

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

1220 Potomac Avenue, LLC

BZA No. 18964

**APPLICANT'S HEARING STATEMENT
March 31, 2015**

This Hearing Statement ("Statement") outlines the existing and proposed use of the property and the manner in which the application ("Application") complies with the specific tests and burden of proof for the variance sought in this application before the Board of Zoning Adjustment (BZA)

NATURE OF RELIEF SOUGHT

This is an application pursuant to 11 DCMR § 3103.2 for an area variance under § 2101.1 to allow the new construction of an eight-unit for-sale apartment house or condominiums. The existing two-story building currently devoted to use and occupancy for purposes of a one-family dwelling will be razed or completely demolished since HPRB does not deem the building to be a contributing building in its Capitol Hill historic district.

Relief from providing required parking in accordance with the parking schedule set forth under § 2101.1 for the proposed use is unavoidably required because a curb cut and driveway to access required parking as stipulated under § 2117.4 cannot be provided because of HPRB, ANC and DDOT objection to creating a new curb-cut on I Street, and retaining the existing cur-cut on Potomac Avenue.

SUMMARY OF APPLICATION

The applicant seeks variance pursuant to 11 DCMR § 3103.2 to allow the proposed project, with relief from the minimum number of parking spaces required for the proposed use, as set forth under § 2101.1, the parking schedule chapter of the DC Zoning Regulations, DCMR Title 11.

The subject property is located in the R-5-B zone district and the existing two-story building has historically been used as, and occupied for purposes of a one-family dwelling. The proposed apartment house is a use permitted as a matter of right in the underlying R-5-B zone district within which the subject property is located.

The R-5-B parking schedule requires that an apartment house provide one (1) parking space for every two units on the lot upon which the use is located. Therefore, the instant project is subject to providing, on site, a minimum of four (4) parking spaces.

As will be expounded upon below in this statement, the applicant is not before the Board of owner's volition, but is compelled to seek relief from providing the required parking spaces because of the objection of the Historic Preservation Review Board (HPRB), the DC Department of Transportation (DDOT), and affected Advisory Neighborhood Commission (ANC), ANC 6B to a curb cut which is required by the Zoning Regulation to provide access from an improved public street to required parking, as set forth under § 2117.4 and/or retention of an existing curb-cut on Potomac Avenue.

The subject property has street frontage on two streets; Eye (I) Street at its north boundary or property line, and Potomac Avenue to its south. In fact DDOT requires, and HPRB recommends the removal or elimination of an existing curb cut on the Potomac Avenue frontage further foreclosing any possibility of providing a single parking space on site.

JURISDICTION OF THE BOARD

The application is properly before the BZA. The Board is authorized to grant the requested variances under § 8 of the Zoning Act, DC Official Code § 6-641.07 (g) (3) (2001), as further set forth in 11 DCMR § 3103.2

PROPERTY LOCATION AND DESCRIPTION

The subject property is located within Square 1021, a triangularly-shaped square with Reservation 254 forming its apex, and bounded by Potomac Avenue to the south, Eye Street on the north, 12th Street to the west and 13th Street on its eastern flank. Lot 40, which is the assigned lot number to subject property's metes and bounds description, is the largest of the twenty-three subdivided lots comprising the entirety of this square. No public alley exists in this square hence vehicle access from the rear of any of the twenty-three lots is nonexistent.

Located in the Capitol Hill neighborhood in Southeast, in Ward 6, the subject property is one of only five (5) through lots with street frontages on both Eye Street and Potomac Avenue SE, and by far the largest at 2525.81 ft² in lot area. The property is currently improved with a two-story frame building, which has been deemed not to be a contributing building in the Capitol Hill Historic District, within which it is located.

The applicant had originally proposed a matter of right five (5) unit apartment house, intended to make adaptive use of the existing structure, with the requisite number of parking spaces to be accessed via the existing curb cut on Potomac Street, or in the alternative a new curb cut at the Eye (I) Street frontage. This scheme did not elicit the support of HPRB, which found curb cuts, existing or new, including garage doors, incompatible with the general character of the historic neighborhood, and drew the objection of the ANC and DDOT.

The originally proposed 5 dwelling units were large two-bedroom units attractive to young families with children looking for an urban living experience and in all likelihood, automobile owners needing access to some parking opportunities.

As a result of the inability to provide on-site parking, the applicant has revised the project to construct an even mix of eight (8) smaller one-bedroom and two-bedroom dwelling units which will target non-driving young urban dwellers who rely primarily on public transportation, biking and shared driving opportunities or schemes.

Except for the requested relief imposed upon the project, that is, an area variance from the required parking spaces, the proposed building complies with all other applicable provisions of the zoning regulations, including floor area ratio (FAR), percentage of lot occupancy limitation, height, and rear yard setback

STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

The Applicant seeks variance relief pursuant to the Zoning Regulations, 11 DCMR § 3103.2, under §2101.1, specifically to allow the construction of an eight-unit apartment building which will not provide the required parking spaces in the R-5-B zone district within which subject premises is located

The Applicant, by preponderance of the materials submitted with this Application, facts to be presented in the course of the public hearing and further evidence to be submitted fourteen days prior to the hearing date, will prove compliance with the three prong test necessary for the granting of an area variance as outlined below.

The Board is authorized to grant an area variance where a property demonstrates three characteristic elements:

1. The subject property must demonstrate a unique physical characteristic of shape or size, exceptional narrowness or shallowness which existed as of the time of the original adoption of the Zoning Regulations, or that there exists exceptional topographical conditions or other extraordinary or exceptional situation or condition of property;
2. That the physical characteristic(s), or extraordinary or exceptional situation or condition of the property makes the strict application of the Zoning Regulations result in peculiar and exceptional practical difficulties to the owner of the property;
3. That the Board is able to grant the variance without substantial detriment to the public good and without substantial impairment of the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

EXTRAORDINARY OR EXCEPTIONAL SITUATION OR CONDITION OF PROPERTY

The Applicant contends that the Subject Property demonstrates extraordinary or exceptional situation or condition of property because the noncompliance for which relief is sought is foisted upon it by the objection of other city agencies having purview, to the curb cut which otherwise would allow required access from an improved public street to required parking on site.

A further extraordinary or exceptional situation or condition of property is the condition of eliminating the existing curb cut on Potomac Avenue upon which HPRB's concept design approval is predicated, including DDOT's mandatory requirement for the elimination of same.

The subject property is an irregularly shaped through lot and is the largest lot in size in its square of location. What would otherwise have been an asset – having two street

frontages – to the subject property in the circumstance is turned to its detriment because of the incompatibility of curb-cuts in the its Historic District (HD) of location, as determined by other city agencies having purview.

The subject property also demonstrates a unique physical characteristic given its hexagonal-like shape as a through lot including the fact it is the largest lot within its square of location.

The applicant contends that all these factors combine to result in an extraordinary or exceptional situation or condition of property in compliance with the first of the three burden of proof tests.

PECULIAR AND PRACTICAL DIFFCULTIES TO OWNER OF PROPERTY

The peculiar and practical difficulties imposed upon the owner of the subject property are the direct result of the extraordinary or exceptional situation or condition of the property. The Zoning Regulations require, as set forth in § 2117.4, that required parking located on the same lot as the use it serves be at all times directly accessible via a driveway from an improved alley or public streets.

The subject property is restrained therefore from providing any on-site parking spaces even if it could, as exemplified by the original 5-unit scheme, which was rejected because of inclusion of a new curb cut as an alternate to the use of the existing curb cut.

As aforementioned, the square within which the subject property is located is not traversed by a public alley therefore vehicle access from the rear of any lot in the square is foreclosed.

SUBSTANTIAL DETRIMENT TO PUBLIC GOOD AND SUBSTANTIAL IMPAIRMENT OF INTENT, PURPOSE AND INTEGRITY OF THE ZONE PLAN

The applicant seeks to establish an apartment house use without providing any parking to which the unique circumstances affecting the property as described above consigns it.

The proposed use is permitted as a matter of right in the underlying R-5-B zone district, and the project complies with all other applicable provisions of the Zoning Regulations, save for the one imposed upon it, and out of the applicant's control.

The proposed structure is architecturally compatible in scale and massing to existing neighboring properties as attested by the concept design approval granted by HPRB.

The dwelling units have been redesigned into smaller units to attract potential home buyers seeking an urban living experience because of the proximity of the subject property to a major transportation artery on Pennsylvania Avenue, including the Potomac Avenue metro station which is located less than two blocks away.

As the written opinion and testimony of an expert commercial real estate broker attests, the neighborhood within which subject property is located is a walker's and rider's paradise where daily errands do not require a car, given its significantly high walk and bike scores.

ANC PRESENTATION AND NEIGHBORHOOD OUTREACH

On March 3rd, the applicant presented the project to ANC 6B Community Development Committee (ANC6B CDC) at which the CDC voted unanimously to take no position for reasons of inadequate community or neighborhood outreach, and recommended that applicant pursue substantial effort prior to the full ANC consideration of the project a week from that meeting. The meeting also afforded the applicant the opportunity to take stock of a cross section of neighbor concerns which in order of importance include, the impact of the project on limited street parking; the location of trash receptacles, dumpster

or bin and removal; the noise of eight (8) condenser units and their location in close proximity to an adjoining property; and the number of units proposed.

The neighborhood outreach materials submitted to the record, including posting of the property with a rendering of the proposed building; a sign with owner contact information at the front and rear of the subject property; mailbox for community feedback in front of the property on Potomac Avenue; distribution of flyers seeking community input to 60 homes in the immediate proximity of the proposed project, and the testimony of the neighborhood/community outreach coordinator attest to the significant and substantial effort undertaken within the time span described above.

In direct response to the itemized neighbor concerns, the application took the following action:

- Relocated the proposed location of trash bins to close to where subject property abuts I Street for quick and easy access for trash pick-up. Applicant proposes a prefabricated trash enclosure system (a copy of brochure is submitted to the record), which contains smell, restricts access to vermin/rodents. Applicant notes that ultimately a commercial trash collection contract which twice weekly pick-ups mandatory;
- In addition to committing to installing low-noise units, relocated the location of the condenser units to a more neutral zone relative to the two adjacent properties, including placement of the units on concrete a pad to be sunk twenty inches below grade, and surrounded by shrubbery for the additional buffer effect;
- To mitigate the potential adverse impact on street parking, the applicant is committed to such Transportation Demand Measures (TDMs) such as restricting Residential Parking Permits (RPPs) to one for each dwelling unit for a total not to exceed eight (8); one year pre-paid subscription fees for bike-share and/or other share-ride amenities, such as Zipcar. Flexcar, for occupants of all units in the building.

In its properly constituted meeting of March 10th, ANC 6B voted to support the application on stated conditions. The applicant contends that by measures taken or committed to, the project meets the conditions under which ANC 6B predicates its resolution of support.

The applicant continues its outreach effort on all other matters of concern relating to property maintenance prior to and during construction, which are extraneous to the matter before the Board.

For the foregoing reasons, the fact that the applicant proposes measure which mitigate any potential adverse impact that may be a direct result of the relief sought, which applicant contends is not substantial, and the fact that the proposed project has wide community support, the applicant submits that the instant 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

WITNESS

The following witness will testify in support of the Application:

1. Todd Ragimov. Owner
2. Ramy Ali. Architect
3. Gerard DiRuggiero. Commercial Real Estate Broker
4. Dennis Martinez Daniel. Neighborhood Outreach Coordinator

CONCLUSION

The Applicant submits that the subject property exhibits all the characteristics which merit the granting of the variance or relief sought in this application. As will be further

documented the subject property is demonstrably impacted by the unique encumbrance imposed upon it and out of the applicant's control.

The proposed construction will not substantially adversely affect neighboring properties because the absence of on-site parking spaces is tempered by the proximity of the subject property to major public transportation nodes, and alternative share-ride facilities

For all the foregoing reasons, the applicant respectfully request that the Board grant the relief sought in this application