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Statement of Existing / Intended Use

The property located at 1620 A Street SE (Square 1085 / Lot 801) is currently owned by Hong Deng. It has been improved with a two-story mixed use structure. The ground floor is used for retail. A Certificate of Occupancy is on file (No. CO0900243) for a Retail Grocery. The second floor is an unoccupied dwelling unit.

The existing structure shall be razed and replaced with a new three-story row house with cellar, two-family flat row house. Two family flat row houses are a permitted use in R-4 zones under section 330.5 (f). The owner is seeking zoning relief from the parking requirements for a flat use.

Summary of Variances

In order to permit the construction of a new structure, the Owner / Applicant is seeking the following variance:

- Relief from Parking. As per Section 2100.1, all buildings erected after 12 May 1958 shall provide parking in accordance with 2101. Section 2101 stipulates that 1 space per 2 dwellings units be provided for Flats. It is not possible to provide off-street parking due to the unique configuration of the lot, as it does not front on an alley.

Background

The property is located at 1620 A Street SE, Lot 801 of Square 1085. It is currently zoned R-4, and is within ANC 6B. It is not located in an Historic District. The lot measures 20.0' wide by 80' deep, and is 1,600 square feet.

The north, east and west property lines are bounded by private property (Lots 19, 69, 70, 71, 72, 73 and 2, respectively). A Street SE, a 90' public right of way borders the south property line.

The adjacent properties to the east have been improved with two and three story row houses. The adjacent property to the west has been improved with a two-story apartment house of 4 units.

The Applicant seeks to remove the existing two story semi-detached structure and construction a new three-story two-unit row house with a cellar. The dimensions of the proposed addition are 20.0' wide x 44.0' deep. Combined with a multi-story deck and stairs, the total lot occupancy will be 60%, the maximum for a row house in the R-4 zone.

The Applicant reviewed the proposed development plan with the Zoning Administrator in September 2013, and was informed that the variance relief was required for the parking.

Parking

As per Section 2100.1, all buildings erected after 12 May 1958 shall provide parking in accordance with 2101. Section 2101 stipulates that 1 space per 2 dwelling units be provided for two-family dwellings (flats). Lot 801 is landlocked by private property to the north, east and west property and does not have access to a public alley. In addition, the District Department of Transportation has indicated that a curb cut (to provide off-street parking) would not be approved as the narrowness of the lot would prevent access to the rear yard. Therefore, it is not possible to comply with the off-street parking requirements.

Side Yards

The zoning code has two contradictory sections regarding the applicability of side yards. Section 405.3 states that the "... when a one-family dwelling, flat, or multiple dwelling is erected that does not share a common division wall with an existing building or a building being constructed together with the new building, it shall have a side yard on each resulting free-standing side.

Conversely, Section 405.9 states that side yards are not required in the R-4 zone, except as provided in 405.1 (one-family detached dwellings), 405.2 (one-family detached dwellings), and 405.6 (if provided, must comply with minimum dimensions).

In a Zoning Determination Letter issued on 8 August 2012, the Zoning Administrator indicated that "a single row dwelling may be constructed as a matter of right...without side yards, and without the need to share common division walls with buildings on the adjacent lots." The Zoning Administrator's reasoning relied on the Board's conclusion in Appeal 17085 concluded that for "newly constructed matter of right row houses, no side yards are required."

Conclusion

The burden of proof for variance relief is three-fold, and the Applicant must demonstrate the following:

1. The physical characteristics of the property a. makes it difficult for the owner to use the property in compliance with the Zoning Regulations (area variance) – ie. shape and size of the property, unusual topography or slope, soil problems, etc.

The physical characteristic of the lot in relationship to the larger square are unique in that the lot does not have access to a public alley. It is neither possible to gain access to a public alley, nor is it possible to obtain curb cut permission from the District Department of Transportation.

2. Granting the application will not be of substantial detriment to the public good – ie. traffic, noise, lighting, etc.

The proposed two-family flat has the same parking requirement as the current use (single dwelling unit). Granting the application will not be a substantial change from the current configuration, and the existing parking space should be grandfathered as the existing structure was built before 12 May 1958. The Board of Zoning Adjustment has previously ruled in Woodley

Park Comm. Ass'n v. District of Columbia Bd. of Zoning Adjustment, 490 A.2d 628, 639 (D.C. 1985) and Page Associates v. District of Columbia Bd. of Zoning Adjustment, 463 A.2d 649, 651 (D.C. 1983) noting that buildings built before the regulations that are converted to another use must provide additional parking spaces in the amount not grandfathered.

Additionally, the change from a non-conforming use (retail grocery) to a conforming use will generate less traffic, trash and general disturbance to the surrounding neighborhood. The site is also located within five blocks of the Stadium Armory station, a multimodal node with access to the Blue / Orange metro, several bus lines and a bike-share station.

3. Granting the application will not be inconsistent with the general intent and purpose of the Zoning Regulations and Map.

The R-4 zone permits two-family flat development; therefore the Applicant's request is consistent with Zoning Regulations and surrounding properties.

Furthermore, the proposed zoning regulations, currently under consideration, acknowledge the impracticality of requiring lots without alley access to provide off-street parking. The proposed regulations under Subtitle C, 1902.2 stipulate that "Vehicle parking shall not be required: (a) Within the Residential Single Family and Residential Two Family use categories, if the lot does not have access to an open, improved, and public alley with a right of way of ten feet (10 ft.) width minimum."