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Executive Summary

Case No. 18856

Site Description

Address: 1514 8th Street, NW
Square/Lot: Sq. 397, Lots 830 and 831

Zoning: R-4

Existing: Ex-Convict Halfway House

Historic District: Shaw Historic District

Public Transportation:

- Metro: Shaw Metro
- Metrobus Routes: G2, G8, 70
- Capital Bikeshare:
 - 7th & R St NW (15 docks)
 - 7th & M Street NW (18 docks)
- Car Sharing:
 - Zipcar: 625 RI Ave. (4 cars)
 - Car2Go

Cases:

- *Clerics of St. Viator, Inc.*
- *Gilmartin*

Project Description

Applicant	Lock 7 Development
Proposal	Multiunit dwelling with 3 compact parking spaces
Relief Sought	Lot area (§401.3); Nonconforming structures (§2001.3); and Parking (§§2115 and 2101.1)
Variance Standard	<p>Exceptional Circumstance: Confluence of Factors</p> <ul style="list-style-type: none">• Prior use and layout as halfway house for ex-convicts• Natural division of existing structure by common stairwell cutting across the center of the Property• Existing nonconforming lot occupancy, court, and rear yard• Original construction as an apartment building <p>Strict Application Results in Practical Difficulty:</p> <ul style="list-style-type: none">• Existing layout as halfway house and existing common stairwell make renovation of the structure as a matter of right practically difficult• Nonconforming lot occupancy and nonconforming court substantially limits matter-of-right development of the lot• Due to existing nonconforming rear yard, three compact parking spaces can be provided but legal spaces would require demolition of a portion of the existing structure <p>No Detriment to Public Good:</p> <ul style="list-style-type: none">• Returns halfway house to residential use• Reduces number of persons residing at the Property• Provides much needed housing including two three-bedroom units

Comments of District Agencies and Community:

- Unanimous Approval from ANC 6E Zoning Committee
- Unanimous Approval from ANC 6E
- Letter of Support from Central Shaw Neighborhood Association
- Approval by HPRB

Board of Zoning Adjustment

District of Columbia

CASE NO. 18856

EXHIBIT NO.31

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November 4, 2014

Lloyd Jordan, Chairperson
Board of Zoning Adjustment
441 4th Street, NW
Suite 210S
Washington, DC 20001

Re: Application No. 18856 – 1514 8th Street NW (Square 397, Lots 830 and 831)
Prehearing Statement of the Applicant

Chairperson Jordan and Honorable Members of the Board:

On behalf of Lock 7 Development, please find enclosed the Prehearing Statement for the above-referenced application. The application is scheduled to be heard before the Board of Zoning Adjustment on November 18, 2014.

Thank you for your attention to this matter.

Sincerely,

GRIFFIN, MURPHY,
MOLDENHAUER & WIGGINS, LLP


By: Meridith H. Moldenhauer

Enclosures:

Cc: Advisory Neighborhood Commission 6E
c/o Alex Padro, Chair and SMD 6E01 Representative (via email)
Steve Cochran, Office of Planning (via email)

BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

APPLICATION OF
LOCK 7 DEVELOPMENT

BZA APPLICATION NO. 18856
HEARING DATE: NOVEMBER 8, 2014

PREHEARING STATEMENT OF THE APPLICANT

I. NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of Lock 7 Development (the “Applicant”), the owner of property located at 1514 8th Street NW, Lots 830 and 831 in Square 397, (the “Property”) in support of its application for an area variance from the requirements regarding lot area (§401.3); nonconforming structures (§2001.3) with respect to lot occupancy (§403) and courts (§406); and compact parking spaces (§2115 and §2101.1) to allow the Applicant to convert a 40 person halfway house for ex-convicts to a multiunit dwelling and provide 3 compact parking spaces in an R-4 District at the Property.

II. JURISDICTION OF THE BOARD

The Board of Zoning Adjustment (the “Board” or “BZA”) has jurisdiction to grant the variance requested herein pursuant to §3103.2 of the Zoning Regulations.

III. APPLICANT MEETS BURDEN OF PROOF FOR VARIANCE RELIEF

The Board is authorized to grant an area variance where it finds that the Applicant fulfills the three-prong area variance standard. As described in the Initial Submission, supplemented in this Prehearing Statement, and as will be further explained at the public hearing, all three prongs of the area variance test are satisfied.

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 variance test applies not only to the land, but also to the property’s history and the configuration of a building on the land. *See Clerics of St. Viator, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 320 A.2d 291, 294 (D.C. 1974). Moreover, the

unique or exceptional situation may arise from a confluence of factors which affect a single property.

Gilmartin v. District of Columbia Bd. of Zoning Adjustment, 579 A.2d 1164, 1168 (D.C. 1990). As described in the initial submission, the Property is unusual and affected by an exceptional situation and condition as a result of a confluence of the following factors: (1) the Property was previously used as a halfway house with 40 residents plus staff; (2) the presence of a common stairwell that divides the existing structure into a front and rear portion; (3) the existing nonconformities of the Property; and (4) the Property was originally constructed in 1956 as an apartment building.

B. Strict Application of the Zoning Regulations would Result in Practical Difficulty

Strict application of the zoning regulations regarding lot area (§401.3); nonconforming structures (§2001.3) with respect to lot occupancy (§403) and courts (§406); and compact parking spaces (§§2115 and 2101.1) would result in a practical difficulty to the Applicant.

1. Lot Area (§401.3)

Under §401.3, the conversion of a building or structure to an apartment house in the R-4 District is permitted, but requires a minimum of 900 square feet of lot area per apartment unit. In light of the existing halfway house on the Property, the existing nonconformities, and existing common stairwell, the Applicant proposes a conversion to a 9-unit multifamily dwelling. The unit size, location, and configuration proposed in the application is dictated by the size and configuration of the original apartment layout, the market demand for units of a certain size, in this neighborhood, and the physical limitations imposed by the existing common stairwell. Given the physical configurations, and the market demand, the Applicant has proposed 9-units. For the reasons detailed above, and as articulated in the Initial Application, strict application of the zoning regulations with respect to lot area would result in a practical difficulty.

The Board of Zoning adjustment has approved the requested area variance relief in the context of conversions of nonresidential structures to multifamily dwellings in the R-4 Zone District under 401.3 on multiple occasions including the following cases:

BZA No.	Address	No. of Units	Lot Area (Sq. Ft.)	Lot Area per Unit (Sq. Ft.)	Decision Date
14527	1000 East Capitol Street, NE	8	1649	206	2/4/1987
18055	304 Q Street, NW	4	896	224	4/20/2010
18856	1514 8th Street, NW	9	2948	328	
13582	301 G Street, NW	27	9125	338	3/3/1982
18562	1538 New Jersey Avenue, NW	6	2255	376	7/9/2013
18724	819 D Street, NE	30	11458	382	3/11/2014

Thus, the deviation from the lot area requirement requested by the Applicant is not dissimilar to several conversions approved previously by this Board. More importantly, in this unique circumstance the Property was originally constructed as an apartment.

2. Nonconforming Structure Requirements - Lot Occupancy (§403) and Courts (§406)

The existing halfway house on the Property is a nonconforming structure with respect to lot occupancy and the open court width requirement.¹ Compliance with the lot occupancy or court requirement would require wasteful demolition of a portion of the existing structure. Under §2001.3, any addition to a structure that is noncompliant as to lot occupancy requires variance relief and any increase in the height of the court extends its nonconformity. While neither the building footprint nor the dimensions of the court have changed, the Applicant seeks relief from the nonconforming structure provision to allow a small mezzanine addition on the third story.

Under §403.2, in the context of a conversion of a building to an apartment, the permitted lot occupancy is the greater of 60% lot occupancy or the lot occupancy as of the date of conversion. The existing and proposed lot occupancy is 70%. Therefore, because the lot occupancy at the date of conversion is 70% it is permitted to continue. While no relief is required from the nonconforming structure requirement with respect to lot occupancy, the Applicant continues to request such relief in an abundance of caution.

¹ The lower level, in both the existing and proposed structure, is less than 4 feet above grade at all points and is thus a cellar for purposes of determining the number of stories.

Under §406.1, an open court for all other structures in the R-4 district is 4 inches per foot of height, but not less than 10 feet. While the height of the structure will remain less than the 40 feet permitted as a matter-of-right, the small mezzanine increases the court width requirement and thus relief is required. In this instance, the width of the existing nonconforming court at 7'-6" will remain unchanged. Compliance with the court requirement would require a portion of the existing structure to be removed and would impede the existing common stairwell.

Returning a structure built in 1956 with relatively low ceiling heights to residential use, and modernizing and marketing a structure lacking in other features common to residential units, presents a difficulty to the Applicant that is resolved, in part, by inclusion of a small mezzanine. The mezzanine also allows for a small outdoor space, a slightly raised ceiling height in the kitchen, and light and air to reach the center of the top two units, all of which helps address changed expectations of residents regarding residential units since the time the structure was built.

In light of the limited degree of relief requested with respect to the nonconforming structure requirement, the Applicant has demonstrated that strict application of the zoning regulations would result in a practical difficulty to the Applicant.

3. Compact Parking Spaces (§2115)

Pursuant to §2101.1, the proposed project has a parking requirement of 3 parking spaces.² The Applicant is in the unique circumstance, as a result of the existing nonconforming rear yard, to provide three compact spaces; however, providing 3 legal parking spaces would require demolition of a portion of

² The Property may be entitled to parking credits. Based on the prior use as a halfway house, a type of community-based residential facility, the Property had a previous parking requirement of between 2-4 parking spaces. Under 2101.1, a community-based residential facility in the R-4 District is required to provide 1 parking space if 1-8 persons are housed, 2 parking spaces if 9-15 persons are housed, and the parking requirement is determined by the BZA if 16 or more persons are housed. In the C-3, C-4 and C-5 District, 1 parking space is required for every 10 persons housed. Therefore, in a 40 person CBRF, between 2 and 4 parking spaces were likely required. The Property could provide 1 legal 9 ft. x 19 ft. parking space at the rear of the Property. Thus, there are between 1-3 parking credits at the Property.

the rear of the structure. Compact spaces, which are 8ft x 16 ft in depth, are allowed in certain circumstances articulated in §2115. The Applicant seeks relief from §2115 to allow 3 compact spaces at the rear of the Property.

C. No Substantial Detriment to Public Good or Inconsistency with 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 by approving the zoning relief. The owner of the halfway house retired and ceased operations of the halfway house in early 2014 prior to selling the Property to the Applicant. The proposed project returns a 40-bed halfway house to the apartment use for which the structure was originally constructed. The footprint of the structure and number of stories will be left unchanged. While in an R-4 Zone District, the Property's southern property line abuts a large C-2-A Zone District and is in close proximity to several apartment buildings and commercial properties.

Furthermore, the conversion will result in a reduction in the number of persons residing on the Property. As described in the Initial Application, the number of persons housed in a 40-person halfway house *exceeds* the number of persons housed in the proposed 9-unit multifamily dwelling at any one time even if you assume two persons per bedroom. Thus, even based on a very conservative estimate, the number of persons residing at the Property will be reduced substantially. Moreover, the EFEC houses short term tenants, with stays of roughly 3 months or more, while residents at the proposed project will be long-term residents. In addition, the 2 three-bedroom units are a rare but important part of a DC housing stock lacking in family-style units.

IV. COMMUNITY OUTREACH

Following the submission the Initial Application, the Applicant has done considerable community outreach. The Applicant presented to the ANC 6E Zoning Committee, which voted unanimously to recommend support of the project. On September 2, the Applicant presented to the full ANC 6E, which voted unanimously to recommend support for the project. The Applicant has provided the proposed plans

to the adjacent neighbors and is not aware of any opposition to the Application. The Applicant has also obtained a letter of support from the Central Shaw Neighborhood Association. *See Letter in Support from Brian Peters at **Case Log, Exhibit 29**.* The project was on HPRB's consent calendar on September 18, 2014 and was approved by HPRB.

V. WITNESSES

The following witnesses will appear on behalf of the Applicant:

1. David Gorman, on behalf of Lock 7 Development
2. Ron Schneck, on behalf of Square 134 Architects

VI. CONCLUSION

For the reasons stated above, and for the reasons enumerated in the Applicant's prior filings in this case, we hereby submit that the application meets the requirements for area variance relief. We look forward to presenting our case to the Board on November 18, 2014.

Respectfully submitted,

GRiffin, MURPHY,
MOLDENHAUER & WIGGINS, LLP



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