

Brian Rafkin & Elizabeth Levine
1515 15th St. NW, Apt. 433
Washington, DC 20005
(919) 452-8663
brian.rafkin@gmail.com

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Washington DC Office of Zoning
Board of Zoning Adjustment
441 4th St. NW
Washington, DC 20001

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18638

EXHIBIT NO. 63

RE: Case Number: 18638
Case Name: Rosebusch LLC and Gregg M. Busch

Dear Board of Zoning Adjustment:

We are writing to express concern with the development referenced above. We understand that the developer desires to develop 38 residential units and that is required to provide 19 parking spaces. We further understand that the developer does not want to provide 19 parking spaces and has therefore asked for a variance so that it does not need to provide them. For the reasons below we respectfully ask the BZA to apply the law as it is written and reject the developer's request.

This is Not an Exceptional Situation

The BZA is authorized to vary or modify any part of the Zoning Regulations in "exceptional situations" that would result in "exceptional practical difficulties or exceptional and undue hardship" upon the property owner. The word "exceptional" is operative here—there simply is nothing exceptional or unusual going on here that would warrant a variance.

First, the developer is not required to build 38 units; it is only the developer's desire. We understand that the developer can use its properties in a number of different ways that do not require a variance. For example, it can rehabilitate the townhouses currently on the property, it can rehabilitate and subdivide those townhouses into multi-family housing, and can construct an 8 unit building with 4 parking spaces in the back, and it can also make commercial use of the property. The fact that the developer has other options to make use of the property should show, in and of itself, that it is not facing "exceptional" circumstances causing it undue hardship. Indeed, if the BZA were to look around the Logan Circle area it would see that developers have happily acquired, rehabilitated, and sold many townhouses in the area—the developer here has not given any reason why it cannot do the same thing. A simple desire to build the largest building possible is not an exceptional circumstance.

But, furthermore, there is no surprise here. The developer acquired these properties and knew or should have known how they were zoned at the time. Thus, the developer came into this situation with its eyes wide open knowing that current zoning did not permit the development of a 38 unit building without the required 19 parking spaces. There is no previous course of dealing, change of circumstances, expectation, or any other circumstance where we can say that the developer will be injured or treated unfairly if a variance is not granted.

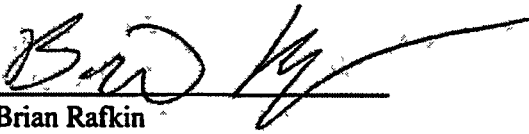
Lastly, the BZA website gives an example of "hardship," as a situation that "may result from physical characteristics which make the property unique or difficult to use." Given that there are townhouses

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already constructed on the property and given that the developer has a number of alternative uses available to it, it is clear that there is nothing "unique or difficult" about this property that that makes this an exceptional situation.

Simply put, we are not asking for anything special. We are simply asking that the BZA apply the law. The law requires that the developer show that it should be granted a variance based on "exceptional situations" that would cause it undue hardship. The developer cannot show that there is anything exceptional about its situation that would warrant a variance.

Thank you for your consideration.



Brian Rafkin