

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

**APPLICATION OF
4725 MASSACHUSETTS AVE., LLC**

**4725 MASSACHUSETTS AVE NW
ANC 3E**

STATEMENT OF THE APPLICANT

I. NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of 4725 Massachusetts Ave., LLC (the “Applicant”), the contract purchaser of property located at 4725 Massachusetts Avenue NW (Square 1531, Lot 45)(the “Property”) in support of its application for a use variance under §201.1 to allow the Applicant to convert a single-family home with a physician’s office to an architectural office and residential unit in the R-1-B District at the Property.

II. JURISDICTION OF THE BOARD

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

III. BACKGROUND

A. Background Information Regarding the Property

The Property contains approximately 5,138 square feet of land area and is located in Northwest Washington, D.C. The Property is located on Massachusetts Avenue NW just north of American University and just south of the Spring Valley Shopping Center and American University Washington College of Law. The Property has approximately 50 feet of frontage along Massachusetts Avenue NW and is located within the R-1-B District. The Property is not located within the historic district and is not listed on the DC Inventory of Historic Sites.

The Property is improved with a single-family home on the main and second level and a physician's office on the entry level. The Property has been registered as a Home Occupation. See HO37519. Substantial renovations were done to the entry level for use as a physician's office, which has a separate entrance, separate kitchen, and the layout of a physician's office. The layout includes a waiting room, laboratory, and two examination rooms. Due in large part to the odd layout of the entry level for office use, the home remained on the market for 140 days until purchased by the Applicant.

B. Description of the Proposed Development

As shown on the architectural plans, see Architectural Plans at **Tab 9**, the Applicant proposes to convert the single-family home and physician's office to an architectural office and residence. Seeking to avoid a major overhaul of the existing structure, the Applicant proposes to replace the residential furniture on the upper two floors with office furniture for use as an architectural office. The layout of the existing home will remain unchanged. The physician's office will undergo minor changes to convert the commercial space to a residential use. The project does not include any exterior changes to the existing structure.

C. Description of the Traffic Conditions and Mass Transit Options in the Surrounding Area

The Property is located 1.1 miles from the Tenleytown Metro entrance. Moreover, Metrobus routes along Massachusetts Avenue, including the N3, N4, and N6, stop at Massachusetts Avenue and Van Ness Street NW. In addition, the Property is within close proximity to a number of the District's bikesharing and carsharing programs. A Capital Bikeshare station is located at Ward Circle/American University (14 docks). Eight Zipcar spaces are located within walking distance including 6 spaces at American University – Asbury Hall, 1space at the Wesley Theological Seminary, and 1 space at American University – Clark Hall. Another local car-sharing program, Car2Go, reported in August 2014 that the use of the company's car-sharing service in the Washington DC area had reached over 33,000 as

of last summer and that the fleet was expanded from 300 vehicles to 450 vehicles to accommodate increasing demand. Walkscore.com designates the Property has very walkable, bikeable, and as having some transit.

IV. NATURE OF VARIANCE RELIEF AND STANDARD OF REVIEW

Use variance relief is required from §201.1 to allow the Applicant to convert a physician's office to an architectural office in the R-1-B District at the Property. Under D.C. Code §6-641.07(g)(3) and 11 DCMR §§ 3103.2 and 3103.7, the Board is authorized to grant a use 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 an undue hardship in making reasonable use of the Property 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.

The District of Columbia Court of Appeals has interpreted "undue hardship" to mean that a property cannot be put to any use for which it can be reasonably adapted. *See Palmer v. D.C. Bd. of Zoning Adjustment*, 287 A.2d 535, 542 (D.C. 1972) ("A use variance cannot be granted unless a situation arises where reasonable use cannot be made of the property in a manner consistent with the Zoning Regulations."). *See also, Bernstein v. D.C. Bd. of Zoning Adjustment*, 376 A.2d 816, 819-820 (D.C. 1977) ("[I]t must be shown that strict application of the Zoning Regulations would preclude the use of the property for any purpose to which it may be reasonably adapted.")

As discussed below, and as will be further explained at the public hearing, all three prongs of the use variance test are met in this Application.

V. APPLICANT MEETS BURDEN OF PROOF FOR VARIANCE RELIEF

A. The Property is Unusual Because of its Size, Shape or Topography and is Affected by an Exception 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. 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).

The Property is characterized by an exceptional situation and condition as a result of a confluence of the following factors: (1) the existing use of the location as a physician’s office; (2) the existing layout and fixtures at the Property; and (3) the location of the Property in a R-1-B Zone on Massachusetts Avenue.

1. The Existing Use of the Property as a Physician’s Office

The Property is currently being operated as a pediatrician’s office permitted by a Home Occupation permit, HO37519, issued in August, 2002. The Property is taxed under use code 15 as residential-mixed use. The entire entry level of the existing home is devoted to pediatrician’s office use.

2. The Existing Layout and Fixtures at the Property

The existing layout and fixtures at the Property have made the Property uniquely unmarketable. The layout includes a waiting room, laboratory, and two examination rooms. Substantial modifications have been made to the structure to accommodate the home occupation. The Property sat on the market for 140

days prior to the applicant's purchase of the property due to the modifications made for purposes of the home occupation.

3. *The Location of the Property in an R-1-B Zone along Massachusetts Avenue NW*

Very few properties along Massachusetts Avenue NW are zoned R-1-B. Massachusetts Avenue NW is a broad avenue that runs from the edge of the District to Union Station without interruption, a distance of roughly 6.5 miles. The only portions of Massachusetts Avenue NW zoned R-1-B are a small 2-block segment to the north of the Property and the small 2-block segment containing the Property between a C-2-A District and American University. Opposite the American University Washington College of Law and Spring Valley Shopping Center, the Zoning Commission approved a PUD and related Map Amendment for 3.52 acres on Massachusetts Avenue NW with frontage on 48th Place between Fordham road and Van Ness Street NW, changing the zoning from the R-1-B to the R-4 and erecting 35 units including rowhouses, semi-detached, and detached dwellings.

B. Strict Application of Zoning Regulations Would Result in Undue Hardship to the Owner

The Applicant has requested a use variance from §201.1 to allow the Applicant to convert a physician's office, permitted as a home occupation, to an architect's office in the R-1-B District at the Property. Strict application of the zoning regulations would preclude the use of the property for any purpose to which it may be reasonably adapted and result in an undue hardship to the Applicant. The R-1-B Zone District permits one-family detached dwellings.¹ As a result of the exceptional conditions at the Property, including the location of the existing house, the history of use for a home occupation, and the layout as a pediatrician's office, the Property cannot be adapted to a matter-of-right use in the R-1-B District.

¹ Other uses permitted by special exception include child/elderly development centers and adult day treatment facilities, public and private schools, community centers, colleges and universities, non-profit organizations, youth residential care homes and community residence facilities, health care facilities, emergency shelters, rehabilitation and substance abusers' homes and other miscellaneous uses.

Substantial modifications have been made to the structure to accommodate the home occupation. The layout of the doctor's office level includes a waiting room, laboratory, and two examination rooms. See Architectural Plans at **Tab 9**. The proposed project simply replaces residential furniture with office furniture and returns the physician's office to residential use. Converting the entirety of the structure back to a marketable single-family home would require more substantial renovations and result in an undue hardship to the Applicant. Therefore, strict application of the Zoning Regulations with respect to use of the Property would result in an undue hardship to the Application.

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

Granting the zoning relief requested would not impair the intent, purpose, and integrity of the zone plan. The proposed project includes little disturbance to the existing structure and will not have any visible impact to the exterior of the structure. For these reasons, the proposed project will not result in a substantial detriment to the public good or impair the intent, purpose, or integrity of the Zone Plan.

VI. CONCLUSION

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

Respectfully submitted

GRIFFIN, MURPHY,
MOLDENHAUER & WIGGINS, LLP

By: 
Meredith H. Moldenhauer
Eric M. Daniel
1912 Sunderland Place, N.W.
Washington, D.C. 20036
(202) 429-9000