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Applicant: Myrtle Avenue LLC

Representative: Gabriel R. Nathaniel

Date: May 22, 2014

Project Address: 2610 Myrtle Avenue NE
Square 4315, Lot(s) T.B.D.

Zoning Amendment: R-1-B

Variance Sought: Lot WIDTH Variance to be decreased from 50'-0" as matter of right to 42'-4" as proposed.

FORM 121 – Applicants Burden of Proof for Variance Applications- REVISED 2-10-15

Section 401: Minimum Lot Dimensions

401.3 Except as prescribed in the other provisions of this chapter, the minimum dimensions of a lot in a Residence District shall be set forth in the following table:

R-1-B – 50'-0" Minimum Lot Width

PROJECT DESCRIPTION

It is our intent to build a single-family residence at 2610 Myrtle Street N.E. on part of Square 4315, Lot 834,) a newly subdivided vacant lot. This sprawling lot is nearly double the size of adjacent lots in the community and is currently being subdivided into near equal lots. These newly created lots will be approximately 50 feet in width (see D.C. Surveyors Plat in attached exhibit). This request for variance is to allow construction of a single family home on the newly created vacant lot at 42'-4" in total lot width. Conversion of this lot into use for a single-family home will utilize its footprint and maximize its positioning while enriching the variety of neighboring building types. In addition, the introduction of a vibrant single-family home into this well-established, loosely dense neighborhood will solidify the intent of the R-1-B district and add to the stability of the community.

In execution the Applicant requires a variance from Sections 401.3 of the Zoning Regulations. Under D.C. Code SS6-641.07(g)(3) and 11 DCMR SS3103.2, the Board is authorized to grant an area variance where it finds that three conditions exist.

SS3103.2 Proofs:

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 pre-hearing statement and at the public hearing, all three prongs of the area variance are met in this application.

1. The property is affected by exceptional size, shape or topography or other extraordinary or 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 property is improved with a single family dwelling in derelict condition on a lot, which is nearly twice the size of its neighboring improved lots. Currently, this residence is undergoing major renovation. The applicant has spent an exorbitant amount of money to bring this building to livable conditions. Unexpected expenditures are driving the profitability of this project into negative returns. For instance an entire replacement of the foundation system was warranted. Once renovation construction began significant portions of the foundation walls have collapsed due to age, severe water damage and lack of proper below grade drainage systems. Ultimately, an entirely new foundation and drainage system was installed. This expense has exhausted profitability and makes the renovation of an existing property unfeasible. It is imperative that the Applicant is granted authority to develop an additional single family dwelling on the remaining 5,000 square feet of this property. Since, the current market conditions are demanding of quality single-family living conditions in well-situated and mature neighborhoods, the development of these two dwellings fit perfectly into the context. In closing, due to the age and condition of the existing structure, coupled with rising cost and market demands an exceptional situation has arisen. With that stated, the restrictive zoning regulation creates a confluence of factors, which adversely affects this property.

2. **The owner would encounter practical difficulties if the zoning regulations were strictly applied or exceptional and undue hardship; and**

Lot Width Relief

The reduction in Lot Width requirement sought by the Applicant results primarily from the excessive land area which the existing structure is situated upon. This excessive land area amounts to nearly double the land area of adjacent lots. Considering the size and architecture of the surrounding homes execution of the properties highest and best use by expansion of the existing dwelling is not practical. In contrast, keeping 5,000 sf of yard space is not practical given the size and scale of adjacent yards and dwellings. With this variance the Applicant seeks to utilize this additional land area to construct a new single-family dwelling. The development of this new dwelling will create a financial resource allowing the applicant to realize the highest and best use of the property. To comply with the Zoning Regulations, the applicant cannot utilize nearly 5,000 sf of open land. The inability to utilize this vast land area for an otherwise permissible use, creates a practical difficulty for which the applicant can endure undue financial hardship.

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.**

The requested variance relief can be granted without impairing the intent, purpose and integrity of the Zone Plan. The reduction in Lot Width to allow construction of a single-family dwelling does not impede scale and design of the surrounding structures along Myrtle Avenue. The reduction in lot width from 50' to approximately 43' while still maintaining minimum lot size of 5,000 sf, should not cause detriment to the public good nor impair the intent of the zone plan. In fact establishing new architecture and reinvigorating curb appeal will add character to the neighborhood fabric and propel the integrity of the zone plan as embodied in the Zoning Regulation.