

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

Preliminary Statement of Compliance with Burden of Proof

This statement is submitted by 1801 4th Street, NW, LLC, (the "Applicant"), the owner of Lot 27 in Square 3095, which has a street address of 1801 4th Street, NW (the "Property"). The Applicant seeks variances from the lot coverage (§ 403.2), rear yard (§ 404.1), and side yard (§ 405.6) requirements in the Zoning Regulations.

Pursuant to Section 3113.8 of the Zoning Regulations, the Applicant will file its prehearing statement with the Board no fewer than 14 days prior to the public hearing date. In that statement and at the public hearing, the Applicant will provide testimony and additional evidence to meet its burden of proof to obtain the Board's approval of the requested relief.

I. Background Information Regarding the Property

The Property consists of approximately 1,363 square feet of land on 4th Street, NW near the intersection of Florida and Rhode Island Avenues; it is in the R-4 District. The Property is currently vacant but was previously improved with a row house. Immediately south of the Property (Lot 28) the building that was formerly Frazier's Funeral Home has been converted into an apartment building with six two-bedroom units. The Property is within the boundaries of ANC 1B01 in the LeDroit Park Historic District.

II. Description of Development Proposal and Zoning Relief

The Applicant proposes to redevelop the Property with a two-family flat that consists of a two-bedroom basement unit with approximately 844 square feet of living area. There will be a two-level unit above with approximately 1,688 square feet of living area. One off-street parking space will be provided at the rear of the building, which is accessible via a public alley that extends from Rhode Island Avenue. The height of the building will be 33 feet.

In order to facilitate the proposed reuse of the building, the Applicant seeks the following area variances:

A. Variance from the Lot Coverage Requirements. As designed, the new building will occupy 61.9% of the lot where a lot coverage of 60% is permitted under Section 403.2 of the Zoning Regulations.

B. Variance from the Rear Yard Requirements. The plans show that there will be a rear yard of 4'-10" where a rear yard of 20' is required under Section 404.1 of the Zoning Regulations.

C. Variance from the Side Yard Requirements. The plans show that there will be a side yard of 3' along the south property line where a side yard of 10' is required under Section 405.6 of the Zoning Regulations.

III. Project Meets Standard for Approving Area Variances

The project requires a variance from the lot coverage, rear yard and side yard requirements. Under D.C. Code §6-641.07(g)(3) and 11 DCMR §3103.2, the Board is authorized to grant an area variance where it finds that three conditions exist:

1. the property is affected by exceptional size, shape or topography or other extraordinary or exceptional situation or condition;
2. the owner would encounter practical difficulties if the zoning regulations were strictly applied or exceptional and undue hardship; and
3. the variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

See *French v. District of Columbia Board of Zoning Adjustment*, 658 A.2d 1023, 1035 (D.C. 1995) (quoting *Roumel v. District of Columbia Board of Zoning Adjustment*, 417 A.2d

405, 408 (D.C. 1980)); see also, *Capitol Hill Restoration Society, Inc. v. District of Columbia Board of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987). As discussed below, and as will be further explained in the prehearing statement at the public hearing, all three prongs of the area variance test are met in this application.

A. The Property Affected by an Exceptional Situation or Condition. The phrase "exceptional situation or condition" in the above-quoted variance test applies not only to the land, but also to the existence and configuration of a building on the land. See *Clerics of St. Viator, Inc. v. D.C. Board of Zoning Adjustment*, 320 A.2d 291, 294 (D.C. 1974). Moreover, the unique or exceptional situation or condition may arise from a confluence of factors which affect a single property. *Gilmartin v. D.C. Board of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990). In this case, the exceptional condition arises from a number of factors. The Property has a substandard lot size of 1,362 square feet where a minimum of 1,800 square feet is specified in Section 401.3.¹ While currently vacant, the Property was previously improved with a row house which, as a matter of right, could have been converted into a two-family flat. Finally, the Property is in the LeDroit Park Historic District, which means that the Office of Planning Historic Preservation Division weighs in on certain design elements of the building. In this case, the Historic Preservation Office is requiring the front façade of the new building to be aligned with the existing buildings along the street, which causes the new building to be set back from the front property line by approximately 10'.

B. Strict Application of the Zoning Regulations Would Cause Practical Difficulty or Exceptional and Undue Hardship. The Applicant would encounter practical difficulties if the Zoning Regulations were strictly applied to the project. As noted above, the Property is

¹ The Zoning Administrator has determined that the substandard lot size is grandfathered and a new building containing either a flat or row dwelling will be allowed to be constructed.

substandard in size. It has an area of 1,363 square feet where Section 401.3 of the Zoning Regulations requires a minimum lot area of 1,800 square feet for a row dwelling and flat in the R-4 District. Additionally, because the Property is within the LeDroit Park Historic District, the office of Planning Historic Preservation Division ("Historic Preservation") has imposed certain requirements affecting the site planning and design of the building.

The substandard lot size and the historic preservation requirements make it impractical to achieve the required lot occupancy, rear and side yard requirements. As designed, the new building will occupy 61.9% of the lot. The additional lot coverage is requested because Historic Preservation requires the front façade of the new building to be aligned with the existing buildings along the street. This causes the new building to be set back from the front property line by approximately 10'. At the rear of the building, bedrooms have been placed in the rear yard because of the small lot size and the front yard requirement. The available area for building is slightly too small for a conventional row house plan, and the Building Code requires a minimum bedroom size and width, which are 70 square feet and 7'-0" wide.

C. No Substantial Detriment to the Public Good Nor Substantial Impairment to the Intent, Purpose and Integrity of the Zone Plan. There will be no substantial detriment to the public good and no substantial impairment to the intent, purpose and integrity of the Zone Plan if the Board grants the requested variances. In fact, the proposed building and configuration is in keeping with the configuration and design of the other buildings on this section of 4th Street, NW. The redevelopment of the vacant site with a residential dwelling that is compatible with the neighboring buildings would be beneficial to the area.