

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

**APPLICATION OF THE NEIGHBORHOOD DEVELOPMENT COMPANY
4308-4310 GEORGIA AVENUE, NW
SQUARE 2914, LOT 802**

PRELIMINARY STATEMENT OF THE APPLICANT

This Preliminary Statement of the Applicant is submitted on behalf of the Neighborhood Development Company (the "Applicant"), as contract purchaser of property located at 4308-4310 Georgia Avenue, N.W., Square 2914, Lot 802 (the "Site"), in support of its application to the Board of Zoning Adjustment (the "Board") pursuant to 11 DCMR §§ 3103.2 and 3104.1 for an area variance from the off-street parking space requirements of Section 2101.1, and a special exception pursuant to 11 DCMR § 411.11 from the roof structure requirements of Section 770.6, to allow the construction of a new, four-story plus cellar residential building containing 20 units in the C-2-A District at the Site.

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 evidence to meet its burden of proof to obtain the Board's approval of the requested relief.

I. Background Information Regarding the Site and Proposed Development

The Site is located at 4308-4310 Georgia Avenue, N.W. and included Lot 802 in Square 2914. The Site is owned by the Latino Economic Development Corporation of Washington, DC, and the Applicant has a contract to purchase the Site. The Site is zoned C-2-A and is improved with a two-story building with approximately 4,000 square feet of gross floor area. The Site is bounded by private property and a small portion of public alley (north); Georgia Avenue (east);

private property (south); and public space and Iowa Avenue (west). The Site includes 4,597 square feet of land area and is irregularly shaped.

As shown on the plans included with the application, the Applicant proposes to demolish the existing structure on the Site, and to construct a new 20-unit residential building. The project will include a total of 13,791 square feet of gross floor area devoted to residential uses.

II. Burden of Proof for Area Variances

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; 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 at the public hearing, all three prongs of the area variance test are met in this Application.

A. The Property Is Unusual Because of its Size, Shape or Topography and is 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.2nd 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.2nd 1164, 1168 (D.C. 1990).

In this case, the size of the Site, combined with its irregular shape and limited access to a public alley, combine to create an exceptional situation and condition that directly impacts the requested parking relief. As shown on the materials included with the application, the Site contains only approximately 4,597 square feet of land area, and is irregularly shaped, with property lines ranging approximately 98.64 feet down to 5.65 feet. The Site has frontage on Georgia Avenue and only 5.65 feet of frontage on a public alley, and thus there is no practical way to provide access to the Site from either the rear or from Georgia Avenue.

B. Strict Application Of the Off-Street Parking Requirements Would Result in a Practical Difficulty to the Applicant

Section 2101.1 of the Zoning Regulations requires 10 parking spaces for the proposed 20 residential units. Pursuant to Section 2116.2 of the Zoning Regulations, parking spaces are required to be located either within a parking garage or on an open area on the lot. However, based upon on the lot size, dimensions, and limited public alley access, the Applicant cannot provide any parking spaces on the Site.

The Applicant cannot provide any surface parking spaces since the Site is bounded by private property and public space at the rear, and only has 5.65 feet of frontage on a public alley. Thus, there is no practical way for vehicles to access the rear of the Site for surface parking. Even if the Site had a minimum of 14 feet of alley frontage, there would not be enough space at the rear of the Site to provide the required vehicular drive aisle width of 17-20 feet and to provide sufficient space to allow for vehicles to turn into and out of the parking spaces given the proposed building footprint and rear yard depth of 16.26 feet.

The Applicant also cannot provide any below-grade parking given the Site's constraints. Given DDOT's policy of not permitting curb cuts on major streets such as Georgia Avenue, the only potential location for a ramp to provide access to a parking garage would be from the rear of the Site. However, the Site only has 5.65 feet of alley frontage, which is insufficient given that the Zoning Regulations require driveways serving multiple parking spaces to have a minimum width of 14 feet for two-way circulation. Even if the Site had a minimum of 14 feet of alley access, it would still be practically difficult for the Applicant to construct any below grade parking spaces and to comply with all of the applicable parking size, turning, and access requirements in Section 2115, 2116 and 2117 of the Zoning Regulations. For example, due to the dimensions of the Site, it is impractical to construct a ramp in the available area which could meet the maximum permitted ramp slope of 12% and the ramp minimum width of 14 feet, and still provide an adequate number of parking spaces per level. In addition, once a vehicle reaches the foot of the ramp, the resulting amount of accessibility and maneuvering space would not meet the requirements of the Zoning Regulations, while still providing enough parking spaces per level.

C. No Substantial Detriment to the Public Good Nor Substantial Impairment to the Intent, Purpose and Integrity of the Zone Plan

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. The construction of a new four-story plus cellar residential building with 20 units will significantly contribute to the vibrancy of the neighborhood while supporting the city's housing goals for the area.

The Site is well-serviced by a number of bus routes along Georgia Avenue, and is in within 0.47 miles of the Georgia Avenue-Petworth Metrorail station. The Site is also within

convenient walking distance of numerous Metrobus routes, including the 60, 62, 63 and 70 bus lines. In addition, according to Walkscore.com, which measures the walkability, transit, and bike access of properties, the Site is rated as "Very Walkable." The Site is also rated as an "Excellent" transit location given the Site's access to transportation options, access to amenities and other services within close walking distance to the Site; and is also rated as "Very Bikeable." Three car sharing facilities are within 0.1 - 0.4 miles of the Site, including three Zipcar locations and a Hertz On Demand location. Moreover, two Capital Bikeshare stations are located within convenient walking distance of the Site.

Thus, the Applicant anticipates that the existing transit access to the Site will result in a significant amount of transit and pedestrian access to the Site, resulting in a decrease in the number of off-street parking spaces that would be needed if the Site were not in such close proximity to public transportation options.

III. Special Exception Relief

Relief granted through a special exception is presumed appropriate, reasonable and compatible with other uses in the same zoning classification, provided the specific regulatory requirements for the requested relief are met. In reviewing an application for special exception relief, "[t]he Board's discretion...is limited to a determination of whether the exception sought meets the requirements of the regulations." *First Baptist Church of Washington v. District of Columbia Board of Zoning Adjustment*, 423 A.2d 695, 701 (D.C. 1981) (quoting *Stewart v. District of Columbia Board of Zoning Adjustment*, 305 A.2d 516, 518 (D.C.1973)). If the applicant meets its burden, the Board must ordinarily grant the application. *Id.* In order to accomplish the proposed development, the Applicant seeks special exception approval pursuant to § 411.11 of the Zoning Regulations regarding roof structure requirements in commercial

zoning districts since, as shown on the Roof Plan sheet included in the plans, there will be three roof structures.

Each roof structure is a necessary feature and the structures have to be separated due to the building code requirement to provide separate means of egress for publically accessible roofs, to provide elevator access to the roof, as well as the desire to break up massing on the roof. The placement and number of penthouses is driven by the layout and design of the residential units within the building, as well as the location of the core features such as the elevator.

The proposed penthouses comply with the setback requirements, as well as with the spirit and intent of the roof structure provisions of the Zoning Regulations by helping to ensure adequate light and air to adjacent property and abutting streets. . Furthermore, this special exception is requested in order to further minimize the bulk of the roof structure. For all these reasons, special exception from the roof structure setback provisions is appropriate.