

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

Application of Eva Volcikova Noone

APPLICANT'S HEARING STATEMENT

January 9, 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

This is an application pursuant to 11 DCMR § 3103.2 for variance to allow the new construction of a Row Dwelling on a lot not in compliance with minimum lot area requirements set forth under §401.3 in the underlying R-3 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 Row Dwelling which will comply with all other provisions of the zoning regulations with respect to percentage of lot occupancy maximum allowed, minimum side 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

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18729
EXHIBIT NO. 4

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PROPERTY LOCATION AND PROJECT DESCRIPTION

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The property is located in the Brightwood Park/Pethworth neighborhood in Ward 4 and in the Northwest quadrant of the District. The subject property is legally described as being located in Square 2998 and as lot 0025, as recorded the records of the Surveyor of the District of Columbia. The property address is 5316 9th Street NW and is located within the R-3 Zone District.

The subject property is vacant and unimproved. An interior lot by definition, the subject property has frontage only on 9th Street which, at 20 feet (20 ft.) of lot width, complies with the minimum width of lot prescribed for its underlying zone district.

The R-3 zone district requires a minimum twenty feet (20 ft.) of lot width and three thousand square feet (3,000 ft²) of minimum lot area. The subject property complies with the required minimum width of lot, having twenty feet (20 ft.) of frontage on 9th Street, but at approximately 1,283 square feet of lot area, falls short of the minimum 2,000 ft² required for the R-3 zone district within which it is located.

The applicant proposes to construct a three story new Row Dwelling featuring a mezzanine and stair penthouse access to a green roof deck. The proposed building is designed to occupy percentage of lot occupancy not to exceed sixty percent (60%) prescribed for similar structures under § 403.2 and will comply with all other applicable provisions of the zoning regulations, including the provision of the required parking accessible from a rear public alley more than the ten feet (10 ft.) width prescribed to constitute compliant 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.

UNIQUE PHYSICAL CHARACTERISTIC OF SHAPE OR SIZE AND SHALLOWNESS OF PROPERTY

The subject property is shallow and irregular in shape, conditions which predate the adoption of the Zoning Regulations as of May 12, 1958. Given that all other adjoining lots had improvements prior to May 12, 1958 the subject property's opportunity to physically expand into compliance was already foreclosed as of that date.

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 minimum lot area or size set forth in §

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401.3 prohibits the improvement of the lot without the relief sought, notwithstanding that the proposed building complies in all respects with all other applicable provisions of the Zoning Regulations..

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 row dwelling that is permitted as a matter of right in the underlying R-3 zone district and will put into use, a lot that has remained vacant for all of its existence. Except the unavoidable relief sought and necessary to permit the improvement of the lot, the proposed construction seeks no other relief and complies with all other applicable provisions of the Zoning Regulations.

The proposed building is compatible with the prevailing character of the neighborhood in architecture and massing.

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. Eva Volcikova Noone

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.

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