELL				Expired

Property Information	
Address:	3612 PARK PL NW
SSL:	3035 0838
Ward:	Ward 1
ANC:	ANC 1A
SMD:	SMD 1A08
Census Tract:	003200
Zone:	R-4

ATTENTION - Please see the below alerts for this property

PIVS found the conditions on this property. See below for details. Conditions reflect areas of special jurisdiction or sensitivity. The required permit reviews do not allow for online postcard or supplemental permit applications.

Property Conditions**Property Conditions : No. of Records = 1**

Address	Unit	SSL	Type	Date Issued	Description	Detailed Description
3612 PARK PL NW		3035 0838			Stop Work Order	STOP WORK ORDER - ILLEGAL CONSTRUCTION/WORKING WITHOUT A PERMIT - APPLY 50% PENALTY ON PERMIT Applied via Script

Issued Permits**Issued Permits : No. of Records = 1**

Address	Unit	SSL	Id	Type	Date Issued	Completion Status	Completion Date	Detailed Description
3612 PARK PL NW		3035 0838	D1300381	Construction/ Demolition	2013/03/28	Permit Issued	2013/03/28	INTERIOR DEMO NO LOAD BEARING WALLS

Property Maps

No map available for this property

Property Photo

Owners

Owners : No. of Records = 2

Address	Unit	SSL	Owner
---------	------	-----	-------

3612 PARK PL 3035 0836

More Details are >>

Use Code : 011

Exemption Code :

Tax Class :

Tax Rate : 0

Sale Price : \$0.00

Sale Date :

Deed :

Sale Type :

Deed Date :

Other Owner :

CPMS Address : . . .

3612 PARK PL 3035 0838

3612 PARK PLACE LLC

More Details are >>

Use Code : 011

Exemption Code :

Tax Class : 004

Tax Rate : 10

Sale Price : \$260,000.00

Sale Date : 2013/02/13

Deed :

Sale Type : SPECULATIVE

Deed Date : 2013/02/13

Other Owner :

CPMS Address : , 7501 WISCONSIN AVE # 125W, BETHESDA, MD 20814-6519

CAMA

CAMA : No. of Records = 1

Address	SSL #	Building #	Complex #	Unit #	Units	Actual Year Built
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3612 PARK PL 3035 0838 1 0 1915

More Details are >>

Material :

Style : 2 Story

Gba : 2690

External Wall : Common Brick

Wall Height :

Roof : Meta

Bath Rooms : 1

Half Baths : 0

Heating Type : Forc

AC : N

Internal Wall : Hardwood

Rooms : 8

Bed Rooms : 4

Kitchens : 1

Fireplaces : 0

Year Remodeled :

Eyb : 1951

Stories : 2

Residential Cases

Residential Cases : No. of Records = 22

Address	Unit	SSL	Id	Type	Completion Status	Completion Date
3612 PARK PL NW		3035	0836 BCIB1000120	Compliance/BCIB	Case Opened	2010/01/11
3612 PARK PL NW		3035	0838 COA1200100	Compliance/Housing/Open and Accessible	NOV Served - Personal	2012/05/24
3612 PARK PL NW		3035	0838 CWD1200268	Compliance/Housing/Weeds	Case Canceled	2012/05/08
3612-0 PARK PL NW			ECH105653	Compliance/Housing/Trash and Debris	Not Abated	2006/11/27
3612-0 PARK PL NW			ECH110714	Compliance/Housing/Routine Maintenance	No Cause	2006/10/25
3612-0 PARK PL NW			ECH110715	Compliance/Housing/Routine Maintenance	Not Abated	2006/11/14
3612-0 PARK PL NW			ECH121345	Compliance/Housing/Trash and Debris	Not Abated	2007/06/18
3612-0 PARK PL NW			ECH121347	Compliance/Housing/Open and Accessible	No Cause	2007/06/19
3612-0 PARK PL NW			ECH125828	Compliance/Housing/Weeds	Abated	2007/09/13
3612-0 PARK PL NW			ECH23627	Compliance/Housing/Trash and Debris	Abated	2004/04/20
3612-0 PARK PL NW			ECH34157	Compliance/Housing/Routine Maintenance	No Cause	2004/04/24
3612-0 PARK PL NW			ECH50993	Compliance/Housing/Trash and Debris	Not Abated	2004/10/12
3612-0 PARK PL NW			ECH51314	Compliance/Housing/Routine Maintenance	Not Abated	2004/10/12
3612-0 PARK PL NW			ECH51998	Compliance/Housing/Infestation	Abated	2004/11/10
3612-0 PARK PL NW			ECH51999	Compliance/Housing/Trash and Debris	Not Abated	2004/11/10
3612-0 PARK PL NW			ECH58138	Compliance/Housing/Routine Maintenance	Not Abated	2005/04/28
3612 PARK PL NW		3035	0836 SVP070396	Compliance/Housing/Vacant Property	Cancelled	2009/02/11
3612 PARK PL NW		3035	0836 SVP071386	Compliance/Housing/Vacant Property	Cancelled	2009/02/11
3612 PARK PL NW		3035	0836 SVP0902862	Compliance/Housing/Vacant Property	Vacant	2009/02/11
3612 PARK PL NW		3035	0836 SVP0905329	Compliance/Housing/Vacant Property	Vacant w/ VIOs	2009/06/17
3612 PARK PL NW		3035	0836 SVP1001822	Compliance/Housing/Vacant Property	Open	2010/08/03
3612 PARK PL NW		3035	0838 SVP1300301	Compliance/Housing/Vacant Property	Not Abated	2012/11/05

Commercial Inspections

Commercial Inspections : No. of Records = 1

Address	Unit	SSL	Id	Type	Completion Status	Completion Date	Detailed Description
3612 PARK PL NW		3035	0838 CIC1301327	Initial Inspection	Stop Work Order	2013/04/30	

Occupancy

Occupancy : No. of Records = 0

Address	Unit	SSL	Id	Type	Date Issued	Completion Status	Completion Date	Detailed Description
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No Occupancy Records

BBL

BBL : No. of Records = 0

Address	Unit	SSL	License #	Description	Detail	Last Name	First Name	Corporate Name	Trade Name	Start Renewal	End Renewal	License Status
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No BBL Records

EXHIBIT E

Excerpts from Relevant BZA Orders and Transcripts Discussed in the Cover Letter

**Showing the Board's Practice of Accepting the Condition of the Property as a
Unique Condition and the Expense to Restore as a Practical Difficulty**

BZA CASE NO. 18436

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18436 of David Benson, pursuant to 11 DCMR § 3103.2, for a variance from the lot area requirements under subsection 401.3, to allow the conversion of a flat (two-unit dwelling) to a three unit apartment house in the R-4 District at premises 2703 11th Street, N.W. (Square 2858, Lot 17).

HEARING DATE: February 12, 2013

DECISION DATE: February 12, 2013

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2.

The Board of Zoning Adjustment ("Board") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, and by mail to Advisory Neighborhood Commission ("ANC") 1B and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1B, which is automatically a party to this application. The ANC did not participate in the application. The Office of Planning ("OP") submitted a report recommending denial of the application. The Department of Transportation submitted a report of no objection to the application. Fifteen letters in support of the application were received into the record.

Variance

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to § 3103.2, for a variance from § 401.3. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP report filed in this case, the Board concludes that in seeking a variance from § 401.3, the applicant has met the

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burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application (pursuant to Exhibit No. 9 – Plans) is hereby **GRANTED**.

VOTE: 3-1-1 Robert E. Miller, Nicole C. Sorg and Jeffrey L. Hinkle to APPROVE.
Lloyd J. Jordan opposed to the motion and the third Mayoral appointee position vacant.

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

ATTESTED BY:


SARA A. BARDEN
Director, Office of Zoning

FINAL DATE OF ORDER: February 13, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE

1 the flow.

2 Let's take a quick five-minute
3 break.

4 (Whereupon, at 10:50 a.m. off the
5 record until 10:56 a.m.)

6 MR. MOY: With that the next
7 application before the Board's deliberation
8 decision is Application No. 18436 of David
9 Benson. This is pursuant to 11 DCMR 3103.2
10 for a variance from the lot area requirements
11 under Subsection 401.3 --

12 CHAIRPERSON JORDAN: No, we're
13 just doing Mr. Miller.

14 MR. MOY: That's what I was doing.

15 CHAIRPERSON JORDAN: Okay. You
16 called 436. We'll deal with that. Let's go.
17 It's already called.

18 MR. MOY: Okay. Let me start over
19 here. Okay. Pursuant to 11 DCMR 3103.2 for
20 a variance from the lot area requirements
21 under Subsection 401.3, to allow the
22 conversion of a flat (two-unit dwelling) to a

1 three-unit apartment house in the R-4 District
 2 at premises 2703 11th Street, N.W. Property
 3 located Square 2858, Lot 17.

4 As the Board will recall, on
 5 January 15th of this year the Board
 6 deliberated. After discussion the Board
 7 rescheduled its decision to February 12th to
 8 allow the Applicant to file additional
 9 supplemental information attended to the
 10 financial data on rental units.

11 That filing from the Applicant,
 12 Mr. Chairman, is in your case folder
 13 identified as Exhibit 37. There are no other
 14 filings in the record. That completes the
 15 staff's briefing, Mr. Chairman.

16 CHAIRPERSON JORDAN: Okay. Let's
 17 move to deliberation on this. This is a
 18 matter which I think is questionable whether
 19 or not the Applicant has met its burden. We
 20 asked for additional information regarding the
 21 financials on this and I think -- well, I
 22 don't know --

1 I don't want to use the word
2 credible these financials are but we have
3 something in the record that would give some
4 basis for the relief request by the Applicant.
5 The burden being required about not being able
6 -- the practical difficulties to me is still
7 questionable but I would want to hear from
8 other Board members what they believe in
9 regards to this application.

10 Yes, Mr. Miller.

11 MR. MILLER: Mr. Chairman, thank
12 you. I think this is a case where the
13 Applicant wants to convert a flat to a three-
14 unit apartment in the R-4 district and has the
15 support of all their neighbors, has the
16 support of the ANC, but it doesn't meet the
17 Zoning Regulation requirement that there be
18 900 square feet of land area which is
19 something that we talked about in this case
20 and other cases, too many cases, that maybe
21 needs to be changed as part of the zoning
22 rewrite process to a lesser amount.

1 Probably in my mind 500 square
2 feet of land area. These are row-house
3 districts that aren't going to be converted to
4 apartment house districts by having a third
5 unit. We are growing at 1,100 a month and we
6 have to put these people somewhere.

7 I know this isn't a test for a
8 variance but when there isn't an adverse
9 impact on the neighborhood and the
10 neighborhood actually supports that happening,
11 I think that is a natural way to go. I will
12 be looking at the Zoning Commission to try to
13 get that to be incorporated as a proposal that
14 will have public input, of course, as
15 something to possibly change in the future.

16 I think in this case I think the
17 Applicant did respond to our request to
18 provide the financial data that showed the
19 hardship of renting out a two-unit versus a
20 three-unit.

21 I think there is a confluence of
22 factors that leads to the practical difficulty

1 or exceptional circumstance where we could be
2 justified in granting a variance in this case.
3 I would be inclined to go in that direction if
4 there is support by the Board.

5 CHAIRPERSON JORDAN: Anyone else?

6 Ms. Sorg.

7 VICE CHAIRMAN SORG: Thank you,
8 Mr. Chairman. I wholeheartedly agree with Mr.
9 Miller's comments regarding this regulation
10 and the necessity of it being reviewed by the
11 Zoning Commission.

12 I would actually add that I think
13 that there actually probably has to be a
14 different rubric by which this is judged
15 rather than lot area. I agree with Mr. Miller
16 that there is no danger here of this becoming
17 an apartment district regarding this third
18 prong of the test.

19 I had some comments on the second
20 prong but I'll wait for a moment to see if
21 there are other comments.

22 CHAIRPERSON JORDAN: I'm still

1 struggling with the first prong but I'm
2 listening to the rest of you because I don't
3 see where they kind of raised the exceptional
4 circumstances or characteristic of this
5 property. You even asked them what is
6 different between this place and the
7 surrounding and their answer was they are all
8 generally the same. Anyway, I'll keep an open
9 mind. Anybody else?

10 Mr. Hinkle, you want to weigh in?

11 MEMBER HINKLE: Well, I mean,
12 these are difficult cases and we do see a lot
13 of these. I tend to agree with both Board
14 Member Sorg and Commissioner Miller in terms
15 of the measurement that we are obligated to
16 look at in these cases. I think there is
17 something not quite right in the zoning code
18 in terms of these cases.

19 For me it's always been an issue
20 of how these properties can be put back into
21 production as a productive property. We did
22 ask for financials. In this case we got

1 financials if these units were to be sold as
2 well as if they were rented.

3 While you could question where
4 those numbers came from, I think they
5 illustrated that this property may continue to
6 sit vacant without an additional unit because
7 it is simply not feasible to redevelop the
8 property into a matter-of-right use.

9 That's my opinion in terms of the
10 first prong.

11 CHAIRPERSON JORDAN: All right.
12 Anybody else have further discussion?

13 Ms. Sorg.

14 VICE CHAIRMAN SORG: Yes.

15 Regarding the uniqueness and practical
16 difficulty -- I'm sorry, I'm just trying to
17 find the revised plans that the Applicant
18 submitted. Let me see if I can remember which
19 exhibit those are in and then I can speak
20 coherently to those. Is it 37?

21 Regardless, I will try. I will
22 say regarding the practical difficulty, I

1 agree with Mr. Hinkle regarding, you know, we
2 did ask for some significant financial and
3 market information and the Applicant certainly
4 has provided those things.

5 One other thing that I did find
6 compelling was the existing and proposed site
7 plans -- floor plans that the architect
8 submitted. I think that you can see that
9 there is significant interior changes that
10 would have to be made to make this into a
11 duplex unit.

12 It has an entrance into the
13 basement unit and to create the third bedroom,
14 which for a unit that size would be necessary,
15 it does create that in combination with adding
16 the interior stair and so forth as was
17 demonstrated on the plans does create a rather
18 odd configuration for a duplex unit and one
19 that I think based on the market data and the
20 information that we received from the realtors
21 that they went to does kind of get me to
22 squeak over the goal post here with regard to

1 the second part. I could be along with Mr.
2 Miller in support of the application.

3 CHAIRPERSON JORDAN: Do one of you
4 want to make a motion?

5 MR. MILLER: I would be happy to
6 move to approve the variance in Zoning
7 Commission -- I mean BZA Case 18436, variance
8 to allow the conversion of a flat to a three-
9 unit apartment in R-4, 2703 11th Street, N.W.
10 and ask for a second.

11 VICE CHAIRMAN SORG: Second.

12 CHAIRPERSON JORDAN: A motion made
13 and seconded to support the request for
14 relief. All those in favor signify by saying
15 aye.

16 BOARD MEMBERS: Aye.

17 CHAIRPERSON JORDAN: Those opposed
18 nay.

19 Nay. The motion carries. Mr. Moy.

20 MR. MOY: Staff would record the
21 vote to three to one. This is on the motion
22 of Mr. Robert Miller to approve the request

1 for variance relief under Section 401.3.
2 Seconding the motion Vice Chairperson Sorg.
3 Also in support of the motion Mr. Jeffrey
4 Hinkle.

5 In opposition to the motion Mr.
6 Jordan. We had a Board seat vacant at that
7 time of the hearing. Again, the motion
8 carries with a vote of three to one, Mr.
9 Chairman.

10 CHAIRPERSON JORDAN: Very good.
11 Summary order, please.

12 MR. MOY: Yes, sir. Thank you.

13 CHAIRPERSON JORDAN: You want to
14 call our next case, please.

15 MR. MOY: The next case for
16 decision, this is the appeal of -- this is
17 Appeal No. 18429 of Edward V. Hanlon, pursuant
18 to 11 DCMR 3100 and 3101, from an April 10,
19 2012 decision by the Department of Consumer
20 and Regulatory Affairs to issue a building
21 permit.

22 This is building permit No.

BZA CASE NO. 18448

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18448 of 3579 Warder Street LLC, pursuant to 11 DCMR § 3103.2, for variances from the lot area requirement under § 401.3, lot occupancy requirement under § 403.2, and nonconforming structure requirements under § 2001.3 to allow the conversion of a rooming house into a four-unit apartment building in the R-4 District at premises 1221 Otis Place, N.W. (Square 2829, Lot 57).¹

HEARING DATE: November 27, 2012
DECISION DATE: January 15, 2013

DECISION AND ORDER

This self-certified application was submitted on June 12, 2012 by 3579 Warder Street LLC (the “Applicant”), the owner of the property that is the subject of the application. The application, as amended, requests area variances from requirements pertaining to maximum lot occupancy under § 403.2, the enlargement of a nonconforming structure under § 2001.3, and minimum lot area under § 401.3 to allow the enlargement and conversion of a two-story, 11-bedroom rooming house to a three-story, four-unit apartment house in the R-4 District at 1221 Otis Place, N.W. (Square 2829, Lot 57). Following a public hearing, the Board of Zoning Adjustment (“Board”) voted to approve the application.

PRELIMINARY MATTERS

Notice of Application and Notice of Hearing. By memoranda dated August 1, 2012, the Office of Zoning provided notice of the application to the Office of Planning (“OP”); the District Department of Transportation (“DDOT”); the Councilmember for Ward 1; Advisory Neighborhood Commission (“ANC”) 1A, the ANC in which the subject property is located; and

¹ This self-certified application was amended at the public hearing to request variance relief from requirements pertaining to lot occupancy and the enlargement of a nonconforming structure, in addition to the variance from the lot area requirement initially requested. The Applicant requested the amendment after becoming aware of a mistaken calculation of lot occupancy in the initial application. The caption has been revised accordingly.

Single Member District/ANC 1A07. Pursuant to 11 DCMR § 3112.14, on September 17, 2012 the Office of Zoning mailed letters providing notice of the hearing to the Applicant, ANC 1A, and the owners of all property within 200 feet of the subject property. Notice was also published in the *D.C. Register* on September 21, 2012 (59 DCR 10996).

Party Status. The Applicant and ANC 1A were automatically parties in this proceeding. The Board granted a request for party status in opposition to the application from Elias Wolfberg, the owner and resident of a property abutting the Applicant's property to the west.

Applicant's Case. The Applicant provided evidence and testimony from Mohammed Pishvaeian, representing 3579 Warder Street LLC, and from the project architect, James Killete. The witnesses described the proposed project and asserted that the application satisfied all requirements for approval of the requested zoning relief. The Applicant submitted a "profit and loss analysis" in support of its contention that conversion to a three-unit apartment house, as suggested by OP, would not be financially feasible, in part due to the costs of renovating the property from its prior use as a rooming house.

Party in opposition. The party in opposition objected to the Applicant's proposal "to convert a single-family dwelling house, protected by and classified under R-4, into a three-story, four-unit condominium complex." (Exhibit 34.) The party in opposition asserted that the building at the subject property was no longer an 11-room rooming house, as the Applicant lacked both a certificate of occupancy and a business license to operate a rooming house. According to the party in opposition, the application did not satisfy the requirements for variance relief but was an attempt by the Applicant to maximize return on investment, and would create an apartment building, containing four units in three stories, that would be out of character with the surrounding neighborhood of predominantly two-story one- or two-family dwellings. The party in opposition also objected that the planned third story at the subject property would compromise the view from his property, and that approval of the requested zoning relief would encourage other property owners in the neighborhood to seek approval of additional units in their buildings, which would alter the current lower-density character of the neighborhood.

OP Report. By memorandum dated November 20, 2012, OP indicated its lack of support for variance relief that would allow the conversion of the Applicant's building, after enlargement, to a four-unit apartment house, although OP could potentially support conversion of the existing building into three apartments. According to OP, conversion to three units would be economically feasible and would require a smaller degree of variance relief and thus would be more consistent with the intent of the Zoning Regulations. The report further concluded that approval of the requested zoning relief "would be contrary and detrimental to the intent and integrity of the Zoning Regulations." The report noted that the Zoning Commission had recently adopted amendments to the R-4 zone to "clarify and reinforce" that this zone district was not intended to be an apartment zone. (Exhibit No. 30.) By supplemental report dated January 7, 2012, OP reiterated its lack of support for the variances requested by the Applicant from the requirements pertaining to lot area and lot occupancy. (Exhibit 37.)

BZA APPLICATION NO. 18448
PAGE NO. 3

DDOT. By memorandum dated November 19, 2012, the DDOT indicated no objection to approval of the requested variance. (Exhibit 31.)

ANC Report. At a public meeting on November 14, 2012, with a quorum present, ANC 1A voted 6-1-1 in support of the application and recommended that the Board grant the requested relief. ANC 1A indicated no concerns with the Applicant's proposal, as finally revised. (Exhibit 33.)

Persons in support or in opposition. The Board received several letters in support of the application from residents living in the vicinity of the subject property. The letters stated that the Applicant's project would not have a substantially adverse effect on the use or enjoyment of the residents' nearby homes, or affect their light, air, or privacy, but would be comparable to other projects in the immediate vicinity and would not visually intrude on the character, scale, or pattern of houses in the neighborhood.

The Board also received a letter in opposition to the application from a neighbor of the subject property, who asserted that the application had not satisfied the requirements for variance relief and cited concerns that the density of the Applicant's proposal would cause substantial detriment to the public infrastructure, the availability of parking, and the cohesion of the row of two-story dwellings that comprise the street's architecture.

FINDINGS OF FACT

The Subject Property

1. The subject property is an interior lot located on the north side of Otis Place, N.W. near its intersection with 13th Street (Square 2829, Lot 57). The parcel is rectangular, 18 feet wide and 100 feet deep, and has an area of 1,800 square feet. A public alley, 10 feet wide, abuts the rear lot line.
2. The subject property is improved with a row building, built around 1909, that is two stories in height and has a cellar. The building at the subject property occupies approximately 65.5% of the lot.² The property has a rear yard of 34 feet. Two parking spaces are located at the rear of the lot, accessible from the public alley.
3. The building on the subject property is attached to a similar building, one of a series of row buildings, on the east. The western side of the building, which contains several windows on both floors, abuts the rear yards of five residential row buildings that front

² The Applicant originally stated that the existing lot occupancy at the subject property was 54%. However, the Applicant subsequently realized that an error had been made in that calculation and corrected the application to state that existing lot occupancy was 65.5%. The party in opposition asserted that existing lot occupancy was 68%. Even if true, that higher figure would not alter the Board's analysis of the Applicant's request for variance relief.

on 13th Street, separated by a walkway between the Applicant's building and the rear yards.

4. The building on the subject property was formerly used as a rooming house with as many as 11 bedrooms. Exterior stairs were installed to provide access from both floors of the building to the rear yard. The building is presently in a deteriorated condition, has an inefficient layout due to the numerous bedrooms, and lacks a kitchen.
5. The subject property is located in an R-4 District mapped between C-2-A Districts along 11th and 14th Streets and a C-3-A District along Georgia Avenue.
6. The majority of lots in the immediate vicinity of the subject property are developed with row or semi-detached dwellings, generally two or three stories in height. A number of apartment houses, as well as a shopping area, are located within a half-mile of the subject property.

The Applicant's Project

7. The Applicant proposes to construct a third-story addition to the existing building, and to convert its use to a four-unit apartment house. The addition will be constructed of brick and will occupy substantially the same building footprint; the existing rear yard will not decrease in size. Building height will increase from two stories and approximately 20 feet to three stories and 39 feet where a maximum of three stories and 40 feet are permitted. (11 DCMR § 400.1.)
8. The planned renovation of the subject property will decrease lot occupancy slightly, from 65.5% to 64.75%, due to changes in the building's rear deck. The depth of the new deck will be less than the depth of the existing deck, and its width will also decrease due to the presence of a new spiral staircase at the rear of the building.
9. The enlarged building will provide one apartment per floor, including the cellar. The apartments, each with two bedrooms, will range in size from approximately 836 square feet to 1,145 square feet.

Harmony with Zoning

10. The R-4 District is designed to include those areas now developed primarily with row dwellings, but within which there have been a substantial number of conversions of the dwellings into dwellings for two or more families. (11 DCMR § 330.1.) The primary purpose of the R-4 zone is the stabilization of remaining one-family dwellings. (11 DCMR § 330.2.) The R-4 District is not intended to become an apartment house district as contemplated under the General Residence (R-5) districts, since the conversion of existing structures is controlled by a minimum lot area per family requirement. (11 DCMR § 330.3.)

11. A rooming or boarding house is permitted as a matter of right in an R-4 District, subject to certain requirements, including that accommodations may not be provided to transient guests who stay 90 days or less at the premises, cooking facilities may not be provided in any individual unit, and no central dining or food preparation area may be provided for guests. 11 DCMR § 330.6.
12. In the R-4 District, a building that was existing before May 12, 1958, such as the Applicant's building, may be converted to an apartment house as a matter of right, as limited by the lot area requirement set forth in §§ 401.3 and 403.2. 11 DCMR § 330.5. Pursuant to § 401.3, conversion of a building to an apartment house requires 900 square feet of lot area per apartment. Pursuant to § 403.2, the other limit on matter-of-right conversion of a building to an apartment house, the maximum permitted lot occupancy for conversion of a building to an apartment house is the greater of 60% or the lot occupancy as of the date of conversion.

CONCLUSIONS OF LAW AND OPINION

The Applicant requests area variances from requirements pertaining to maximum lot occupancy under § 403.2,³ the enlargement of a nonconforming structure under § 2001.3, and minimum lot area under § 401.3 to allow the enlargement and conversion of a two-story, 11-bedroom rooming house to a three-story, four-unit apartment house in the R-4 District at 1221 Otis Place, N.W. (Square 2829, Lot 57). The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(3) (2008), to grant variance relief where, "by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property," the strict application of the Zoning Regulations would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, provided that relief can be granted without substantial detriment to the public good and without substantially impairing the *intent, purpose, and integrity* of the zone plan as embodied in the Zoning Regulations and Map. (See 11 DCMR § 3103.2.)

Based on the findings of fact, the Board finds that the application satisfies the requirements for approval of the requested area variance relief. The Board credits the testimony of the Applicant that the subject property is faced with an exceptional situation or condition due to a confluence

³ The Applicant's request for relief was self-certified and, apparently assuming that the maximum permitted lot occupancy at the subject property is 60%, "in an abundance of caution" also sought variance relief from the requirements relating to lot occupancy and enlargement of a nonconforming structure. The Board notes that, pursuant to § 403.2, the R-4 District permits a maximum lot occupancy of 60% for a row dwelling or flat, and 40% for "all other structures" (other than certain uses not relevant here), while the maximum permitted lot occupancy for the conversion of a building or structure to an apartment house is the greater of 60% or "the lot occupancy as of the date of conversion." Consistent with the Applicant's submission, the Board considers the application a request for area variance relief to permit lot occupancy of 64.75% rather than 60%.

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of factors related to the deteriorated condition of the existing structure and its prior use as an 11-room boarding house. Due to the past deterioration of the building and deferred maintenance by prior owners, the Applicant must expend considerable funds to ensure the building's compliance with the Construction Code and to construct marketable dwelling units. Because of its past use as a rooming house with 11 bedrooms, the building presently has a number of unnecessary interior walls and an unconventional layout, increasing the cost of renovation of the building.⁴

The party in opposition asserted that the facts presented by the Applicant "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." (Exhibit 34.) The Board finds no merit in the party in opposition's assertion that the building at the subject property was no longer an 11-room rooming house because of its alleged use more recently as a one-family dwelling. While the Applicant may not have obtained the necessary certificate of occupancy or license to continue the prior rooming house use, the Board credits the Applicant's testimony that the building, when acquired by the Applicant, was configured as a rooming house with 11 bedrooms, and its multiple interior walls and inefficient layout hindered the renovation of the building to another use.

The Board also concludes that the strict application of the Zoning Regulations would result in peculiar and exceptional practical difficulties to the Applicant by precluding the renovation of the building into a viable residential use. The Board credits the testimony and evidence provided by the Applicant, including the financial analysis showing the expected return on the renovation of the building, in finding that conversion to four dwelling units is necessary for the viable reuse of the building.

The party in opposition argues that "the extraordinary expense of renovating a property [is] not sufficient to satisfy the 'practical difficulty' prong," citing *Myrick v. District of Columbia Bd. of Zoning Adjustment*, 577 A.2d 757 (D.C. 1990). As noted by the Applicant, the District of Columbia Court of Appeals has held that "economic use of property may be properly considered as a factor in deciding the question of what constitutes an unnecessary burden or practical difficulty in area variance cases." *Tyler v. District of Columbia Bd. of Zoning Adjustment*, 606 A.2d 1362, 1366 (D.C. 1992); see also, *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1170 (D.C. 1990) (economic use of property has been considered as a factor in deciding the question of what constitutes an unnecessary burden or practical difficulty in variance cases; at some point economic harm becomes sufficient, at least when coupled with a significant limitation on the utility of the structure); *Wolf v. District of Columbia Bd. of Zoning Adjustment*, 397 A.2d 936 (D.C. 1979) (lot area variance for conversion of two-family flat into

⁴ As noted by OP, the Board has previously approved applications for zoning relief necessary to allow the conversion of a rooming house into an apartment house in the R-4 District, including an application concerning a property abutting the subject property in this case. See BZA orders issued in BZA Case Nos. 18115 (November 18, 2010) (variances from requirements pertaining to minimum lot area, maximum lot occupancy, courts, enlargement of a nonconforming structure, and parking to allow conversion of a 12-unit rooming house into a three-unit apartment house, with a new third-story addition at 3603 13th Street, N.W.) and 18297 (February 13, 2012) (variance from lot area requirement under § 401.3 to allow conversion of rooming house into a three-unit apartment house).

three-unit apartment house was appropriate where two-family dwelling was not marketable and would operate at a loss, but three units would allow a return). In light of the evidence presented by the Applicant, the Board concludes that the Applicant demonstrated a need for variance relief to allow four apartment units at the subject property, and did not agree with OP's contention that conversion to a three-unit apartment house would be economically feasible under the circumstances.

The Board was not persuaded by the party in opposition's contention that the Applicant's financial argument is without merit. The opposition contends that the financial challenge was self-created. He argued that financial feasibility depends principally on the fact that the Applicant paid too much for the building that was vacant and had been on the market for a long period of time. The "self-created hardship" is a factor generally applicable to a request for a use variance, not an area variance. See, *1700 Block of N Street, NW v. District of Columbia Bd. of Zoning Adjustment*, 384 A.2d 674, 678 (D.C. 1978); *Wolf*, 397 A.2d at 945; *Gilmartin*, 579 A.2d at 1169 (D.C. 1990) (prior or constructive knowledge or a difficulty or hardship that is self-imposed is not a bar to an area variance), citing *A.L.W. v. District of Columbia Bd. of Zoning Adjustment*, 338 A.2d 428, 431 (D.C. 1975).

For similar reasons, the Board concludes that the Applicant has also satisfied the requirements for variance relief from requirements related to lot occupancy and enlargement of a nonconforming structure. The Applicant does not propose to increase lot occupancy over the existing situation, and thus the planned enlargement of the building – a new third floor that will not alter the building's footprint substantially, but in fact will reduce lot occupancy slightly – will not increase the existing nonconforming lot occupancy or create any new nonconformity of the structure and addition combined.

The Board credits the testimony of the Applicant in concluding that approval of the requested variances will not cause any substantial detriment to the public good. After the conversion, the building will be restored to residential use, at a lower density than its prior 11-room boarding house use. OP testified that its recommendation of conversion of the existing building into three apartments would not negatively impact the surrounding neighborhood, in part because on-site parking would be adequate and the overall building envelope would remain the same. The Board does not find that the addition of the planned third floor, utilizing the footprint of the existing building and constructed to a height permitted under the Zoning Regulations, will result in any adverse impacts on the use of neighboring properties.

The Board credits the testimony from persons in support of the application who stated that the Applicant's project would be comparable to other projects in the immediate vicinity and would not visually intrude on the character, scale, or pattern of houses in the neighborhood. The Board does not find that the conversion to apartment house use or the addition of the planned third floor will cause substantial detriment to the neighborhood due to its density, effect on parking, or surrounding architecture. The neighborhood is characterized by a variety of building types and contains several apartment houses in the vicinity of the subject property, and the Applicant's

BZA APPLICATION NO. 18448
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project will satisfy the zoning requirements for parking and thus will not significantly alter existing parking conditions in the neighborhood.

Similarly, the Board does not find that approval of the requested variance relief would substantially impair the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. Conversion of the building into a four-unit apartment house will cause the property to remain in residential use in a manner consistent with the relatively lower density residential use of the surrounding neighborhood. The size of the Applicant's building, as enlarged, will remain consistent with the generally two- and three-story buildings in the vicinity of the subject property.

The Board is required to give "great weight" to the issues and concerns raised by the affected ANC. Section 13(d) of the Advisory Neighborhood Commissions Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Official Code § 1-309.10(d) (2001)). In this case, ANC 1A adopted a resolution indicating its support for the application. The ANC recommended approval of the requested zoning relief and did not express any issues or concerns about the application, including the amendment by the Applicant seeking additional variance relief.

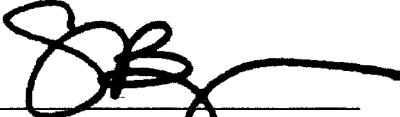
The Board is also required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Official Code § 6-623.04) to give weight to the recommendations of the Office of Planning. The Board interprets OP's statement that it cannot support the application as its recommendation of denial. For the reasons stated above, the Board disagrees with OP's contention that the conversion of the rooming house to a three-unit building was economically feasible or that approval would be contrary and detrimental to the intent and integrity of the Zoning Regulations. Therefore, the Board does not find OP's recommendation to be persuasive.

Based on the findings of fact and conclusion of law, the Board concludes that the Applicant has satisfied the burden of proof with respect to the request for area variances from requirements pertaining to lot occupancy under § 403.2, enlargement of a nonconforming structure under § 2001.3, and minimum lot area under § 401.3 to allow the enlargement and conversion of a two-story, 11-bedroom rooming house to a three-story, four-unit apartment house in the R-4 District at 1221 Otis Place, N.W. (Square 2829, Lot 57). Accordingly, it is **ORDERED** that the application is **GRANTED**, subject to Exhibit 29A, Revised Plans.

VOTE: **4-0-1** (Lloyd J. Jordan, Marcie I. Cohen, Jeffrey L. Hinkle, and Nicole C. Sorg (by absentee ballot), voting to approve; one Board seat vacant.)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of Board members approved the issuance of this order.

ATTESTED BY:


SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: June 13, 2013

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR, RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

1 in the morning. We'll put it on in the
2 morning anyway.

3 We'll do it this way. Whenever
4 you're here we'll take care of it.

5 Could you call the next case
6 please.

7 MR. MOY: The next application for
8 decision is Application No. 18448 of 3579
9 Warder Street, LLC, pursuant to 1 DCMR 3103.2
10 for a variance from the lot area requirements
11 under subsection 401.3 to allow the conversion
12 of a rooming house into a four-unit apartment
13 building in the R-4 District at premises 1221
14 Otis Place, Northwest. Property located in
15 Square 2829, Lot 57.

16 On November 27th, 2012, the Board
17 completed public testimony, closed the record
18 and scheduled its decision on January 15th.
19 The Board also requested additional
20 information to supplement the record.

21 The filings requested are proposed
22 findings of fact and conclusions of law as

1 well as the supplemental report from the
2 Office of Planning.

3 In your case folders, Mr.
4 Chairman, the Applicant made their filing
5 under Exhibit 38 as well as Exhibit 39. The
6 party opposition filed as well their draft
7 findings of fact and conclusions of law under
8 Exhibit 40. The supplemental report by the
9 Office of Planning is filed under Exhibit 37,
10 so with that the Board is at the merits of the
11 request for the variance relief.

12 That completes the staff's
13 briefing, Mr. Chairman.

14 CHAIRPERSON JORDAN: Thank you,
15 Mr. Moy.

16 Okay. This is our -- I can do
17 what you can't do property? Okay. Got it.

18 All right. This is the matter
19 where the Applicant requested to be allowed
20 the conversion as a matter of right a rooming
21 house into a four-unit apartment building and
22 seeking a variance under 401.3 and 403 for lot

1 occupancy and lot area.

2 We granted party status to Mr.
3 Wolfburg. He's in opposition. OP does not
4 support the requested relief. As I said,
5 generally, that is part of their standard
6 practice in regards to these types of
7 conversions.

8 The Applicant seeks to convert the
9 existing two-story building plus cellar into
10 three apartments and construct a third floor
11 for an additional unit for a total of four
12 units. The property is in a deteriorated
13 condition. It's an inefficient layout of the
14 rooming house. Configuration requires
15 significant investment to bring the structure
16 up to code and also to make it marketable.

17 Under the current regulations, two
18 units will be allowed. The Board previously
19 approved a similar situation of a conversion
20 of 12 unit rooming house to allow for a three-
21 unit apartment building and then we did it
22 again on several other properties.

1 The existing structure is
2 deteriorated due to the extensive passes of
3 time and vacancy of the property and the
4 failure of the prior owners to maintain the
5 premises.

6 We've received profit and loss
7 data that shows that conversion of the
8 existing building into three units, one on
9 each floor, is economically feasible. A
10 fourth unit structure is required to really
11 make the project one that can really be
12 financially worth going forward.

13 I find that the strict application
14 of the zoning regulations would be a
15 hinderance in regards to this project and
16 create a practical difficulty.

17 It does not appear that permitting
18 one apartment on each of the existing floors
19 for a dwelling would negatively impact the
20 surrounding neighborhood.

21 We had 12 letters of support from
22 area neighbors. ANC-1A voted in support of

1 this application.

2 The opposition basically argued,
3 well, this is my neighborhood. It's going to
4 ruin my view cite, although they have the same
5 type of expansion at their project. But they
6 really argued that this will increase the area
7 density.

8 Well, the rowhouse could have at
9 least 11 units or 11 people and so it would
10 still be as dense as if it was used as a
11 matter of right on this property.

12 For those reasons, I would move
13 that we approve this application for relief.

14 Anyone else got anything to say?
15 Anyone want to add in? I made a motion.

16 ZC COMMISSIONER COHEN: Mr.
17 Chairman, I will second that motion.

18 CHAIRPERSON JORDAN: Motion made
19 and seconded. Anybody else? Mr. Hinkle.

20 MEMBER HINKLE: Well, this is just
21 in contrast to what I said the last time. But
22 I think it's a matter of bringing this

1 property back up and add some value to the
2 city in having some additional residential
3 space.

4 CHAIRPERSON JORDAN: Motion made
5 and seconded.

6 All those in favor signify by
7 saying aye.

8 (AYES)

9 CHAIRPERSON JORDAN: Those opposed
10 nay.

11 The motion carries.

12 Mr. Moy, do we have any absentees
13 that we need to include?

14 MR. MOY: Yes, in this one we do,
15 Mr. Chairman. We do have an absentee ballot
16 from--

17 CHAIRPERSON JORDAN: We might
18 have-- no, go ahead.

19 MR. MOY: We do have an absentee
20 ballot from Vice Chairperson Sorg and her
21 absentee vote is to approve the application
22 with any conditions the Board may impose.

1 So, that would give a resulting
2 vote of four to zero on a motion by Chairman
3 Jordan to approve the application for the
4 variance relief requested. Seconding the
5 motion Ms. Cohen. Also in support Mr. Hinkle
6 and, of course, Ms. Sorg and a Board seat
7 vacant. So, the motion carries, Mr. Chairman.

8 CHAIRPERSON JORDAN: All right.
9 Thank you, Mr. Moy. And I believe we have to
10 have an order here.

11 MR. MOY: Thank you.

12 The next and final decision for
13 the Board is Appeal Number 18439. This is of
14 Valor 1350 Maryland, LLC, pursuant to 11 DCMR
15 3100 and 3101 from a May 4th, 2012, decision
16 by the Department of Consumer and Regulatory
17 Affairs, to issue a building permit number B,
18 as in Bravo, 1107494, allowing the repair and
19 renovation of a gasoline station in the HS-
20 A/C-2-A at premises 1400 Maryland Avenue,
21 Northeast. Property located in Square 1049,
22 Lots 21 and 803.

BZA CASE NO. 18297

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18297 of Mohammad Pishvaeian, pursuant to 11 DCMR § 3103.2, for variance from the lot area requirements under subsection 401.3, to convert a rooming house to a three (3) unit apartment building, in the R-4 District at premises 3609 13th Street, N.W. (Square 2829, Lot 62).

HEARING DATE: January 17, 2012
DECISION DATE: February 7, 2012

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18297
EXHIBIT NO. 35

SUMMARY ORDER

SELF-CERTIFIED

The zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibit 6.)

The Board of Zoning Adjustment ("Board") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, and by mail to Advisory Neighborhood Commission ("ANC") 1A and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 1A, which is automatically a party to this application. ANC 1A submitted a timely report in support of this application. The ANC report indicated that at a regularly scheduled and duly noticed meeting on January 11, 2012, with a quorum present, the ANC voted 10-0-0 to support the Applicant's request as presented. (Exhibit 32.) The Office of Planning ("OP") submitted a timely report indicating they could not support the application. (Exhibit 30.) The District Department of Transportation ("DDOT") submitted a letter of "no objection" to the application. (Exhibit 29.)

As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to § 3103.2, for a variance from the lot area requirements under subsection 401.3. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the OP and ANC reports filed in this case, the Board concludes that in seeking a variance from § 401.3, the applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates an undue

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BZA APPLICATION NO. 18297
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hardship and a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. The waiver will not prejudice the rights of any party, and is appropriate in this case. The waiver is therefore **ORDERED** that this application, pursuant to Exhibit 13 – Proposed Floor Plans, is hereby **GRANTED**.

VOTE: **4-0-1** (Nicole C. Sorg, Lloyd J. Jordan, Jeffrey L. Hinkle, and Marcie I. Cohen to GRANT; Meredith H. Moldenhauer recused)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT
A majority of the Board members approved the issuance of this order.

ATTESTED BY: _____


SARA A. BARDEN
Director, Office of Zoning

FINAL DATE OF ORDER: **FEB 13 2012**

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OF GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE

#18297

3609 13th St

15

1 applicant to provide supplemental information in
2 evidence to augment his oral arguments as to the
3 first and second prongs to the variance test.
4 The deadline of submission was set at November
5 10, 2010, the applicant filed timely. His post-
6 hearing document Madam Chair is identified at
7 "Exhibit 36" and that's in your case folders.
8 The Board is (INAUDIBLE) merits of the multiple
9 variance of relief and that completes the staff's
10 briefing Madam Chair.

11 CHAIRPERSON MOLDENHAUER: Thank you very
12 much Mr. Moy. I will start us on in
13 deliberation; this case before us is as Mr. Moy
14 indicated a multi-tiered relief for variance
15 relief. The applicant has purchased a rooming
16 house located at 3603 13th Street, NW. The
17 property had been unoccupied for over a year and
18 then set on the market for a period of 6 months
19 prior to the applicant's purchase of the
20 property. The applicant comes before us seeking
21 to discontinue the rooming house use which is as
22 a matter of right in the zone R-4 and to

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1 construct and renovate a 3 unit apartment
2 building. This is a challenging case because in
3 a case like this we have to look at whether or
4 not the applicant, 1. The current use of the
5 property rooming house is a matter of right. 2.
6 Another matter of right would be a flat which is
7 a 2 unit dwelling unit rather than a 3 unit
8 apartment building which is not permitted as a
9 matter of right and would require a variance
10 relief. That being said we have to look at the 3
11 prong test and determine whether or not the
12 property exhibits a exceptional narrowness,
13 shallowness, or has some other type of
14 exceptional situation to the property and that
15 whether that situation directly connects to a
16 practical difficulty for the owner and then
17 whether there is any undue hardship on the, I'm
18 sorry whether there is any negative impact on the
19 zoning plan or on the public. That being said,
20 looking at the first prong of the test it
21 definitely is a challenge to determine whether or
22 not there's uniqueness here. Office of

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1 Planning's report could not recommend approval
2 and found that the property was not unique
3 finding that a rooming house is a matter of right
4 and that the property in and of itself had no
5 other unique aspects. That being said the
6 applicant submitted documentation into the record
7 at the hearing which he labeled A, B, and C. A
8 was a summation of looking not just at the
9 specific block but rather looking more at the
10 square looking at a larger perspective in that
11 regard trying to evaluate whether or not his lot
12 was unique. That being said I typically will
13 permit applicants to broaden the horizon in
14 regards to what they're reviewing to make the
15 property unique but I don't find that the
16 property size is unique in any way. But my
17 question then is even though the property is of a
18 matter of right a rooming house typically in
19 today's day and age are rooming houses continued
20 is an investment of a rooming house something
21 that you're going to see. I think that it is an
22 atypical use that being said the question would

1 be does that create a specific exceptional
2 circumstance and I would typically say no,
3 however I think the applicant has provided some
4 evidence while maybe not overwhelmingly positive
5 or persuasive I think it does tip the scale in
6 his favor here that he's articulated that the
7 property has not but sat on the market for six
8 months and that no other purchasers or no other
9 investors found the property to be adequate
10 enough for an investment purposes as a rooming
11 house thus showing that exceptional circumstance.
12 In addition that he submitted documentation
13 "Exhibit C", which was submitted at the hearing
14 from a Mr. Richard DuBeshter and he said that he
15 had been interested in purchasing the property
16 for a period of time but that offer fell through
17 because of financing, the reason the bank, I'm
18 quoting from the letter, the reason that the bank
19 deemed the property not suitable for a loan
20 because of it's status as a group house, so I
21 think that evidence in conjunction with his
22 testimony at the hearing I think in my mind I

Vacant
6
months

1 find that persuasive in regards to satisfying the
2 first prong. Then I go and I analyze the case in
3 regards to the second prong, does that
4 exceptional circumstance, the property being a
5 rooming house lead to a practical difficulty and
6 this was something where we asked the applicant
7 to supplement the record because I think at the
8 hearing the information was not as well
9 articulated and he submitted a new exhibit which
10 Mr. Moy indicated was received by our office on
11 November 10th and here he articulates the
12 financial hardship and the economic hardship
13 which we accept for practical difficulty
14 articulating how much it would cost potentially
15 to renovate the property. I think that he did
16 testify and there are pictures where the property
17 has been in disrepair and is need of renovation
18 whether the applicant was to put the property
19 back to it's matter of right use as a rooming
20 house, whether the applicant was going to use the
21 property as a flat or whether the applicant was
22 to use the property as a three unit building.

1 The question is how does that affect the need for
2 a three unit apartment building versus a flat. I
3 think there's evidence here that shows that it
4 would be a financial detriment to do that and in
5 regards to his statements that it would cost him
6 550, I'm rounding up, 50,000 in addition to the
7 310, 000 that is cost to purchase the property
8 and then that estimated over a period of time.
9 He does indicate that obviously it would be a
10 financial hardship for him to be able to pay for
11 a mortgage of that degree without having two
12 additional rental units. This question I think
13 then brings in my mind whether or not the
14 applicants personal financial circumstances and
15 his desire to retire in two years or his pension
16 are not things that we can consider. We cannot
17 consider individual circumstances because
18 whatever relief we give runs with the land it
19 does not run with the individual persons
20 circumstances. That being said I go back
21 potentially to whether or not the applicant has
22 shown other evidence or other information that

1 would support that financial difficulty or that
2 economic hardship which is connected to the
3 practical difficulty, the uniqueness of having a
4 rooming house and I think that his argument that
5 the property sat on the market for six months,
6 the letter from another investor indicating that
7 they could not obtain financing also supports his
8 argument that it's not just him who could not
9 afford these payments but it's the general public
10 that would have a challenge doing that and that
11 the property sat on the market for that period of
12 time because of those factors thus connecting the
13 first and the second prong. That being said I
14 think that there would not be any detriment to
15 the public good or to the zone plan this would be
16 a reduction in the density from a large rooming
17 house to simply a three unit dwelling and the
18 relief in regards to court width I find no issues
19 with nor do I find any concern with the off
20 street parking, there is sufficient off street
21 parking and there the property is close to a
22 metro and would provide alternative means for

1 transportation. That being said we also have
2 three letters of support in the record and we
3 also have a letter of support from the ANC which
4 would be given great weight. That being said I
5 think that this case is a very factual
6 circumstance and it just barely in my mind passes
7 the threshold which as I said a very high
8 threshold for satisfying a variance but I feel
9 that it does and I would be in favor of
10 supporting the application. That's my analysis
11 but at this time I would like to open up the
12 floor to additional deliberation from other Board
13 Members.

14 MR. TURNBULL: Madam Chair I would agree
15 with your comments, your analysis of this, I
16 think it was an excellent analysis and on a very
17 difficult situation with the variance. I think
18 it's awkward for us to look at a property like
19 this, I think, it's sort of like a balance scale
20 and you look at both of them and you can see OPs
21 reaction strict interpretation of the
22 regulations. You begin to wonder at times

1 whether a rooming house should even be permitted
2 I guess, but it is permitted. I think that no
3 matter what even if you wanted to change this to
4 just a single family residence you would have to
5 gut the insides, there's a significant amount of
6 renovation that would have to be done with the
7 amount of walls that it had and even to bring
8 this building probably up to code, so there is a
9 significant amount of construction that would
10 have to be done and I think even the cost for
11 adding the third floor is not much additional to
12 the second floor, or just gutting the whole
13 thing. So I think there is a practical
14 difficulty in one sense, or there is a uniqueness
15 with this site in that with it's current
16 configuration as a rooming house to unless you
17 were going back even if you were going back to I
18 think to change it to a rooming house you'd still
19 have a lot of work to probably to bring this up
20 to code. But going to a single family residence
21 or to a flat, there's a significant amount of
22 renovation and remodeling that would have to be

1 done. I think in one, I have a little bit of
2 trouble as looking this as is this really a
3 uniqueness to it, but I think in this particular
4 case and I think and I want to stress for the
5 record that in this particular case, this could
6 be considered a uniqueness to it and then
7 following up on that then there is a practical
8 difficulty on how you afford to be able to do
9 this kind of a renovation. So I was going to say
10 I've struggled with this but in, I would agree
11 with your analysis and I would be in favor of
12 granting this.

13 CHAIRPERSON MOLDENHAUER: Thank you very
14 much, any further deliberation? Seeing none then
15 I'll submit a motion, a motion to approve
16 Application No. 18115 for a variance from the
17 minimum lot area requirements under (Subsection
18 401.11) a variance from the lot occupancy
19 requirements under Section 403, and a variance
20 from the court requirements under Section 406,
21 and a variance from off street parking
22 requirements under Section 2101.1 and to allow

1 the conversion of a 12 unit rooming house into a
2 3 unit apartment building with a new third story
3 addition in an R-4 District.

4 MR. TURNBULL: Second.

5 CHAIRPERSON MOLDENHAUER: Motion has been
6 made and seconded all those in favor say aye.

7 CHORUS: Aye.

8 MR. MOY: The staff would record the vote
9 as 3 to 0 to 2 this is on the motion of the
10 Chairperson Ms. Moldenhauer to approve the
11 Application this was the amended relief for
12 variance under minimum lot area 401, court
13 requirements 406, off street parking requirements
14 2101.1, and the non-conforming structure
15 provisions 2001.3. Second motion Mr. Turnbull,
16 also support of the motion Mr. Hinkle and no
17 other Board Members participating so again the
18 final vote is 3 to 0 to 2 to approve.

19 CHAIRPERSON MOLDENHAUER: Thank you very
20 much Mr. Moy seeing that there's no opposition in
21 this case we'd like to waive our requirements and
22 request a summary order.

BZA CASE NO. 18197

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18197 of 1211 - 10th Street N.W. LLC, as amended,* pursuant to 11 DCMR § 3103.2 for a variance from the minimum lot area requirements under § 401.3, and a variance from the side yard requirements under § 405.8 to permit a rear addition to and conversion of a one-family dwelling into a three (3) unit apartment house in the R-4 District at premises 1211 10th Street N.W. (Square 368, Lot 82).

***Note:** The Applicant amended the application to withdraw the requests for variance relief from the lot occupancy requirements under section 403, and for variance relief from the court requirements under section 406. The Applicant added the variance relief indicated in the heading above. Also, the amended application reduced the number of units from four (4) to three (3) units as indicated above.

HEARING DATES: April 12, 2011, May 24, 2011, July 26, 2011, September 27, 2011, November 15, 2011, and November 29, 2011

DECISION DATE: January 10, 2012

SUMMARY ORDER

REVIEW BY THE ZONING ADMINISTRATOR & SELF CERTIFIED

The original application was accompanied by a memorandum from the Zoning Administrator certifying the required relief. However, the amended zoning relief requested in this case was self-certified, pursuant to 11 DCMR § 3113.2. (Exhibits 32 and 42.)

The Board of Zoning Adjustment ("Board") provided proper and timely notice of the public hearing on this application by publication in the *D.C. Register*, and by mail to Advisory Neighborhood Commission ("ANC") 2F and to owners of property within 200 feet of the site. The site of this application is located within the jurisdiction of ANC 2F, which is automatically a party to this application. ANC 2F submitted a report in support of the application. (Exhibit 36.) The Office of Planning ("OP") also submitted a report expressing support for the side yard relief, but opposition for the variance from the minimum lot area requirements.

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BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO.

18197

EXHIBIT NO.

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As directed by 11 DCMR § 3119.2, the Board has required the Applicant to satisfy the burden of proving the elements that are necessary to establish the case, pursuant to § 3103.2, for variances from §§ 401 and 405. No parties appeared at the public hearing in opposition to this application. Accordingly, a decision by the Board to grant this application would not be adverse to any party.

Based upon the record before the Board and having given great weight to the ANC and OP reports filed in this case, the Board concludes that in seeking variances from §§ 401 and 405, the Applicant has met the burden of proving under 11 DCMR § 3103.2, that there exists an exceptional or extraordinary situation or condition related to the property that creates a practical difficulty for the owner in complying with the Zoning Regulations, and that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

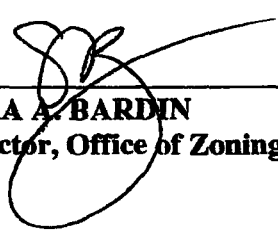
Pursuant to 11 DCMR § 3100.5, the Board has determined to waive the requirement of 11 DCMR § 3125.3, that the order of the Board be accompanied by findings of fact and conclusions of law. It is therefore **ORDERED** that this application, pursuant to Exhibit No. 39 (Revised Plans), is hereby **GRANTED**.

VOTE: **4-0-1** (Nicole C. Sorg, Peter G. May, Meridith H. Moldenhauer, and
Lloyd J. Jordan to Approve; Jeffrey L. Hinkle voting to oppose
by absentee ballot)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

A majority of the Board members approved the issuance of this order.

ATTESTED BY: _____


SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: **JAN 13 2012**

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE

Board may impose.

So that would give a final vote of 5 to 0 to 0, this on the motion of Chairperson Moldenhauer to approve the application for the special exception and variance relief, as well as the two conditions. Seconding the motion, Ms. Sorg. Also in support of the motion, Mr. May and Mr. Jordan. And of course Mr. Hinkle.

So again, the final vote is 5 to 0 to 0. The motion carries.

BZA CHAIR MOLDENHAUER: Thank you very much, Mr. Moy.

MR. MOY: The next application before the Board for action is application No. 18197 of 1211 - 10th Street, LLC, pursuant to 11 DCMR ' 3103.2 for a variance from the lot occupancy requirements.

Well, let's say that this -- let me restate that, Madam Chair. The applicant -- this is an amended application which reduced the number of units of three dwelling units

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from four -- originally four units which resulted in withdrawing relief from sections 403 and 406 and adding variance relief from section 401.3, minimum lot area, and section 405.8, side yard requirements. And this is to permit a rear addition to and conversion of a one-family dwelling in a now-three-unit apartment house in the R-4 District at premises 1211 10th Street, Northwest. Property located Square 368, Lot 82.

On November 28th, 2011 the Board completed public testimony and closed the record and scheduled its decision on January the 10th. However, there is a filing from the applicant in your case folders, Madam Chair dated December 30th, 2011, identified as Exhibit 45. This is a potential preliminary matters since the record was closed, but staff will leave this to the Board for decision.

With that, the Board is to act on the merits of the amended variance relief from sections 401.3 and section 405.8.

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And that completes the staff's briefing, Madam Chair.

COMMISSIONER MAY: Okay. As a preliminary matter, the record was closed, so we're not going to accept any additional submissions in that regard. I think that the hearing was full in that case.

So we'll then continue onto the merits of the case, and I will turn to Vice Chairman Sorg to start us off.

VICE CHAIR SORG: Thank you, Madam Chair. Just quickly to summarize some of the facts in this case, as noted in the introduction, it was an amended case. The applicant was originally requesting variance relief to renovate a historic structure, which is located near Blagden Alley, into four units. The application was since amended to three units, which of course affected the relief that was required.

And now, as mentioned, they are asking for two areas of variance relief, one

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for minimum lot restrictions in the R-4 Zone which required 900 square feet per unit. And here they're asking for under 800, about 770 square feet for the three units that are proposed. Additionally, variance relief from 405.8, decreasing the non-conforming side yard. In this zone, row houses would be allowed as a matter of right in a new construction, but here this is a change to a non-conforming structure. The side yard relief would be required.

I think when we first heard this case, the filings, in my opinion, were a bit thin and the applicant subsequently not only amended the application but also submitted what I believe are some useful and some less than useful new information.

One thing to note also, that in our previous hearing I believe we did not have -- had not received a letter from the ANC. We have now received that letter from ANC 2F from I believe July 27th, which is in support of

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the application.

Office of Planning in their report had recommended denial on the initial application and the -- in my opinion, the additional submissions by the applicant from the architect noting the complicated requirements and suggestions that would be imposed by the historic status, which were in discussion in the testimony as well, in addition to the topography of the lot, its sloping nature, as well as the poor condition of the structure -- I think that the opinion submitted by the architect, as well as the revised plans, are helpful in this case. I find a little bit less helpful the additional imagery. I think in the hearing one of the things that Mr. May specifically requested was sort of a little wider views. I don't believe that's something that we have received.

Nonetheless, based on what we have in our filing at this point, I believe that through the confluence of factors that I

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mentioned that the application, to my opinion, does sort of squeak over the variance test here with regard to the uniqueness that goes towards impractical difficulty and overcomes the concerns that are raised in the original Office of Planning report.

I think that based on the zone that we're in, it's, in my opinion, fairly easy to see the second and third prongs, that there would not be; and I think OP agrees with this in their original report as well, any substantial detriment to the public good as a result of this project, nor would there be any substantial harm to the Zone Plan.

That being said, I can at this point be in support of the application. Thank you, Madam Chair.

BZA CHAIR MOLDENHAUER: Thank you, Ms. Sorg.

Is there any additional deliberation from Board members?

COMMISSIONER MAY: Thank you, Madam

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Chairman. I would note first that although I was not here at the last hearing I have received all the materials and read the transcript of that meeting, so I'm fully prepared to participate in the decision making.

I am also a bit disappointed that we didn't see some additional photography that showed more of the context. I saw the explanation for why it wasn't provided. I didn't think that was particularly compelling, but I have basically reached the same conclusion as Board Member Sorg in that the -- you know, the series of conditions that we're dealing with here are sufficient from my perspective. Well, I will speak only from my opinion of this.

The historic preservation concerns here of trying to retain this frame structure is a significant challenge for anyone who would redevelop the property. The fact that it's landlocked, which ordinarily I'm not

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terrifically sympathetic about -- but I think that does add another complication when you're trying to preserve the façade, and the existing condition of the building, which is clearly in very, very bad shape, although it's -- again, it would have been good to have some better photography to describe that. And then also the context of other buildings in the immediate vicinity give me some comfort that allowing this to be a three-unit building instead of flats is not specifically harmful to the Zone Plan.

You know, I fully appreciate OP being vigilant in protecting R-4 Zones and the primarily single-family nature of R-4 Zones, but the allowance to convert an existing property to apartments when there is sufficient land area on the property I think is also there for a reason. And I've participated in several cases in the past where an exception or a variance from that requirement has been requested; and frankly

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I've been quite stingy about that, and I think that for the most part those cases are not well made.

In this circumstance I think there is the accumulation of factors. The historic preservation issues, the landlocked nature, the condition of the building and the context all add up to me to a sufficient basis for granting relief to that despite the Office of Planning's objections, so I fully support the application as it has now been modified.

I would also comment that this is one project that has gone through huge changes in the time that we've been looking at it and I really appreciate how it has improved, because it really has improved, and I hope it will be a viable project and will be completed.

BZA CHAIR MOLDENHAUER: Thank you.

Any final deliberation?

MEMBER JORDAN: Madam Chair, I would agree with all the analysis. I do

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believe that this project meets the area variance test due to its uniqueness and difficulties. One, the historic preservation nature of the building and the slope, and combined with the fact that the lot next door is kind of -- I'm not saying absentee owner, but there's no one involved. And there was an attempt to reach out to the owner to use that property to better enhance this particular property, and that this property has been long vacant and kind of neglected, and it doesn't to me change the character of the neighborhood or the street and particularly protects the zoning requirement there.

BZA CHAIR MOLDENHAUER: Thank you.

And thank you everyone for the analysis. I think that I agree with everyone's thoughts. And I'll see if there's any motion.

VICE CHAIR SORG: Thank you, Madam Chair. I'll submit a motion to approve application No. 18197 for 1211 - 10th Street, LLC for variance relief from section 401.3 for

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minimum lot area required, from section 405.8 for decreasing of non-conforming side yard, and from section 2001.3 for expansion of a non-conforming structure for the conversion into a three-unit apartment house in R-4 at 1211 10th Street, Northwest.

COMMISSIONER MAY: Second.

BZA CHAIR MOLDENHAUER: Motion's been made and seconded. Is there any additional deliberation?

(No audible response.)

BZA CHAIR MOLDENHAUER: I'm sorry, the motion's been made and seconded. We'll call for -- all those in favor, say aye? Aye.

VICE CHAIR SORG: Aye.

MEMBER JORDAN: Aye.

COMMISSIONER MAY: Aye.

MR. MOY: Madam Chair, before I call the final vote, we again have an absentee ballot vote from Jeffery Hinkle who also participated on this application, and his absentee ballot vote is to deny the

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application. In his comments; and I suppose I should read into the record, is that "there is sufficient -- insufficient documentation related to the expense, effort, and risk to prove necessary for three units and associated relief from 401.3 support relief from 405.8."

With that, then the vote would be 4 to 1 to 0, this on the motion of Vice Chairperson Sorg to approve the application for the two variance relief requested. Seconding the motion, I believe Mr. May. Also in support of the motion, Ms. Moldenhauer and Mr. Jordan.

So again, the final vote is 4 to 1 to 0 to approve, and the motion carries.

BZA CHAIR MOLDENHAUER: Thank you very much, Mr. Moy. And seeing that we have no opposition in this case, we like to waive our requirements and ask that a summary order be issued.

MR. MOY: Very good. Thank you, Madam Chairperson.

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BZA CASE NO. 18312

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment



Application No. 18312 of Rashid Salem, pursuant to 11 DCMR § 3103.2, for a variance from the lot area requirements under § 401.3, to allow a conversion of a one-family dwelling into a four-unit apartment house in the R-4 District at premises 1341 Irving Street, N.W. (Square 2848, Lot 815).¹

HEARING DATE: February 14, 2012
DECISION DATE: March 13, 2012

DECISION AND ORDER

This self-certified application was submitted October 3, 2011 by Rashid Salem ("Applicant"), the owner of the property that is the subject of the application. The application was filed pursuant to 11 DCMR § 3103.2 for an area variance from the minimum lot area requirement under § 401.3 to allow a conversion of a one-family dwelling into a four-unit apartment house in the R-4 District at premises 1341 Irving Street, N.W. (Square 2848, Lot 815). Following a public hearing, the Board of Zoning Adjustment (the "Board") voted 4-1 on March 13, 2012 to grant the application.

PRELIMINARY MATTERS

Notice of Application and Notice of Public Hearing. By memoranda dated October 6, 2011, the Office of Zoning sent notice of the application to the Office of Planning ("OP"); the District Department of Transportation; the Councilmember for Ward 2; Advisory Neighborhood Commission ("ANC") 1A, the ANC for the area within which the subject property is located; and the single-member district ANC 1A06.

A public hearing was scheduled for February 14, 2012. Pursuant to 11 DCMR § 3113.13, the Office of Zoning on November 11, 2011, mailed notice of the hearing to the Applicant, the

¹ In addition to the § 401.3 relief, the application originally sought a variance from the lot occupancy requirement of § 403 to construct rear balconies on all three floors. The Applicant withdrew the lot occupancy request in its pre-hearing statement filed on January 3, 2012, and provided revised plans without the balconies

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owners of property within 200 feet of the subject property, and ANC 1A. Notice was published in the *D.C. Register* on November 11, 2011. (58 DCR 9509.)

Requests for Party Status. In addition to the Applicant, ANC 1A was automatically a party in this proceeding. There were no additional requests for party status.

Applicant's Case. The Applicant provided testimony and evidence from Rashid Salem, the Applicant and owner of the subject property; Tim Chamberlain, owner of Kealee Construction, LLC, the contractor for the reconstruction/addition project; Janet Bloomberg of Kube Architecture, the project architect; and Barrett Evans, a real estate agent and developer, and a resident of the Columbia Heights neighborhood.

Government Reports. By report dated February 7, 2012 and through testimony at the public hearing, OP recommended denial of the requested variance. According to OP, "Although the building is exceptional in its state of disrepair, that condition does not appear to lead to a practical difficulty for the applicant." OP also testified in its report that the relief would be a detriment to the public good because the conversion "would diminish the availability of family-sized housing stock in the area." OP also stated that the relief would impair the intent of the Zoning Regulations.

ANC Report. By Form 129 – Advisory Neighborhood Commission (ANC) Report, including an attachment, filed with the Office of Zoning on February 29, 2012, ANC 1A indicated that, at a regular, duly noticed monthly public meeting held on January 11, 2012 with a quorum present, the ANC voted 8-1-1 to recommend that the Board approve the application with the condition that the Board limit the approval to three units, rather than four units. This letter noted that the four-unit scenario prompted concerns about parking from some commissioners.

Persons in Opposition. The Board heard testimony from two persons in opposition to the application, including Steve Greenwood of 1317 Irving Street, N.W., and Andrew Krieger of 1309 Irving Street, N.W. The Board received a letter in opposition signed by various neighbors, as well as several letters of support from neighbors, including the two neighbors immediately adjacent to the subject property.

FINDINGS OF FACT

The Subject Property and Surrounding Area

1. The subject property is located at 1341 Irving Street, N.W., Square 2848, Lot 815.
2. Lot 815 is a rectangular shaped interior lot with a land area of 2,471.58 square feet. The lot is approximately 16.67 feet wide and 148.265 feet long.
3. The subject property is located in the R-4 Zone District.

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4. The subject property is improved with a three-story row dwelling with one below-ground level.
5. The structure was originally constructed around 1910, and a two-story addition was added to the rear of the existing building in the early 1950's.
6. The subject property currently contains one parking space.
7. The 1300 block of Irving Street, N.W. is comprised almost exclusively of row dwelling structures consisting of one-family dwellings, flats, and converted apartment houses.
8. The subject property is located approximately 360 feet from the Columbia Heights Metrorail Station on the corner of 14th and Irving Streets, N.W.

The Applicant's Project

9. The Applicant proposes to construct a three-story addition to the rear of the structure on the subject property and to restore and renovate the exterior and interior of the remaining existing structure. In the process, the Applicant intends to convert the structure into a four-unit apartment house with one living unit on each level.
10. A conversion to an apartment house is permitted in the R-4 zone district, pursuant to § 330.5(e), subject to §§ 401.3 and 403.2.
11. Subsection 401.3 requires a minimum land area requirement of 900 square feet for each unit, while § 403.2 requires a maximum lot occupancy of the greater of (i) 60% or (ii) the existing lot occupancy as of the date of conversion.
12. Although the project does not exceed the lot occupancy limit, it will not comply with the land area requirement. The subject property consists of 2,471.58 square feet of land. With four apartment units, the land area provided by the subject property is approximately 617.9 square feet per apartment unit.
13. The completed project will continue to provide one legal parking space and will also provide an adjacent compact parking space as a "limited common element" available for purchase by one of the eventual condominium unit owners.

The Exceptional Condition of the Subject Property

14. Prior to acquisition by the Applicant, the subject property was vacant for approximately 15 years.

15. A previous owner of the property was in partnership with a developer who partially demolished the interior of the building, and then abandoned the project.
16. The structure is now only a gutted shell with walls and a roof and, as detailed below, is in a state of disrepair.
17. The Board credits the findings contained in the report of the Applicant's structural engineer, Steven D. Goughnour, P.E., of Goughnour Engineering, PC, that (i) the floor joists over the crawl space at the rear of the house were severely rotted and several were cracked and buckled, (ii) the wood header supporting the rear wall of the upper two levels is severely rotted and cracked, (iii) the wood joists supporting the low roof at the rear of the building are rotted and are cracked and buckled, (iv) the wood roof sheathing for the high roof as water stains, the roof joists also appear to be stained and some of the joists appear to have rot, (v) the two story wall at the side of the west side of the rear portion of the house is cracked and has shifted, and (vi) the rear wall of the upper levels is cracked and shifting around windows.
18. Mr. Goughnour's professional recommendation was to demolish the two-story rear section of the structure as well as the rear wall of the remaining three-story portion of the building (which the Applicant noted he had already done by the time of this hearing). Tim Chamberlain, owner of Kealee Construction, and general contractor for this project, agreed with this analysis.
19. In order to replace the two-story rear section of the building, the new addition must be constructed to the lot line thereby removing the nonconforming closed court. This resulted in significant additional expense to relocate the structure's existing footprint and foundation.
20. In addition, every other significant aspect of the structure needed to be replaced, including all plumbing, HVAC, electrical, windows, floor joists, and roof.

The Exceptional Condition Results in a Practical Difficulty

21. The additional expense to restore the subject building, caused by the building's extraordinary state of disrepair, was such that restoring the structure as anything less than four apartment units was not an economically viable option, after considering probable market values for the finished product.
22. The Board accepts the conclusion of comparative market analysis evidence submitted by the Applicant that the average price *per square foot* for condominium units in this section of the city was markedly lower for units larger than 2,000 square feet than it was for units of less than 1,600 square feet.
23. Based on those projected market values, the Board finds that, as a result of extraordinary cost to restore the subject building, the development of the subject property as anything less than

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a four-unit building would not provide revenue in excess of the Applicant's total costs to acquire and restore the property.

Public Good and Integrity of the Zone Plan

24. The Applicant has agreed to restrict eventual condominium owners from obtaining Residential Parking Permits and will adopt and record condominium covenants, which memorialize that restriction, as conditioned by the Board.
25. Successful restoration will stabilize this property, whereas the denial of this application would result in the property continuing in its blighted state for the foreseeable future.

CONCLUSIONS OF LAW

The Board is authorized under § 8 of the Zoning Act of 1938, D.C. Official Code § 6-631.07 (g)(3), to grant variance relief where, "by reason of exceptional narrowness, shallowness, or shape of a specific piece of property at the time of the original adoption of the regulations or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property," the strict application of the Zoning Regulations would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, provided that relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map. (See 11 DCMR § 3103.2.)

Under the three-prong test for area variances set out in 11 DCMR § 3103.2, an applicant must demonstrate that (1) the property is unique because of its size, shape, topography, or other extraordinary or exceptional situation or condition inherent in the property; (2) the applicant will encounter practical difficulty if the Zoning Regulations are strictly applied; and (3) the requested variances will not result in substantial detriment to the public good or the zone plan. See *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1167 (D.C. 1990). In order to prove "practical difficulties," an applicant must demonstrate first, that compliance with the area restriction would be unnecessarily burdensome; and, second, that the practical difficulties are unique to the particular property. *Id.* At 1170.

The District of Columbia Court of Appeals has held that "an exceptional or extraordinary situation or condition" may encompass the buildings on a property, not merely the land itself, and may arise due to a "confluence of factors." See *Clerics of St. Viator v. District of Columbia Bd. of Zoning Adjustment*, 320 A.2d 291 (D.C. 1974); *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990).

Because a conversion to a four-unit apartment building would require a land area of 3,600 square feet, or 900 square feet per unit, and the lot consists of only 2,471 feet, or 671 square feet per

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proposed unit, the applicant needs a variance from the minimum lot restrictions under 11 DCMR § 401.3 to allow the conversion of the subject building to a four-unit apartment house.

The Board concludes that the Application satisfies the requirements necessary for variance relief, as follows:

The Board concludes that the condition and the circumstances surrounding the subject property constitute an exceptional condition and situation. The building has been blighted and vacant for 15 years, is in a state of severe dilapidation and suffers from structural integrity to such a degree that a structural engineer recommended that the owner demolish the rear portion of the structure and the rear wall of the remaining portion of the structure.

The Board concludes that complying with the Zoning Regulations by restoring the building as anything less than a four-unit residential building would impose an unnecessary burden upon the owner as a result of the extraordinary additional expense necessary to restore the subject building back to productive and sustainable use. Based on the building's extreme state of disrepair and the expense required to restore the building, developing anything less than a four-unit apartment house in this case would not be economically viable and would put the property in danger of remaining idle. Preventing usable land from remaining idle is one of the primary reasons for providing variance relief. Variances from the strict application of the Zoning are "designed to provide relief from the strict letter of the regulations, protect zoning legislation from constitutional attack, alleviate an unjust invasion of property rights and prevent usable land from remaining idle." *Palmer v. D.C. Board of Zoning Adjustment*, 287 A.2d 535,541 (D.C. 1972).

The Board further finds that variance relief can be granted to this applicant without substantial detriment to the public good or the integrity of the zone plan.

As to the integrity of the zone plan, the OP noted that delivering housing comports with the District's high-priority objective of increasing the number of residents in the District. Moreover, the project conforms to the Comprehensive Plan for Ward 1, which encourages development near Metrorail stations and neighborhood stabilization. Lastly, the R-4 Zone typically contains moderately dense neighborhoods, which frequently contain smaller apartment units.

As to whether the grant of the variance will result in substantial detriment to the public good, the Board notes that the Applicant has agreed to restrict the building's occupants from participating in the permit parking program described at 18 DCMR § 2411. Program participants are issued stickers that exempt their vehicles from the parking restrictions applicable to neighborhood streets protected by the program. As a result of the condition, the building's occupants will not compete for curbside parking. The Board does not share OP's concern that granting the variance would diminish the availability of family sized housing stock in the area. OP's view mostly stems from its belief that this property could be successfully rehabilitated with fewer and therefore larger units. For reasons stated earlier, the Board does not consider that to be a viable

option. Thus, denying the variance would not preserve family-sized housing stock, but prevent the addition of new and needed housing in this area.

Great Weight

Section 13(b)(d) of the Advisory Neighborhood Commission Act of 1975, effective March 26, 1976 (D.C. Law 1-21; D.C. Code § 1-309.10(d)(A)), requires that the Board's written orders give "great weight" to the issues and concerns raised in the recommendations of the affected ANC. In this case the ANC 1A's opposed the granting of four units, but supported a three-unit conversion. One of the primary concerns with the four-unit configuration was parking. Because the Applicant has agreed to fully restrict the eventual condominium owners' right to participate in the District's Residential Permit Parking program, and also because of the property's location very near a Metrorail station, the Board believes that the parking concerns have been addressed. For this reason, and because the Applicant met the elements for granting a variance for a four-unit conversion, the Board does not find the ANC's advice persuasive.

The Board is required under § 5 of the Office of Zoning Independence Act of 1990, effective September 20, 1990 (D.C. Law 8-163, D.C. Code § 6-623.04) to give great weight to OP's recommendations. While OP found that the property was subject to an exceptional condition, it found no practical difficulty resulted and that the grant of the variance would substantially harm the integrity of the zone plan and the public good. For the reasons explained in its discussion of these elements, the Board disagrees.

For the reasons stated above, the Board concludes that the applicant has met its burden of proof. It is hereby **ORDERED** that the application is hereby **GRANTED, SUBJECT** to the approved plans as shown on Exhibit 31, and with the following **CONDITION**:

The Applicant or his successor and assigns shall include within the Condominium Covenants a provision that restricts all unit owners from participating in the Residential Permit Parking program and shall adopt and record condominium covenants that memorialize that restriction prior to obtaining the first certificate of occupancy for the project.

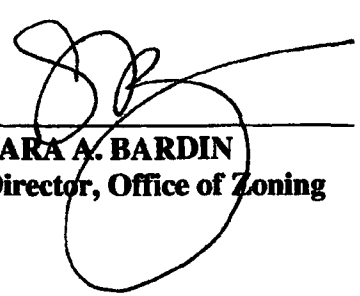
VOTE: 4-1-0 (Meredith H. Moldenhauer, Nicole C. Sorg, Lloyd J. Jordan, and Jeffrey L. Hinkle to Approve; Michael G. Turnbull to Deny)

BY ORDER OF THE D.C. BOARD OF ZONING ADJUSTMENT

The majority of the Board members approved the issuance of this order.

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ATTESTED BY:


SARA A. BARDIN
Director, Office of Zoning

FINAL DATE OF ORDER: **JUN 13 2012**

PURSUANT TO 11 DCMR § 3125.9, NO ORDER OF THE BOARD SHALL TAKE EFFECT UNTIL TEN (10) DAYS AFTER IT BECOMES FINAL PURSUANT TO § 3125.6.

PURSUANT TO 11 DCMR § 3130, THIS ORDER SHALL NOT BE VALID FOR MORE THAN TWO YEARS AFTER IT BECOMES EFFECTIVE UNLESS, WITHIN SUCH TWO-YEAR PERIOD, THE APPLICANT FILES PLANS FOR THE PROPOSED STRUCTURE WITH THE DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS FOR THE PURPOSE OF SECURING A BUILDING PERMIT, OR THE APPLICANT FILES A REQUEST FOR A TIME EXTENSION PURSUANT TO § 3130.6 AT LEAST 30 DAYS PRIOR TO THE EXPIRATION OF THE TWO-YEAR PERIOD AND THAT SUCH REQUEST IS GRANTED. NO OTHER ACTION, INCLUDING THE FILING OR GRANTING OF AN APPLICATION FOR A MODIFICATION PURSUANT TO §§ 3129.2 OR 3129.7, SHALL EXTEND THE TIME PERIOD.

PURSUANT TO 11 DCMR § 3125, APPROVAL OF AN APPLICATION SHALL INCLUDE APPROVAL OF THE PLANS SUBMITTED WITH THE APPLICATION FOR THE CONSTRUCTION OF A BUILDING OR STRUCTURE (OR ADDITION THERETO) OR THE RENOVATION OR ALTERATION OF AN EXISTING BUILDING OR STRUCTURE. AN APPLICANT SHALL CARRY OUT THE CONSTRUCTION, RENOVATION, OR ALTERATION ONLY IN ACCORDANCE WITH THE PLANS APPROVED BY THE BOARD AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT.

PURSUANT TO 11 DCMR § 3205, THE PERSON WHO OWNS, CONTROLS, OCCUPIES, MAINTAINS, OR USES THE SUBJECT PROPERTY, OR ANY PART THERETO, SHALL COMPLY WITH THE CONDITION IN THIS ORDER, AS THE SAME MAY BE AMENDED AND/OR MODIFIED FROM TIME TO TIME BY THE BOARD OF ZONING ADJUSTMENT. FAILURE TO ABIDE BY THE CONDITIONS IN THIS ORDER, IN WHOLE OR IN PART SHALL BE GROUNDS FOR THE REVOCATION OF ANY BUILDING PERMIT OR CERTIFICATE OF OCCUPANCY ISSUED PURSUANT TO THIS ORDER.

IN ACCORDANCE WITH THE D.C. HUMAN RIGHTS ACT OF 1977, AS AMENDED, D.C. OFFICIAL CODE § 2-1401.01 ET SEQ. (ACT), THE DISTRICT OF COLUMBIA DOES NOT DISCRIMINATE ON THE BASIS OF ACTUAL OR PERCEIVED: RACE, COLOR,

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RELIGION, NATIONAL ORIGIN, SEX, AGE, MARITAL STATUS, PERSONAL APPEARANCE, SEXUAL ORIENTATION, GENDER IDENTITY OR EXPRESSION, FAMILIAL STATUS, FAMILY RESPONSIBILITIES, MATRICULATION, POLITICAL AFFILIATION, GENETIC INFORMATION, DISABILITY, SOURCE OF INCOME, OR PLACE OF RESIDENCE OR BUSINESS. SEXUAL HARASSMENT IS A FORM OF SEX DISCRIMINATION WHICH IS PROHIBITED BY THE \ACT. IN ADDITION, HARASSMENT BASED ON ANY OF THE ABOVE PROTECTED CATEGORIES IS PROHIBITED BY THE ACT. DISCRIMINATION IN VIOLATION OF THE ACT WILL NOT BE TOLERATED. VIOLATORS WILL BE SUBJECT TO DISCIPLINARY ACTION.

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
Board of Zoning Adjustment**



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As Director of the Office of Zoning, I hereby certify and attest that on **JUN 13 2012**, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail or delivered by electronic mail in the case of those ANC's and SMD's that have opted to receive notices thusly, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

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Sullivan & Barros, LLP
1990 M Street, N.W., Suite 200
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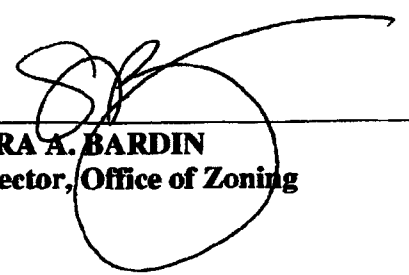
Single Member District Commissioner 1A-06
Advisory Neighborhood Commission 1A
1380 Monroe Street N.W., #103
Washington, D.C. 20010

Chairperson
Advisory Neighborhood Commission 1A
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ATTESTED BY:


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