

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

Application of 2951 Mills Avenue, Inc

APPLICANT'S HEARING STATEMENT

December 30, 2013

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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

This is an application pursuant to 11 DCMR § 3103.2 for variance to allow the new construction of a single family detached dwelling on a lot not in compliance with minimum lot area requirements set forth under §401.3 in the underlying R-1-B zone district within which the subject property is located

SUMMARY OF APPLICATION

The applicant seeks the above area variance pursuant to 11 DCMR § 3103.2 under §401.3 to construction a new single family detached dwelling which will comply with all other provisions of the zoning regulations with respect to percentage of lot occupancy maximum allowed, minimum side yard and rear yard setback requirements, maximum height and parking.

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

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PROPERTY LOCATION AND PROJECT DESCRIPTION

The property is located in the West Woodridge neighborhood in Ward 5 and in the northeast quadrant of the District. The subject property is legally described as located in Square 4251 and as lot 0015, as recorded the records of the Surveyor of the District of Columbia. The property address is 2840 Belair Place NE and is located within the R-1-B Zone District.

The subject property is vacant and unimproved. A corner lot by definition, the subject property abuts Belair Place at its east property line and Girard Place at its south, measuring 47 feet and 83 feet in lot width respectively.

The R-1-B zone district requires a minimum fifty feet (50 ft.) of lot width and five thousand square feet (5,000 ft²) of minimum lot area. The subject property complies with the required minimum width of lot, having eighty three feet (83 ft.) of frontage on Girard Place, but at approximately 3898.65 square feet of lot area, falls short of the minimum 5,000 ft² required for the R-1-B zone district within which it is located.

The applicant proposes to construct a three story new single family detached dwelling featuring a basement and two floors above. The proposed building is designed to occupy percentage of lot occupancy less than the forty percent (40%) prescribed for similar structures as set forth under § 403.2 and will comply with all other applicable provisions of the zoning regulations, including the provision of the required parking within an indoor garage.

The property elevation slopes north south such that whereas all three floors are above grade, as viewed from the south elevation on Girard Place, approximately forty-five percent (45%) of the basement is below grade viewed from Belair Place, with resulting appearance of two and a half stories of structure, in compatibility with the prevailing character of existing buildings in the neighborhood.

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 fifteen 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 further 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 is the only unimproved vacant lot in its square with a unique subdivision history.

As of May 12, 1958, a significant portion – approximately 2,074 square feet - of what is now known as Lot 15 existed as Lot 10. Lot 10 formed one of sixteen (16) lots within a

Square bounded by Hamlin Place to the north, Belair Place to the east, Girard Street to the south and Mills Avenue to the west.

All sixteen lots, except four (4) which formed through lots by definition by virtue of lot depth spanning the width of the square east-westerly and abutting both Belair Place and Mills Avenue, were configured as adjoining lots in a north-south fashion, facing Belair Place and Mills Avenue respectively and not a single lot within this square complied with the R-1-B zoning classification mapped upon the square as of that date.

Lot 10 was located at the southeast corner of the square, and as of May 12, 1958 the adjoining lot (Lot 9) to its west facing Mills Avenue already had an improvement or building (Former Parcel 155/40 was subdivided into lots 9 and 10 in February of 1926). Abutting Lot 10 to its north was a Lot 6, a vacant lot, which separated Lot 10 from another improved lot (Lot 5) further north.

In subdivision plat dated February 4, 1969, the Zoning Administrator approved a subdivision that effectively apportioned parts of Lot 6 amongst Lots 5 and 10, which improved upon the existing nonconforming aspects of both properties; Lot 5 by improving upon the existing nonconformity of side yard by extension of lot width by three feet (3ft.), and Lot 10 by both increasing the lot width from 25 feet (25 ft.) to forty seven feet (47 ft.) where it abuts Belair Place and the existing lot area from 2,074 square feet to 3,898.65 feet under new Lots 14 and 15 respectively.

The current Lot 15 therefore exercised the only reconfiguration option available to it based on the existing and prevailing condition of May 12, 1958, and in fact improved upon nonconformity of lot area more severe than existed in the context of the zoning classification mapped upon it as of May 12, 1958.

The applicant therefore contends that this specific physical shape of the subject property, together with its unique subdivision history constitute 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 DIFFCULTIES TO OWNER OF PROPERTY

The unique physical characteristic and subdivision history of the subject property result in peculiar and practical difficulties upon the owner, because the strict application of the Zoning Regulations with respect to the minimum lot area set forth in § 401.3 forecloses the improvement of the property without acquisition of additional land area in order to come into compliance for a matter of right development of his property.

As aforementioned, the subject property is a corner located at the intersection of Belair Place and Girard Place, both dedicated public Right-Of-Ways (ROW), including the five feet (5 ft.) Building Restriction Line (BRL) which encumbers the subject property on both Streets; thereby foreclosing expansion of the existing lot southward or eastward.

Lot 9 which adjoins the subject property to its west has an improvement or an existing building, but more importantly, the improvement or building on that lot existed as of May 12, 1958 and it was not in single ownership then nor is it not owned by the previous or current owner of Lot 15. Expansion of the subject lot westerly is also foreclosed, as it is northward since improvements existed on these two lots as of May 12, 1958 as well.

The peculiar and practical difficulties upon the owner is as the direct result of the extraordinary situation of the subject property in that there is no further practical solution to increasing the lot size into conformity and without the relief sought, the property may not remain unimproved in the foreseeable future or in perpetuity.

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

The applicant seeks to construct a new single family dwelling in a zone district that permits the proposed type of structure and use as a matter of right. Save for the noncompliance with the minimum lot area for which relief is sought, a condition which pre-dated the adoption of the Zoning Regulations, the proposed construction upon subject property does not seek any other relief and will comply with all other applicable provisions of the regulations.

The proposed construction will cause to be improved an otherwise vacant and unimproved lot. The proposed building is designed to be compatible with the prevailing massing and architecture of the neighborhood.

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

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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.