

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

**APPLICATION OF
THE WARRENTON GROUP
3619 GEORGIA AVENUE, N.W.**

**BZA APPLICATION NO. 18847
HEARING DATE: NOV. 5, 2014
ANC 1A08**

PREHEARING STATEMENT OF THE APPLICANT

**I.
NATURE OF RELIEF SOUGHT**

This Prehearing Statement of the Applicant is submitted on behalf of The Warrenton Group (the "Applicant") in support of its application pursuant to 11 DCMR § 3103.2 for an area variance from the off-street parking space requirements of section 2101.1 to allow construction of a new, six-story plus cellar mixed use building with retail use and 27 residential dwelling units in the GA/C-3-A District at 3619 Georgia Avenue, N.W., Square 3032, Lot 803 (the "Site").

**II.
JURISDICTION OF THE BOARD**

The Board of Zoning Adjustment (the "Board" or "BZA") has jurisdiction to grant the variance relief herein pursuant to section 3103.2 of the Zoning Regulations.

**III.
EXHIBITS IN SUPPORT OF THE APPLICATION**

- Exhibit A: Portion of the Zoning Map showing the Site.
- Exhibit B: Portion of the Baist and Sanborn Atlas plats showing the Site.
- Exhibit C: Architectural Plans and Elevations.
- Exhibit D: Parking Infeasibility Plans.
- Exhibit E: Transportation Memorandum Prepared by Symmetra Design.
- Exhibit F: Outlines of Testimonies and Resumes of Witnesses.

IV. BACKGROUND

A. Description of the Site and Surrounding Area

The Site is located at 3619 Georgia Avenue, N.W., more specifically described as Lot 803 in Square 3032. Square 3032 is located in the northwest quadrant of the District and is bounded by Princeton Place to the north, Warder Avenue to the east, Otis Place to the South, and Georgia Avenue to the west. As shown on the Zoning Map attached hereto as Exhibit A, the Site is located in the GA/C-3-A District. The Site includes 4,699 square feet of land area. The Site is a corner lot bounded by Princeton Place to the north, private property to the east and south, and Georgia Avenue to the west. The Site has no alley access, and is the only lot within Square 3032 that does not have access to the public alley within the square. The Site is presently improved with a one-story commercial building that is proposed to be razed as part of redevelopment of the Site.

The Site is located in the Park Morton neighborhood of Washington, D.C. in an area that is highly walkable and rich in public and private transportation alternatives. Over the past several years, Petworth has seen an uptick in new retail businesses serving the neighborhood's growing population, including a significant number of new restaurants and food establishments, which has resulted in the area's emergence as a vibrant urban neighborhood (*See D.C. Neighborhood Profiles 2013*, Washington, D.C. Economic Partnership, p. 42). As further described in the Transportation Memorandum prepared by Symmetra Design and attached hereto as Exhibit F, the Site has excellent public transportation options, with ample access to the Georgia Avenue/Petworth Metrorail Station, multiple Metrobus routes, car and bike share facilities, on-street bicycle routes, and safe pedestrian infrastructure.

B. Description of Proposed Development

As shown on the Architectural Plans And Elevations (the "Plans") attached hereto as Exhibit C, the Applicant proposes to demolish the existing building on the Site and construct a new mixed-use building with cellar and ground floor retail and 27 residential units. The project will include approximately 22,555 square feet of gross floor area (4.8 FAR), with approximately 23,518 square feet of gross and cellar floor area devoted to residential uses and approximately 2,911 square feet of gross and cellar floor area devoted to retail uses. The building will have a maximum height of 69 feet, 4 inches and will contain a mix of unit types, including one-bedrooms, one-bedrooms plus den, two-bedrooms, and two duplex units on the cellar/ground floor levels.

As shown on the Plans, the two primary retail entrances will be located along Georgia Avenue. One residential entrance will be located on each of the north and south sides of the building, with the southern duplex unit having a direct entrance from the south side of the building. As further described below, the project will not include any on-site vehicle parking spaces. The building will be equipped with two stair towers and one elevator for vertical circulation. A gated trash/service area will be located along Georgia Avenue on the southern portion of the Site. The project will include a green roof as part of its commitment to meet the Green Area Ratio ("GAR") requirements of Chapter 34 of the Zoning Regulations. Overall, the proposed use of the Site is consistent with the GA/C-3-A zoning designation and with other uses within the neighborhood.

V.

THE APPLICANT MEETS THE BURDEN OF PROOF FOR VARIANCE RELIEF

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 and depth of the Site, its corner lot location, and its lack of access to a public alley combine to create an exceptional situation and condition that directly impacts the requested parking relief. As shown on the Plans, the Site only contains approximately 4,699 square feet of land area, and is a narrow, shallow corner lot. The Site only has 55 feet of frontage on Princeton Place, which is an insufficient width to provide a zoning-compliant

driveway or ramp to access on-site parking at a location that meets DDOT's standards. The Site's depth of 84 feet along Georgia Avenue also impacts the ability to design or locate any new building on the Site and prevents the Applicant from locating a driveway or ramp in this location as well. Furthermore, the Site is otherwise surrounded by private property on its east and south sides and has no alley access, which again significantly limits the ability to design a building on the Site. The Site is the only lot in Square 3032 that does not abut the public alley that runs through the square, and is unique among other corner lots on this section of Georgia Avenue, many of which have alley access and/or street frontage on three sides. Given these constraints, there is no practical way to provide vehicular access to the Site.

B. Strict Application of the Zoning Regulations Would Result in a Practical Difficulty to the Owner

Section 2101.1 of the Zoning Regulations requires 14 on-site parking spaces to accommodate the proposed 27 residential units at the Site. 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 the Site's size, dimensions, and lack of public alley access, the Applicant cannot provide any parking spaces on the Site.

i) Providing Below-Grade Parking on the Site Would Result in a Practical Difficulty

The Applicant cannot provide any below-grade parking or a ramp to access below-grade parking given the Site's constraints. Although there are two existing curb cuts onto the Site (one on Georgia Avenue and one on Princeton Place), DDOT policy provides that existing curb cuts expire at the time of a change in use of property, requiring existing driveways to be restored with new curbs and gutters (*see* DDOT Design and Engineering Manual section 31.2.3.1). DDOT policy also prohibits the installation of new curb cuts on major corridors, such as Georgia Avenue. Therefore, the only potential location for a new curb cut and ramp to provide access to

a parking garage would be from Princeton Place. However, the Site has only approximately 55 feet of frontage on Princeton Place, which is insufficient based on the zoning requirements that (i) driveways serving multiple parking spaces must have a minimum width of 14 feet for two-way circulation (11 DCMR § 2117.8(c)(2)), and (ii) curb cuts must be located 25 feet or more from a street intersection (DCMR § 2117.8(c)(1)). If the Applicant installed a curb cut on Princeton Place and a ramp at the minimum required width and in a permissible location, the ramp would run through the middle of the proposed building, interrupting all of the proposed retail and residential uses for the Site.

Moreover, the Georgia Avenue Commercial Overlay (“Georgia Avenue Overlay”) requires that each building on a lot that fronts Georgia Avenue must devote not less than 50 percent of the surface area of the street wall at the ground level to entrances to commercial uses, to the building's main lobby, and to display windows (11 DCMR 1328.5). The Georgia Avenue Overlay also requires that buildings shall not be designed so as to preclude an entrance every 40 feet on average for the frontage of the building, excluding vehicular entrances but including entrances to ground floor uses and the main lobby (11 DCMR § 1328.8). In this case, if the Applicant could theoretically locate a curb cut and garage entrance ramp along Georgia Avenue or Princeton Place, the building would not be able to devote 50 percent or more of its street wall to entrances, the lobby, or display windows, and it would not be possible to locate an entrance every 40 feet on average for the frontage of the building.

a. *Access from Georgia Avenue Results in a Practical Difficulty*

If the Site could theoretically accommodate an appropriately located driveway and ramp from Georgia Avenue and comply with the Georgia Avenue Overlay requirements, it would still be practically difficult for the Applicant to construct any below grade parking spaces and comply

with all of the applicable parking space size, vehicle turning, and access requirements in Sections 2115, 2116, and 2117 of the Zoning Regulations. As shown on Sheet 1 of the Parking Infeasibility Plans attached hereto as Exhibit D, due to the Site's narrow width and small land area, combined with the lot occupancy, rear yard, GAR, and Building Code requirements, zoning compliant parking spaces cannot feasibly be located in a garage level accessed from Georgia Avenue. This proposed configuration would result in the following practical difficulties:

1. Parking spaces on the lower level would eliminate the required building utilities, core elements, storage facilities, and bicycle room; alternatively, providing all of the required facilities eliminates all possible space for parking;
2. Any possible parking spaces would not meet the minimum standard size of 9 feet by 19 feet, due to the Site's width of 55 feet and the required 20-foot drive aisle width;
3. The length and turning radius required for a ramp to access the parking spaces would eliminate the rear yard and trash facilities, requiring the Applicant to relocate the trash room to the northeast corner of the building's ground floor, further reducing the retail space. Relocating the trash facilities in this manner would result in trash pick-up from Princeton Place, which is disfavored since Princeton Place is residential;
4. The Applicant would have to push the building's egress stairs and elevator core to the west side of the building along Georgia Avenue, creating an inefficient building design and infeasible unit layouts;

5. A dead space would be created on Georgia Avenue, with approximately 60 feet of the Georgia Avenue frontage devoted to the garage entrance, stair towers, and the elevator, with only approximately 25 linear feet devoted to retail frontage;
6. The Applicant would have to eliminate all of the cellar retail space, the majority of the ground floor retail space, and both of the duplex units, which conflicts with the Georgia Avenue Overlay's purposes to encourage (i) "improved commercial uses," (ii) "additional residential uses along the Georgia Avenue Corridor," and (iii) "vertically mixed-uses (ground floor commercial and residential above) within a quarter mile of the Georgia Avenue/Petworth Metrorail Station along Georgia Avenue" (11 DCMR § 1327.3A); and
7. A ramp in this location could not meet the maximum ramp slope of 12 percent (11 DCMR 2117.8(a)) due to the Site's shallow dimensions, resulting in construction and safety issues.

b. *Access from Princeton Place Results in a Practical Difficulty*

As shown on Sheet 2 of the Parking Infeasibility Plans, the Applicant cannot provide an access ramp to a parking level from the existing curb cut on Princeton Place for the following reasons:

1. The existing curb cut is too close to Princeton Place's intersection with Georgia Avenue to comply with section 2117.8(c)(1) of the Zoning Regulations;
2. A ramp in this location would have a slope of 16 percent, which is four percent greater than the maximum permitted ramp slope of 12 percent, as required by section 2117.8(a), and would result in significant safety and construction challenges;

3. There would be insufficient space required for vehicle turning movements at the bottom of the ramp;
4. Access to the elevator and stairway would be blocked, which are required for fire safety egress and to provide access for persons with disabilities; and
5. All practical ground or cellar floor retail space would be eliminated.

Based on the foregoing, providing zoning-compliant below-grade parking with access from either Georgia Avenue or Princeton Place would result in a practical difficulty to the Applicant.

ii) Providing Surface Parking on the Site Would Result in a Practical Difficulty

As shown on Sheet 3 of the Parking Infeasibility Plans, the Applicant also cannot provide surface parking spaces on the Site due to the Site's small size, narrow width, lack of alley access, and location adjacent to private property on two sides. In its current configuration with no alley access, there is no practical way for vehicles to access the rear of the Site for surface parking. As described above, it is impractical to provide a curb cut and zoning-compliant driveway access from either Georgia Avenue or Princeton Place. Even if the Site had appropriate curb cuts or alley frontage, there is not enough space on the Site to fit 14 surface parking spaces with the minimum depth of 19 feet plus the required 20-foot drive aisle width, since the Site is only 55 feet by 86 feet at its longest dimension. Fourteen parking spaces plus vehicle maneuverability space would essentially take up the entire Site, eliminating all possible retail frontage. Therefore, providing parking spaces on an open area of the lot would result in a practical difficulty to the Applicant.

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 six-story plus cellar, mixed-use building will significantly contribute to the vibrancy of the neighborhood while supporting the city's housing and affordable housing goals for the area.

Although the Applicant will not provide any on-site vehicle parking spaces, many building residents will not need or want to own a car given the excellent public transportation options in the immediate vicinity of the Site and the walkable, mixed-use nature of the neighborhood. As described in the Transportation Memorandum, the Site is located 0.1 miles from the Georgia Avenue/Petworth Metrorail station, which services the green and yellow Metrorail lines, and is within convenient walking distance of numerous Metrobus routes, including the 60, 62, 63, 64, 70, 79, and H8 routes, all of which have stops within 0.1 miles of the Site. Eight car sharing facilities are within 0.1 - 0.4 miles of the Site, including seven Zipcar locations and one Hertz On Demand location, and Car2Go vehicles, which provide a one-way car sharing system, are easily accessed throughout the area. In addition, two Capital Bikeshare stations are located within convenient walking distance of the Site.

Furthermore, according to Walkscore.com, which measures the walkability, transit, and bicycle access of properties, the Site is rated as "Very Walkable;" is rated as an "Excellent" transit location given its convenient access to transportation options, amenities, and other services; and is also rated as "Very Bikeable," given its flat topography and convenient access to dedicated bicycle lanes. Thus, the Applicant anticipates that the existing transit access to the Site will result in a significant amount of transit, pedestrian, and bicycle access to the Site, eliminating the need for off-street parking spaces. Moreover, the existing curb cuts along

Georgia Avenue and Princeton Place will be closed, thus contributing at least two additional on-street parking spaces to the neighborhood inventory.

If unanticipated parking is needed once the building is constructed, there are off-street parking options in the immediate vicinity of the Site. A number of large residential and retail developments were recently completed in the area, many of which have parking supply in excess of the city's current parking requirements. For example, information provided by the parking operations of the following two buildings indicate the following:

			Current Available Spaces by Time			Total Off-Street Spaces
			Day-Time (8am – 6pm)	Evening (6pm – 8am)	Full-Time (24 Hours)	
Three Tree Flats	3910 Georgia Ave., N.W.	0.3 miles	1	12	6	153
Park Place at Petworth	850 Quincy Street, N.W.	0.2 miles	0	0	49	195

It is therefore anticipated that there will be available, underutilized parking in a number of buildings nearby, which can be used by residents of the Site if necessary.

Finally, the Applicant proposes to implement a strong transportation demand management ("TDM") program to avoid any impact to the neighborhood parking supply. The Applicant's proposed TDM measures include the following:

1. The Applicant shall include in its residential leases a provision that prohibits tenants from obtaining a Residential Parking Permit ("RPP") for the Property from the D.C. Department of Motor Vehicles ("DMV"), under penalty of lease termination.
2. The Applicant shall obtain written authorization from each tenant, either through a lease provision or another written document that allows the DMV to release to the Applicant any and all records of that tenant requesting or receiving an RPP for the Property.
3. The Applicant shall monitor tenant compliance with the RPP lease

restriction by requesting from the DMV, every six months, any and all records of residential tenants requesting or receiving RPPs for the Subject Property, and shall provide annually to Advisory Neighborhood Commission 1A the results of its inquiries.

4. The Applicant shall record a covenant against the Property among the Land Records of the District of Columbia prohibiting any lessee or owner of the Property from obtaining an RPP for the building.
5. For the first five years that the building is open, the Applicant shall offer an annual Capital Bikeshare and car share membership for each new apartment unit. If the building is developed as a condominium, the Applicant shall offer an annual Capital Bikeshare and car share membership for initial condo residents.
6. The Applicant shall install a TransitScreen in the lobby to keep residents and visitors informed on all available transportation choices and provide real-time transportation updates. In addition, the Applicant shall require the TDM Leader to make printed materials related to local transportation alternatives available to residents upon request and at move-in for new tenants.
7. The Applicant shall provide at least 9 long-term bicycle parking spaces.
8. The Applicant shall post all TDM commitments on-line.
9. The Applicant shall provide each initial tenant with links to CommuterConnections.com, goDCgo.com, WMATA Metrobus route and DC Bicycle maps.
10. The Applicant shall identify TDM Leader to advertise and build awareness of programs to residents.

Therefore, due to the Site's proximity to transit, the anticipated low demand for on-site parking, and the availability of nearby on- and off- street parking options, and the Applicant's stringent TDM program, development will not cause any detrimental impacts to parking or traffic conditions in the neighborhood.

VI.
WITNESSES

- A. Warren Williams, The Warrenton Group.
- B. David Haresign and/or Jeremy Arnold, Bonstra-Haresign Architects.
- C. Nicole White, Symmetra Design.

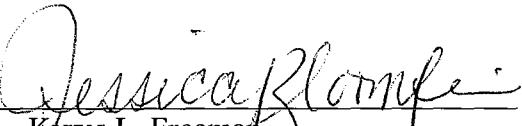
VII.
CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards for variance relief under the Zoning Regulations. Accordingly, the Applicant respectfully requests that the Board grant the application.

Respectfully submitted,

HOLLAND & KNIGHT, LLP

By:



Kyrus L. Freeman

Jessica R. Bloomfield*

800 17th Street, N.W., Suite 1100

Washington, D.C. 20006

(202) 862-5978

* Admitted to practice in Pennsylvania. Practicing in the District of Columbia pursuant to D.C. Court of Appeals Rule 49(c)(8).