

BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT
AUG -5 PM 1:25

APPLICATION OF
3053 Q STREET NW, LLC

3053 Q STREET, NW
ANC 2E

STATEMENT OF THE APPLICANT

I. NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of 3053 Q Street NW, LLC (the "Applicant"), the contract purchaser of property located at 3053 Q Street, NW, Lot 863 in Square 1282 (the "Property") in support of its application for an area variance from the nonconforming structure requirements (§2001.3) to allow the Applicant to renovate an existing single family home in an R-1-B District at the Property.

II. JURISDICTION OF THE BOARD

The Board of Zoning Adjustment (the "Board" or "BZA") has jurisdiction to grant the variance relief requested herein pursuant to §3103.2 of the Zoning Regulations.

III. BACKGROUND

A. Background Information Regarding the Property

The Property, also known Lot 863 in Square 1282, contains approximately 2,045 square feet of land area and is located in Northwest Washington, D.C. Square 1282 is an irregularly shaped, split-zoned square. The Square is bounded by R Street NW on the north, 30th Street NW on the east, Q Street NW on the south, and 31st Street on the west (see Baist Atlas plat, attached here to as Tab 8). The Property is presently improved with a single family home. The Property has approximately 20.6 feet of frontage along Q Street NW. The Property is located within the Georgetown Historic District. The existing building on the Property is not listed on the D.C. Inventory of Historic Sites.

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18646
EXHIBIT NO. 4

Board of Zoning Adjustment
District of Columbia
CASE NO.18646
EXHIBIT NO.4

B. Description of the Improvements in the Surrounding Area

2014 AUG -5 PM 1: 26

Square 1282 is split-zoned (see Zoning Map, attached hereto as Tab 9). The western portion of the square is in the R-1-B District. The eastern portion of the square is in the R-3 District. A small portion in the northern part of the square is zoned R-5-A. The square is made up of single-family homes and mid-size apartment buildings. 3039 Q Street, directly across the alley from the Property, is a 27 unit apartment building. Around the corner, at 1632 30th Street is a multiunit condominium. Also on the square are the John Dickson Home at 3050 R Street NW, the Jackson Art Center at 3048 R Street NW, and a number of offices along R Street NW.

C. Description of the Proposed Development

As shown on the architectural plans (see Architectural Plans and Elevations, attached hereto as Tab 10), the Applicant proposes to renovate an existing single-family home by expanding the existing nonconforming fourth story toward the rear of the structure. The fourth story, currently an unfinished attic with more than 6'-6" of headroom, will contain a new master bedroom and bathroom. The front façade will be unchanged. While the fourth story will be extended slightly toward the rear, the height and number of stories will visually remain the same.

IV. NATURE OF RELIEF SOUGHT AND STANDARD OF REVIEW

Variance relief is required from the lot area requirement under §401.3. Under D.C. Code §6-641.07(g)(3) and 11 DCMR §3103.2, the Board is authorized to grant an area variance where it finds that three conditions exist:

- (1) The property is affected by exceptional size, shape or topography or other extraordinary or exceptional situation or condition;
- (2) The owner would encounter practical difficulties if the zoning regulations were strictly applied; and

- (3) The variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

See French v. District of Columbia Bd. of Zoning Adjustment, 658 A.2d 1023, 1035 (D.C. 1995) (quoting *Roumel v. District of Columbia Bd. of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)); *see also*, *Capitol Hill Restoration Society, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987).

Applicants for an area variance need to demonstrate that they will encounter “practical difficulties” in the development of the property if the variance is not granted. *See Palmer v. District of Columbia Bd. of Zoning Adjustment*, 287 A.2d 535, 540-41 (D.C. 1972) (noting that “area variances have been allowed on proof of practical difficulties only while use variances require proof of hardship, a somewhat greater burden”). An applicant experiences practical difficulties when compliance with the Zoning Regulations would be “unnecessarily burdensome.” *See Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1170 (D.C. 1990). As discussed below, and as will be further explained at the public hearing, all three prongs of the area variance test are met in this Application.

RECEIVED
D.C. OFFICE OF ZONING
2014 AUG-5 PM 1:26

V. THE APPLICANT MEETS THE BURDEN OF PROOF FOR VARIANCE RELIEF

A. The Property is Unusual Because of its Size, Shape or Topography and is Affected by an Exception Situation or Condition

The phrase “exceptional situation or condition” in the above-quoted variance test applies not only to the land, but also to the existence and configuration of a building on the land. *See Clerics of St. Viator, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 320 A.2d 291, 294 (D.C. 1974). Moreover, the unique or exceptional situation may arise from a confluence of factors which affect a single property. *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990).

The Property is characterized by an exceptional situation and condition as a result of a confluence of the following factors: (1) the irregular shape of the lot; (2) the existing nonconforming height, lot area, and lot width of the structure; (3) the property is subject to historic preservation requirements; and (4) the steep slope of the Property toward the rear.

1. Irregular Shape of the Property and Existing Structure

The Property is exceptional with respect to its shape. The Property is an irregular, hexagon shape. Furthermore, the Property narrows to 10 feet wide for 67 feet at the rear of the property. The existing structure has been impacted by the irregular shape of the lot. To stay within the property lines, what would ordinarily be the northeast corner of the structure had to be cut off. The majority of the lots on this square and nearby are more conventional in size and shape, with most being more traditional rectangular lots.

2. Existing Nonconforming Height, Lot Area, and Lot Width

Furthermore, the existing structure is nonconforming as to number of stories, lot area, and lot width. Under §400.1, a structure in the R-1-B District is permitted to be a maximum of 40 feet and 3 stories. Both the existing and proposed structures are less than 40 feet. The existing structure, with an unfinished attic that exceeds 6'-6" of headroom, is four stories. Thus, the structure is nonconforming as to number of stories. Under §401.3, a lot in the R-1-B District must be a minimum of 5000 square feet and have a lot width of 50 feet. The Property is 2045 square feet and has a lot width of 20.6 feet. Thus, the structure is also nonconforming as to lot area and lot width.

3. Subjection to Historic Preservation Requirements

Based on its location in the Georgetown Historic District, the property is subject to historic preservation requirements and review by the Old Georgetown Board and Commission of Fine Arts. See HPA No. 13-307. The plans were approved, in concept, for the project subject to conditions including the

RECEIVED
D.C. OFFICE OF ZONING
2015 AUG -5 PM 1:26

location of the dormer, alignment of the windows with openings below, lowering of the roof, raising the window sills, and ensuring the gutter is flush with the chimney.

4. Steep Slope of the Property

The Property is also exceptional due to the steep slope upward from the front of the Property toward the rear. While the lowest level of the property is entirely below grade at the rear, the same level is over 8 feet above grade at the front. The front of the property houses the garage, which takes up the vast majority of usable space on that level.

B. Strict Application of Zoning Regulations Would Result in Practical Difficulty to the Owner

Strict application of the zoning regulations with respect to the story requirement would result in a practical difficulty to the Applicant. Under §400.1, a structure in the R-1-B District is permitted to be a maximum of 40 feet and 3 stories. The existing and proposed structures are less than 40 feet. However, the existing structure is four stories. Under §2001.3(b) an enlargement or addition can be done to a nonconforming structure devoted to a conforming use, but the addition must conform to use and structure requirements and must not increase or extend the existing, nonconforming aspect of the structure or create new nonconformity. Because the renovation extends the existing, nonconforming fourth story, variance relief is required from the nonconforming structure requirements.

The existing lot occupancy is 40%. Under §223, lot occupancy in the R-1-B District can be increased to 50% by special exception. The awkward shape of the lot limits the Applicant's ability to utilize that additional 10% of lot occupancy. Because of the irregular shape of the lot, any addition further into the rear would result in limited benefit to the Applicant. As the addition moves further into the rear of the Property, the lot becomes narrower and efficient use of any additional space becomes impractical.

RECEIVED
J.C. OFFICE OF ZONING
2016 AUG-5 PM 1:26

The slope of the lot also creates challenges with development of the lot and causes additional practical difficulty upon strict application of the zoning regulations. The lot slopes steeply upward from the front of the structure to the rear of the structure. While the rear of the structure is at grade, the front of the structure is roughly 8 feet above grade. The existing structure has a garage which occupies a significant amount of the square footage on this level. However, under the story definition, “[t]he number of stories shall be counted at the point from which the height of the building is measured” and building height is measured from the front of the building. Thus, while the majority of the space on this level is unusable, for zoning purposes, this level counts against the Applicant with respect to the story requirement and prevents the renovation from being permitted as a matter of right.

Thus, as a result of the irregular shape of the lot and steep slope, strict application of the zoning regulations would result in a practical difficulty to the Applicant.

C. No Substantial Detriment to the Public Good Nor Substantial Impairment to the Intent, Purpose and Integrity of the Zoning Plan

There will be no substantial detriment to the public good and no substantial impairment to the intent, purpose, and integrity of the zone plan by approving the zoning relief. The height of the structure will remain unchanged and permitted as a matter of right. The Old Georgetown Board and Historic Preservation Office approved the plans, in concept, having no objection as long as specific conditions are met.

VI. WITNESSES

1. Rashid Salem, Developer on behalf of Applicant
2. Rich Markus, Architect on behalf of Rich Marcus Architects

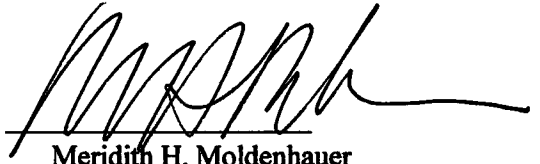
RECEIVED
D.C. OFFICE OF ZONING
2014 AUG -5 PM 1:26

VII. CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards for variance relief under the Zoning Regulations. Accordingly, the Applicant respectfully requests that the Board grant the application.

Respectfully submitted

GRIFFIN, MURPHY,
MOLDENHAUER & WIGGINS, LLP

By: 

Meridith H. Moldenhauer
1912 Sunderland Place, N.W.
Washington, D.C. 20036
(202) 429-9000

RECEIVED
D.C. OFFICE OF ZONING
2014 AUG -5 PM 1:26