

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

FORM 120 - APPLICATION FOR VARIANCE/SPECIAL EXCEPTION

Before completing this form, please review the instructions on the reverse side.

Print or type all information unless otherwise indicated. All information must be completely filled out.

Pursuant to §3103.2 – Area/Use Variance and/or §3104.1 - Special Exception of Title 11 DCMR- Zoning Regulations, an application is hereby made, the details of which are as follows:

Address(es)		Square	Lot No(s.)	Zone District(s)	Type of Relief Being Sought
627 H Street, N.W.	453	59	DD/C-3-C	Area Variance	§§ 2101; 2201
				Area Variance	§ 776
				Special Exception	§§ 770.6; 411
				Special Exception	§ 774

Present use(s) of Property: Vacant lot

Proposed use(s) of Property: Hotel with retail use

Owner of Property: MR Gallery Square LLC Telephone No:

Address of Owner: 1700 K Street, N.W., Suite 600, Washington, DC 20006

Single-Member Advisory Neighborhood Commission District(s): 2C01

Written paragraph specifically stating the "who, what, and where of the proposed action(s)". This will serve as the Public Hearing Notice:

Application of MR Gallery Square LLC, pursuant to DCMR §§ 3103.2 and 3104.1, for area variances from (1) the parking requirements of § 2101, (2) the loading requirements of § 2201, and (3) the court requirements of § 776; and special exceptions from (1) the roof structure requirements of §§ 770.6 and 411, and (2) the rear yard requirements of § 774, to allow the construction of a new hotel with retail use in the DD/C-3-C District at 627 H Street, N.W. (Square 453, Lot 59).

EXPEDITED REVIEW REQUEST (If interested, please select the appropriate category)

I waive my right to a hearing, agree to the terms in Form 128 - Waiver of Hearing for Expedited Review, and hereby request that this case be placed on the Expedited Review Calendar, pursuant to §3118.2 (CHOOSE ONE):

- A park, playground, swimming pool, or athletic field pursuant to §209.1, or
- An addition to a one-family dwelling or flat or new or enlarged accessory structures pursuant to §223

I/We certify that the above information is true and correct to the best of my/our knowledge, information and belief. Any person(s) using a fictitious name or address and/or knowingly making any false statement on this application/petition is in violation of D.C. Law and subject to a fine of not more than \$1,000 or 180 days imprisonment or both. (D.C. Official Code § 22-2405)

Date: 4/2/14 Signature*: *Christine Shiker*

To be notified of hearing and decision (Owner or Authorized Agent*):

Name: Christine Shiker E-Mail: christine.shiker@hklaw.com

Address: 800 17th Street, N.W., Suite 1100, Washington, DC 20006

Phone No(s.): 202.457.7167 Fax No.: 202.955.5564

* To be signed by the Owner of the Property for which this application is filed or his/her authorized agent. In the event an authorized agent files this application on behalf of the Owner, a letter signed by the Owner authorizing the agent to act on his/her behalf shall accompany this application.

ANY APPLICATION THAT IS NOT COMPLETED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE BACK OF THIS FORM WILL NOT BE ACCEPTED.

FOR OFFICIAL USE ONLY

Exhibit No. 1

Case No.

Board of Zoning Adjustment

District of Columbia

CASE NO.18772

EXHIBIT NO.4

INSTRUCTIONS

Any application that is not completed in accordance with the following instructions shall not be accepted.

1. All applications shall be made pursuant to this form. If additional space is necessary, use separate sheets of 8½" x 11" paper to complete the form (drawings and plans may be no larger than 11" x 17").
2. Present this form and supporting documents, in person, to the Office of Zoning at 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001. (All applications must be submitted before 3:00 p.m.)
3. At the time of filing this application before the Board of Zoning Adjustment (BZA), the Applicant shall complete and submit a Form 126 - Board of Zoning Adjustment Fee Calculator - and pay a filing fee in accordance with the BZA Schedule of Fees – 11 DCMR §3180. (Check or money order is payable to the "DC Treasurer"; cash and credit/debit card payments will not be accepted.)
4. If seeking an Expedited Review pursuant to § 3118.2, the applicant shall complete and submit a Form 128 – Waiver of Hearing for Expedited Review.
5. *At the time of filing this application, all applicants are REQUIRED to submit the following information (including one (1) original and ten (10) collated copies):*
 - A. Either a memorandum from the Zoning Administrator at DCRA directing the applicant to the BZA or a Form 135 - Zoning Self-Certification, which requires certification by a licensed architect or attorney.
 - B. A plat, drawn to scale and certified by a DC licensed survey engineer or the D.C. Office of the Surveyor, showing boundaries and dimensions of the existing and proposed structures and accessory buildings and structures.
 - C. Architectural plans and elevations in sufficient detail to clearly illustrate any proposed structure to be erected or altered, proposed landscaping/screens, and building materials. Submittal of plat and plans shall not exceed 11" x 17" in size. (See Form 130 – Required Specifications for Plats, Plans and Elevations – for the required information on these drawings.)
 - D. A detailed statement of existing and intended use of the structure.
 - E. A detailed statement explaining how this application meets the specific tests identified in the Zoning Regulations for variance (area and/or use), special exception or other specific relief being sought. (See the Form 120 Addendum – Applicant's Burden of Proof for Variance and Special Exception Applications.)
 - F. Three color images, not-to-exceed 8½" x 11", showing pertinent features of the structure and the property involved (front, rear, and sides, if possible and applicable).
 - G. The names and mailing addresses of the owners of all property within 200 feet, in all directions from all boundaries of the property involved in the application, and two (2) sets of self-stick labels of the names and mailing addresses of the owners of the properties. (Note: This information is most readily available from the D.C. Department of Tax and Revenue, Tax Assessors, 1101 4th Street, SW – West Building, Washington, D.C. 20024.)
 - H. The name and mailing address of any individual who has a lease with the owner for all or part of any structure located on the property involved in the application.
 - I. Documentation or a copy of the Certificate of Occupancy showing the current authorized use. In cases where a change from a conforming use to a non-conforming use is requested, provide a copy of the past authorized uses.

Note: All applications are referred for review and recommendation to the Office of Planning (OP) and the Advisory Neighborhood Commission (ANC) within which the affected property is located. Their reports are given "great weight" in the BZA decision-making process. Applicants are strongly encouraged to contact these agencies to discuss the merits of their application. OP can be reached at (202) 442-7600. ANC information can be ascertained by contacting the Office of Advisory Neighborhood Commissions at (202) 727-9945.



If you need a reasonable accommodation for a disability under the Americans with Disabilities Act (ADA) or Fair Housing Act, please complete Form 155 - Request for Reasonable Accommodation.

District of Columbia Office of Zoning
 441 4th Street, N.W. Ste. 200-S, Washington, D.C. 20001
 (202) 727-6311 * (202) 727-6072 fax * www.dcoz.dc.gov * dcoz@dc.gov

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

**FORM 120 ADDENDUM – APPLICANT’S BURDEN OF PROOF FOR
VARIANCE AND SPECIAL EXCEPTION APPLICATIONS**

The Board of Zoning Adjustment has jurisdiction over a number of matters including applications for variances from the strict application of the Zoning Regulations, applications for special exceptions to allow certain uses, and appeals from the decisions of government officials involving zoning matters.

Generally, there are two types of variances: **area variances** and **use variances**. An area variance is needed when the owner wishes to make some change to the physical structure or lot itself and the property does not or will not comply with the Zoning Regulations in some respect. A use variance is needed when the owner wishes to use the property in a way that is not permitted in that zone district under the Zoning Regulations. The granting of a variance relates only to the specific piece of property which is the subject of the application. It will not change the zoning classification of the square or lot. In granting a variance, the Board simply allows the owner to do something with the property without requiring strict compliance with the Zoning Regulations.

A **special exception** is applied for where the owner wishes to institute a use that is pre-deemed compatible with the Zoning Regulations for that particular district, but which needs to be reviewed by the Board to ensure that certain negative impacts will not occur.

Variances and special exceptions are not automatically granted upon application and hearing before the Board. The applicant is responsible for meeting the burden of proof associated with the particular relief requested. It is required that one review the following provisions of the Zoning Regulations as they relate to their request and submit a detailed statement explaining how the application meets the specific tests identified in the Zoning Regulations for a variance (area and/or use), special exception, or other specific relief being sought with their application.

Section 3103.2 - Variances:

With respect to variances, the Board has the power under § 8 of the Zoning Act, D.C. Official Code § 6-41.07(g)(3)(2001) (formerly codified at D.C. Code § 5-424 (g)(3) (1994 Repl.)), “[w]here, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations, or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, the strict application of any regulation adopted under D.C. Code §6-641.01 to 6-651.02 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship; Provided, that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.”

This provision has three main tests that must be proved by the applicant.

- 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.
 - b. creates financial hardship for the owner in using the property consistent with the Zoning Regulations (use variance)
- 2). Granting the application will not be of substantial detriment to the public good – ie. traffic, noise, lighting, etc.
- 3). Granting the application will not be inconsistent with the general intent and purpose of the Zoning Regulations and Map.

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FORM 120 ADDENDUM – APPLICANT’S BURDEN OF PROOF FOR
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Section 3104.1 – Special Exceptions:

Pursuant to authority contained in the Zoning Act, the Board is authorized to grant special exceptions, as provided in this Title, where, in the judgment of the Board, those special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely the use of neighboring property in accordance with the Zoning Regulations and Maps, subject in each case to the special conditions specified in Title 11 DCMR.

In addressing these standards the applicant must address the following:

- 1). How the proposed special exception will be consistent with the general intent and purpose of the Zoning Regulations and Map; and
- 2). How allowing the use will not adversely affect the use of the neighboring property – ie. traffic, noise, lighting, etc.

In addition, as all special exceptions are of a specific type, each type is represented in a certain section of the Zoning Regulations. Section 3104.1 sets forth the general standards that must be met for all types of special exception relief, while the other provisions cited in the Zoning Administrator’s memorandum detail the remaining standards that must be met.

For example, a special exception for a private school in a residential district involves two Sections of the Zoning Regulations – §3104.1 (regulating special exceptions in general) and §206 (regulating private schools). To meet the burden of proof one would provide evidence to address the general standards of §3104.1, as well as the more specific standards of §206. Beware the provisions sometimes overlap, but generally one would prepare their case as follows:

1). §206.1 - Refers applicant to §3104.1

Indicate how granting a special exception for the private school will be in harmony with the general purpose and intent of the Zoning Regulations; and present evidence demonstrating that the private school will not tend to adversely affect the use of the neighboring property.

2). §206.2

Indicate how the location of the private school will not be objectionable to adjoining and nearby property because of noise, traffic, number of students or otherwise objectionable conditions;

3). §206.3

Indicate the number of parking spaces being provided and whether the required number of spaces will be provided.

If relief is being sought for a special exception and a variance, be sure to address all of the applicable special exception provisions, then address the variance standards for each variance.

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