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

Application of 57th Street Mews, Inc

BZA No. 18642

APPLICANT'S HEARING STATEMENT

December 3, 2013

This Pre-Hearing Statement ("Statement") outlines the existing and proposed use of the property of application and the manner in which the application ("Application") complies with the specific tests and burden of proof for the variance sought in this application before the Board of Zoning Adjustment (BZA)

NATURE OF RELIEF SOUGHT

This is an application pursuant to 11 DCMR § 3103.2 for variance to allow the new construction of four-unit apartment building in excess of the maximum percentage of lot occupancy and the minimum rear yard setback allowed for a building or structure in the underlying C-2-A zone district as set forth in §§772.1 and 774.1 respectively. Relief is also sought from the minimum number of parking spaces required as set forth in §2101.1

SUMMARY OF APPLICATION

The applicant seeks the above area variance pursuant to 11 DCMR § 3103.2 under §§772.1 and 774.1, to be able to construction a new residential building containing four (4) dwelling units in the C-2-A zone, not in compliance with the maximum percentage of lot occupancy allowed, and also to setback a maximum 8 feet from the rear property lot line wherein a minimum 15 feet is required. Specifically because subject property is a land-locked interior and shallow lot, the applicant also seeks relief from the two minimum parking spaces required under §2101.1.

The applicant proposes one dwelling unit per floor, including a cellar, for a total four (4) dwelling units

The property complies with all other provisions of the zoning regulations, including floor area ratio (FAR) and maximum permitted height.

JURISDICTION OF THE BOARD

The application is properly before the BZA. The Board is authorized to grant the requested variances under § 8 of the Zoning Act, DC Official Code § 6-641.07 (g) (3) (2001), as further set forth in 11 DCMR § 3103.2

PROPERTY LOCATION AND PROJECT DESCRIPTION

The property is located in the Trinidad neighborhood in the northeast quadrant of the District. The subject property is legally described as being located in Square 4052 and as lot 0181, as recorded the records of the Surveyor of the District of Columbia.

The subject property is vacant, unimproved and prohibitively shallow at 25.50 feet in depth, notwithstanding that it is approximately 59.9 feet in width where it fronts on Simms Place. The subject property is a land-locked interior lot, having no public right of way or alley by which the rear is accessible. The subject property is one of a grouping of seven lots located at the northwest corner of the Square that are located with the commercial C-2-A zone district abutting Mount Olivet Road to the north, Montello Avenue to the west and Simms Place to the south.

The south side of Simms Street and the remainder of Square 4052 is zoned R-4, and is characterized by row dwellings, flats and walk up apartment houses most of which contain at least four (4) dwelling units.

The applicant proposes to construct a new three-story 4-unit apartment building or structure 17.50 feet in depth, and 59.9 feet in width, therefore from side lot line to side lot line with no side yards. The proposed building will occupy approximately sixty-eight percent (68%) of the lot and set back from its rear property lot line, a distance of eight feet (8 ft.).

The proposed structure will share a common division wall only with the commercial Laundromat located to the west on lot 180 which faces Montello Street, and which constitutes the rear property lot line.

The property located to the north of subject property is used and occupied for commercial purposes, and that portion of the existing structure located on the common property line, from which rear yard setback relief is sought does not contain any fenestration or opening.

The property line of the subject property to the east abuts the rear parking portion of lot 177, a large commercial property with frontage on Mount Olivet Road NE.

The proposed structure will provide a screened trash enclosure at the rear of the subject property, accessible through a secured passageway on the first floor, which also shall serve as the trash pickup access.

STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

The Applicant, by preponderance of the materials submitted with this Application, facts to be presented in the course of the public hearing and further evidence to be submitted fourteen days prior to the hearing date, will prove compliance with the three prong test necessary for the granting of the area variance sought, as outlined below.

The Board is authorized to grant an area variance where a property demonstrates three characteristic elements:

1. The subject property must demonstrate a unique physical characteristic of shape or size, exceptional narrowness or shallowness which existed as of the time of the original adoption of the Zoning Regulations, or that there exists exceptional topographical conditions or other extraordinary or exceptional situation or condition of property;
2. That the physical characteristic(s), or extraordinary or exceptional situation or condition of the property makes the strict application of the Zoning Regulations result in peculiar and exceptional practical difficulties to the owner of the property;

3. That the Board is able to grant the variance without substantial detriment to the public good and without substantial impairment of the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

EXTRAORDINARY OR EXCEPTIONAL SITUATION OR CONDITION OF PROPERTY

The Subject Property's shallow depth of 25.5 feet constitutes an extraordinary situation or condition of property when viewed through the context that the underlying C-2-A zone district mandates a minimum rear yard of 15 feet, measured from the rear property lot line, as more specifically set forth in §774.7 (a) and (b). Therefore the subject property is constrained to ten feet (10 ft.) depth of structure in order to construct a building which will comply with the required minimum depth of rear yard prescribed.

The lot is unusually shaped in that it is more aptly described as "sideways" lot, given that it features, in contrast to its shallow depth, the unusual width of 59.9 feet where it abuts Simms Place. The shape directly results in a shape of building which is impractical for the prevailing market conditions for a for-sale project in the neighborhood.

The applicant therefore contends that this specific physical shape of the subject property constitutes in itself, an extraordinary or exceptional situation or condition of property, and forms the basis for compliance with the first burden of proof on uniqueness.

PECULIAR AND PRACTICAL DIFFICULTIES TO OWNER OF PROPERTY

The unique physical characteristic of the subject property results in peculiar and practical difficulties upon the owner, because the strict application of the Zoning Regulations with respect to the minimum required depth of the required rear yard set forth in § 774.1 restricts a proposed structure to an approximate ten feet (10 ft.) of depth.

Further, the subject property is a land-locked interior lot without any public or private Right-of-way access to its rear. Providing the minimum number of parking spaces

sufficient to comply with the requirement of §2101.1 is practically impossible. Additionally there is practically no room within which a reasonable building footprint can coexist with the minimum parking dimensions prescribed, even if access was available.

The shape of the lot also places peculiar and practical difficulties upon the owner if the limitation of percentage of lot occupancy resulting in approximately 916.47 square feet ($1,527.45 \times .60 = 916.47$) is imposed on the subject property.

Assuming the same width of structure as proposed at 59.9 feet, the resulting building depth of approximately 15.37 feet still results in the necessity for relief from rear yard setback.

The applicant shall in the course of the hearing provide graphic illustration demonstrative of the peculiar and practical difficulties upon the owner, if the applicable provisions of the Zoning Regulations from which relief is sought are restrictively applied to the subject property.

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

The applicant seeks to construct a new residential apartment house in the underlying C-2-A zone district on a lot that has been and remains unimproved probably due to its odd shape and the challenge posed by the socio-economic condition of the immediate vicinity surrounding the location of the subject property. The proposed use is allowed as a matter of right and will not be constructed to the maximum density permitted for that use in that zone.

No practical use of a building constructed within the restrictions imposed by the Zoning Regulations is possible either for residential or commercial purposes, given the resulting narrowness of the structure.

The residential building will act as a buffer between the commercial use fronting on Mount Olivet to the north and parts of Montello Street to the south, and the predominant residential R-4 zone district to the south.

The proposed structure, at three floors, will be compatible in character with adjoining buildings in the surrounding residence district

The proposed project complies with all other requirements and provisions of the Zoning Regulations and would cause to be improved, an otherwise unimproved/vacant lot which is likely to remain unimproved due to market variables related to the resulting narrow structure, absent the relief sought before the BZA.

The proposed project is intended to result in a development which will not be incompatible with the scale and character of the neighborhood.

The proposed building will not adversely affect the light and air of any adjacent building because it will share a common division wall with the rear of an existing building devoted to commercial use, and does not adjoin any other adjacent property with fenestration. As aforementioned the subject property shares proximity only with two properties, lots 180 and 173, both facing Montello, and is abutted on the east property lot line by the rear portion of other commercial lots facing Mount Olivet Road, where no other structure is likely to be constructed which will be impacted negatively by virtue of proximity.

Simms Place is functionally classified by Department of Transportation (Ddot) standards, as a local Street with a right-of-way (ROW) total of fifty feet (50 ft.). It is a one way street eastward from Montello Street and a parked street without a residential zone parking restriction. Ample street parking exists and it is one street removed and parallel to Mount Olivet Road, which is a major public transportation thoroughfare.

The applicant therefore submits that for all the foregoing reasons, the reliefs sought may be granted without substantial detriment to the public good, and without substantial impairment of the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map

WITNESS

1. Taiwo Demuren.
2. Bryce Rowland

CONCLUSION

The Applicant submits that the instant application complies with all conditions for the granting of the requested area variances as outlined above and as shall be further documented, and respectfully requests that the application be granted.

The affected Advisory Neighborhood Association, ANC 5D, voted unanimously a resolution of conditional support for the project, provided that building exterior is constructed of brick veneer, and applicant documents a signed petition of support from members of the community within the single member district.

The applicant will provide testimony at the hearing to the effect that the possible development outcome yielded by the strict application of the Zoning Regulations results in a product unsuitable for the market conditions of the neighborhood, which is still largely marginal.