

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

Application of DAZ LLC

APPLICANT'S PRE-HEARING STATEMENT

January 28, 2014

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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

Following our conversation with the Office of Planning, it is our understanding that per the office of planning's conversation with the Zoning Administration Office, the requested relief of special exception for the two residential units should be changed to area variances for lot occupancy (section 403), open court (406) and non conforming structure (sub-section 2001 3) in lieu of special exception for an addition to a flat under section 223. Our original request relief for side yard (section 405) was recommended to be changed to open court (section 406)

Therefore, our request for the relief is for area variances for addition to flat and an existing child development center for lot occupancy (section 403), Open Court (section 406) and nonconforming structure (subsection 2001 3) in the R-4 District at premises 125 New York Avenue. N W (Square 555 Lot 802)

The area variances for the child development center were requested and advertised. The only change is the relief for the open court in place of side yard as recommended to us.

This is therefore an application pursuant to 11 DCMR § 3103.2, under §§ 403, 406 and 2001.3 to allow the construction of 100 square foot addition to the footprint of the structure (herein referred to as 100 square foot addition) for a row dwelling flat and the child development center in the underlying of R-4 Zone District within which the subject property is located.

SUMMARY OF APPLICATION

The applicant seeks the above area variances Pursuant to § 3103.2, under § 403, 406 and 2001.3, to

allow the construction of 100 square foot addition to the existing building.

Lot Occupancy (section 403) Due to the irregular shape of the existing lot and building, the existing lot occupancy requirement is non-conforming by 5%. Total lot area of this somewhat awkward shaped lot is 1,448 square feet, allowing at 60% building coverage, a structure of 868.8 square feet. To better illustrate the existing and proposed calculation, we are including the foot print of the open court areas that are included in the lot occupancy calculation in the attached survey plats showing existing condition and the proposed addition

- ✓ The existing foot print of the building is 836 square feet or 57% of the lot occupancy
- ✓ The existing building area including open courtyard is 942.75 square feet or 65% lot occupancy
- ✓ The owner proposes to increase the building foot print by 100 square feet for a total building foot print of 946 square feet resulting in total lot occupancy of 1,012 square feet including open court area equal to 69% lot occupancy
- ✓ The proposed **100 square foot addition** will increase that lot occupancy from its existing 5% to 9%

Open Court (section 406 1), As a result of the irregular shape of the existing lot, and the narrow addition to the back of the building which was constructed many years ago, the existing open court minimum width is not in compliance with the Zoning requirements at all locations. This is because of the old “key” shape of the existing structure The proposed addition reduces the portion of non conformance by extending the building to the property line eliminating the “key”.

Nonconforming Structure (Subsection 2001.3) The proposed addition to the footprint of 100 square feet will allow the owner to renovate the building in a manner which is concurrent with other rehab projects on the block by providing an adequately large space for a continuous flow from sleeping to living quarters to include a kitchen and living room The back side addition to the property was done years ago. The existing connection to the main building is via a 5’ wide structure creating a narrow bottleneck which makes that portion of the building unusable and by architectural standards dead space By adding the proposed addition, we are increasing the width of the building in this narrow middle portion, allowing the occupant to utilize all areas of the building.

The proposed project complies with all other applicable provisions of the Zoning Regulations, height, and number of stories, and required parking. The use and occupancy of the building will not be altered as the result of the addition.

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 on the north side of New York Avenue and to the east of the access to the Third Street Tunnel. It is contiguous on the east with a series of attached three story row houses. To the west is an open lot, property of the Federal Government extending to Kirby Street. The subject property is zoned R-4 and has been in use, on the first floor as a child development center, and the two upper levels as flats. No change is sought for these uses. The subject lot is of an irregular shape with a 19.2' width in front and 13.6' width in the back of the property- or an average width lot of 17.49'. Between the ends of the building the structure narrows in the center to a width of 5' giving the key shape described above.

The subject property is legally described as being located within Square 555, Lot 802 and consists of one thousand four hundred forty eight square feet (1,448ft²) in lot area.

The applicant seeks to construct an addition of 100 square feet to the building footprint to allow a more practical renovation of the building by increasing the width of the building from 5' to about 12' in the mid section of the back area of the building as shown in the attached plat. The addition will comply with all other applicable restrictions or provisions of the Zoning Regulations, as project plans depict.

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.

UNIQUE PHYSICAL CHARACTERISTIC OF SHAPE OR SIZE

The Subject Property of approximately 1,448 ft² is the 2nd smallest lot in the square and has a very irregular shape. The adjacent and back side of the property is owned by the Federal Government. As mentioned before, an additional was added to the subject property some years ago. This additional gave the structure its key shape which has essentially handcuffed the owner's ability to practically renovate the space. The building bottlenecks to a long and narrow middle (5' wide), then expands again but only to a finished inside width of about 10 feet in the back. The irregular shape of the building and its unique characteristics of size, percent of lot occupancy and open court width have been in existence since the original adoption of the Zoning Regulations, resulting in an extraordinary condition of property.

The irregular shape of the subject property, a condition in existence at the time of the original adoption of the Zoning Regulations, imposes the unique condition of entrapped location in the wrong zone district.

PECULIAR AND PRACTICAL DIFFICULTIES TO OWNER OF PROPERTY

A rehabilitation of the subject property to current neighborhood standards is untenable with the current shape of the existing structure. It is the 2nd smallest lot on the block, and the only property with an

irregular “key” shape to its building In order to have the ability to renovate the structure to modern local standards, it is imperative to eliminate the irregular shape and create a more square space that allows for the use of the entire building, without it, there are major deficiencies which invariably result in peculiar and practical difficulties on the owner of the property.

NO SUBSTANTIAL DETRIMENT TO PUBLIC GOOD OR SUBSTANTIAL IMPAIRMENT OF INTENT, PURPOSE AND INTEGRITY OF THE ZONE PLAN IN ZONING AND REGULATIONS MAP

The applicant seeks to add an additional 100 square feet to the existing structure’s footprint. This addition will occur on the west side of the lot where the adjoining property is an open field owned by the Federal Government The adjoining property to the east, at 123 New York Avenue NW, is owned by Ms. Melinee Gethers who has been made aware of the proposed plan and is in full support of the matter as evidenced by the her submitted letter of approval This minor increase in building area will eliminate the irregular “key” shape of the structure, which in addition to hindering the utilization of the building area practically, created out of sight nooks subject to vagrant use. It is neither a substantial detriment to public good nor a substantial impairment of intent. The desired expansion does not seek to undermine the integrity of the zone plan, it is merely an attempt to fill in the voided area left by the irregular shape of the building and make it more symmetrical, continuous with all the other row houses on the block with a more rectangular appearance

The proposed project complies with all other requirements and provisions of the Zoning Regulations and would cause to be improved, an otherwise unimproved structure in the neighborhood.

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

CONCLUSION

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

CONSUMER INFORMATION NOTES:

1. This plan is a benefit to a consumer insofar as it is required by a lender or a title insurance company or its agent in connection with contemplated transfer, financing or re-financing.
2. This plan is not to be relied upon for the establishment or location of fences, garages, buildings, or other existing or future improvements.
3. This plan does not provide for the accurate identification of property boundary lines, but such identification may not be required for the transfer of title or securing financing or re-financing.
4. Building line and/or Flood Zone information is taken from available sources and is subject to interpretation of originator.
5. No Title Report furnished.

Notes:

1. No property corners found. Lines shown evidenced by drawing of record and field measurement.



LOCATION DRAWING
LOT 802, SQUARE 555
WASHINGTON
DISTRICT OF COLUMBIA

NEW YORK AVENUE, N.W.

SURVEYOR'S CERTIFICATE

THE INFORMATION SHOWN HEREON HAS BEEN BASED UPON THE RESULTS OF A FIELD INSPECTION PURSUANT TO DOCUMENTS OF RECORD AT THE OFFICE OF THE DISTRICT OF COLUMBIA SURVEYOR. LOCATION OF IMPROVEMENTS SHOWN HAS BEEN BASED UPON FIELD MEASUREMENTS FROM EXISTING LINES OF APPARENT OCCUPATION. WHENEVER POSSIBLE, PRIOR SURVEYS OF PUBLIC RECORD HAVE BEEN USED TO CONFIRM INFORMATION SHOWN.

DISTRICT OF COLUMBIA LICENSED SURVEYOR NO. 18 900632

REFERENCES

D.C. SURVEYOR RECORDS
BOOK A & T
PAGE TRACINGS

LIBER
FOLIO



SNIDER & ASSOCIATES LAND SURVEYORS

20270 Goldenrod Lane, Suite 110
Germantown, Maryland 20876
301/948-5100 Fax 301/948-1286

DATE OF LOCATIONS

SCALE: 1" = 20'

WALL CHECK:

DRAWN BY: D.M.L.

HSE. LOC.: 10-06-11

JOB NO.: 11-03668

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SNIDER & ASSOCIATES LAND SURVEYORS

20270 Goldenrod Lane, Suite 110
Germantown, Maryland 20876
301/948-5100 Fax 301/948-1286

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DRAWN BY: D.M.L.

HSE. LOC.: 10-06-11

JOB NO.: 11-03668

Board of Zoning
One Judiciary Square
441 4th Street N.W.
Washington D.C.
20001

January 21, 2014

Re: 125 New York Avenue NW D.C.

To Whom It May Concern:

My name is Melinee Gethers and I live at 123 New York Avenue NW. I am writing you to voice my support for the variance request and special exception at 125 New York Avenue. I have walked the side of the building where the proposed variance and special exception is requested and am in full support of the desired action to build a roughly 11' long wall which will, in effect, eliminate a hidden nook on the side of the building where delinquents currently gather.

I hope that my letter, as a long standing member of this community, aids in pushing through these requests.

Sincerely,

A handwritten signature in black ink that reads "Melinee R. Gethers". The signature is written in a cursive, flowing style.

Melinee Rita Gethers

123 New York Ave NW
Washington DC 20001-1229