

Burden of Proof

3103.2

the **strict application** of any regulation adopted under D.C. Code, 2001 Ed. §§ 6-641.01 to 6-651.02 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, to authorize, upon an appeal relating to such property, a variance from such strict application so as to relieve such difficulties or hardship; provided, such 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."

I am requesting a variance of use of the second-floor of my property at 3536 Minnesota Ave, SE to relieve the difficulties that the strict application of any regulation adopted under D.C. Code, 2001 Ed. §§ 6-641.01 to 6-651.02 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship to me.

Background

My office has been at this location since 1971. At the time my mother occupied the second floor and this made it possible for me to practice medicine without having to worry about any activities on the second floor that might endanger me or my patients while in the office. After her death, the space was occupied by very close persons who were extensions of our family. The last resident was our "adopted" son whom we had mentored since his teenage years (over 40 years ago) and he resided upstairs and provided me with services such as reporting any problems around the property, and providing services such as being there for serviceman, technicians, etc., His residency provided me an even greater security because he was also a private detective. My wife and I never had to worry about the safety of the building or our patients or clients. We never had any problems or difficulties with our neighbors or those in the general public who respected his presence and position. We had fewer incidents of trespassing and thefts at the property because of his presence as a tenant living on the property.

I was advised many years ago of the danger that I could place myself in if I were to identify the medical office in the building, due to its location on a major transportation line. Several of my colleagues who had offices on a major transportation route experienced robberies at gunpoint when the suspects would make their escape on the buses immediately following the robberies because there was no way of identifying a vehicle or suspect/s by the time the police were notified.

Police statistics report that there were 26 Total Property Crimes and 10 Total violent Crimes that occurred within 1000 feet of 3536 Minnesota Avenue, SE between 01/01/2015 and 3/22/2015. There were 116 Total Property Crimes and 74 Total Violent Crimes that occurred within 1000 feet of 3536 Minnesota Ave SE between 3/22/14 and 3/22/2015.

(<http://crimemap.dc.gov/MapFrame.aspx?CrimeType=Total%20Violent%20Crime>) Please see the attached statistical report maps for the periods listed above.

When the apartment became vacant, I thought that I could simply use the space for our nonprofit activities to continue to work in the community that I had practiced in for over 40 years since I already had an occupancy permit for the first floor and the basement. I requested and received furnishings of DC. Surplus property as a nonprofit to furnish the second floor as a small nonprofit office before I realized that I needed an occupancy permit for the second floor. When I applied for the occupancy permit, it was only

then that I learned that I needed to file for a zoning variance. The doctor's office at this location needs security and there are no relatives or other appropriate tenant to occupy the space. Based on the types of persons who inquired about renting the space in this high crime area, we knew that we would jeopardize the safety of our patients and ourselves at the property. We then decided that another use of the space was needed, and the proposed use as a non-profit office whose mission was to provide community services to help families in the area would be the better alternative. **It was obvious that there would have to be an activity at the building that would help prevent criminal activity especially since there was not a tenant with relational ties to me, the property owner, as there had been in the past. The fact that I have limited office hours plays a significant role in encouraging criminal activity because of the lack of visible activity in and around the property**

Exceptional and Undue Hardship

I am a senior citizen (82 yrs. old) on a fixed income I have suffered a severe financial loss to date because I spent money to make major repairs and upgraded the unit to use as an office. I anticipated using my property to operate and function as one unified entity with common keys, security and maintenance and that would co-exist with the office that I have had there for the past 40 years. I have not been able to realize any income from the unit since its vacancy in April 2014, almost one year ago because I could not rent the space to the types of tenants who applied because of the security risk in this high-crime area. I was unable to pay the second half of my property taxes and now have interest and penalties due. The first half of this year's property tax is now due as well. With no income from the unit, I am in jeopardy of defaulting on my tax payments for the property. The property is a critical component of my financial support at this time in my life. Renting the office to the proposed nonprofit would provide the finances needed to maintain the property, provide services to the community and stabilize my financial security. My inability to rent the space to the nonprofit has caused me severe hardship.

If relief is granted, the use variance would be without any 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.

Proposed Use

Our intent is not for commercial use. One of the major programs is to provide Food Security **education** to the community in partnership with the University of the District of Columbia and its College of Agriculture, Urban Sustainability and Environmental Service as an Urban Food Hub model. Food security is defined by the Department of Agriculture as "access by all people at all times to enough nutritious food for an active, healthy life. "Low food security refers to a diet of reduced quality, variety, and desirability for some populations. **The proposed Food Hub program is a place where residents would be taught about nutrition and its importance to their health. It is not a food storage or preparation facility. It is a place where small educational seminars and classes will be held** and information provided on how to shop and prepare nutritional food for their families by visiting certified nutritionists and professional staff from UDC. Residents will have an opportunity to learn how to grow home gardens in containers and on small plots by trained agronomists on staff at UDC, how to prepare themselves to become business owners of small food businesses, etc. There are residents who can make sauces, jams, jellies, etc., and they will learn how to prepare themselves to become licensed professional food handlers and how to sell their products as a small business by preparing their products in commercial kitchens under the auspices of UDC in hubs where the kitchens are located. Others will be able to prepare themselves to receive their food handler's certificates which would enable them to apply and to gain employment in the food industry in the city and elsewhere. The space is limited so the classes will be small in size.

One of the goals is to seek funding to provide food certificates or coupons for participants of our Food Security program to allow them to purchase healthy, fresh food for their families from any available major grocery chain. Further, it is proposed that the hub will serve to provide fresh produce from the UDC Farm by implementing a plan for the harvesting of fresh produce by residents. This will require planning for transportation to and from the farm and other logistics such as the use of a large parking lot at a nearby commercial area to pickup and discharge residents who would participate in harvesting fresh produce at the farm for their families.

Having these kinds of educational opportunities at the proposed location means that residents who live in the many multifamily buildings that surround the property will not have to travel outside of the ward, but will have the opportunity to gain knowledge about Food Security right in their community, and in walking distance as well.

Washington D.C. has eight census tracks that qualify as outright food deserts (defined as fresh food being unavailable within a one-mile radius), partially due to distances from the top food producing states i.e. Texas (for animal products) and California (for produce.) Of the 520 food retailers in D.C., 88 percent do not offer any fresh produce and only 12 percent offer an adequate variety of fresh food to support a healthy diet. Nutrition-related problems like diabetes, hypertension, and obesity are especially high in these food desert neighborhoods. **The deserts are primarily located in Wards, 5, 7, and 8 which are the wards with the lowest household incomes and the highest concentration of African-Americans.** These three wards are home to 32 percent of the D.C. population but less than 10 percent of its grocery stores.**

We feel that the 2nd floor unit at the property would be at its best use as an office whose primary goal is to provide service to the community without inviting additional criminal activity or causing disruption to any of the residents. The community is familiar with the health services that have been quietly offered at the site for over 40 years, and that **familiarity** would help the efforts of the nonprofit in getting the information and health education that the Hub Project proposes to the residents. The nonprofit will have the task of securing space for large classes or seminars when needed at local facilities (i.e. library or facilities and schools under the UDC administration in the area). The uniqueness of the location is that information that is needed to insure the success of the promotion of Food Security in the Ward can be acquired at a more intimate level from the community and would be based on their responses from the outreach that we would be able to have via the classes and the collection of the personal and collective needs expressed. We can then construct programs that better suit the community and that will result in positive results in the Food Security efforts for the Ward. These results can be used to help construct successful projects in other communities.

The nonprofit will serve as a bridge between UDC and other educational entities to introduce residents to environmental services and urban sustainability, and other fields to interest to encourage participation in activities that will prepare them for employment.

The nonprofit's primary goal is to provide a multiplicity of services with the goal of educating residents of opportunities in new areas of environmental and urban sustainability, and equipping them to be able to participate in the new fields of employment that are becoming available. It will assist in "connecting the dots" for residents who have had difficulty in securing skills, especially veterans, returning citizens, and youth who have not completed their high school education.

One of the proposed programs to provide possible employment for Veterans is our Senior IT Technology course in which Veterans, in collaboration with the Office of Veterans Affairs at UDC, will teach seniors how to use computers to communicate with family and friends, use electronic bill paying, shop online,

learn security techniques when computing, enjoy recreational games, listen to their choice of music and just enjoy learning about the world we live in. They will have access to their medical records, Medicare, health insurances and much more. This is also a healthy way to help the seniors retain and regain mental acuity in many cases and to provide security for their personal safety when they can shop online, take care of their business needs, etc. The small intimate classes will help to reduce the fear and intimidation they might feel in learning how to use a computer.

****Food Security- The Urban Food Jobs Solution Dr. Sabine O'Hara – UDC/CAUSES Jan-Feb 2015**

Other Pertinent Information

The hours of operation for the nonprofit will be from 10 am to 4 pm. The doctor's office hours are from 2-4 pm on Tuesday and Thursday. There is only two staff but there are scheduled visiting physicians and other health related professionals who would come from time to time for patient education sessions (Diabetes for example). A maintenance person (independent contractor) comes on weekends or non-office hours.

The **doctor's** office operates by appointment only and averages 4- 10 persons. On special occasions, there might be a maximum of 12 for a special health class. The amount varies depending upon the referrals from physicians.

Parking – There has never been a parking problem because there is plenty of on-street parking immediate to the property. Most visitors to the building either walk, or come by public transportation. In the forty years I have been there, we have never had a complaint from patients or residents in the area, nor the police department for any parking violations. By the time I have office hours, residents in the community are at work, and the medical office is closed by the time they leave work. The hours of the nonprofit fall within this time frame as well. There is a parking restriction until 9:30 am on Minnesota Ave, S.E. so those who are employed during the usual business hours have left for work prior to this time. Others, such as retired persons, usually park on the side street where there is no restriction. For the most part, there is always multiple parking places on the entire block where the property is located throughout the day and into the evening as well.

Employees and visitors to the new office will be able to park in front of the building or if necessary on adjacent side streets that are not in front of any residences. Because of the early morning parking restrictions, most residents with cars will park directly across the street adjacent to the triangular public park. The new office staff is very small and will mainly consist of the executive director, an office manager and program manager when funding allows. Initially, there will only be two staff members in the new office.

Granting the application will not be of substantial detriment to the public good – i.e. traffic, noise, lighting, etc.

Granting the application will not be inconsistent with the general intent and purpose of the Zoning Regulations and Map.

Our ANC Commissioner, Mrs. Elizabeth Travers has been our neighbor for the 35 years that she has lived in the community, and she is very familiar with the property. We had an extended conversation about the proposed office and activities on March 24, 2015 by telephone. She can attest to the need for the services proposed by the nonprofit organization and that have been identified by the commissioners in Ward 7.

Granting the application will not be inconsistent with the general intent and purpose of the Zoning Regulations and Map. My conversation with the ANC Commissioner confirmed the planned development in the immediate area (i.e. Greenway Apartments) and we discussed how the mission of the nonprofit is consistent with the general intent and purpose of the Zoning Regulations and Map.