

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

Application of Po Saidi and Gholam Paknejad

**APPLICANT'S PRE-HEARING STATEMENT
February 4, 2015**

This Pre-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 a variance under § 2101.1 to allow the adaptive alteration and repair of the existing building for purposes of a three-unit apartment house or condominiums. The nature of relief sought is variance relief from the minimum number of parking spaces required for the proposed use in the underlying C-2-A Zone District within which the subject property is located. The proposed use is constrained from providing any on-site parking space, therefore will not comply with the parking schedule set forth under § 2101.1 of the District of Columbia (DC) Zoning Regulations.

SUMMARY OF APPLICATION

The applicant seeks an area variance pursuant to 11 DCMR § 3103.2 to allow the alteration and repair of the existing building for the stated purpose, wherein all substantial work, save a proposed exterior stair to provide access to the basement and aesthetic exterior façade improvements, is limited to the interior reconfiguration of the existing envelope of the building to accommodate the proposed apartment house use.

The applicant proposes to establish an apartment house consisting of three units, with a dwelling unit designed to occupy each existing floor; one dwelling unit in the basement and one each on the two floors above. The proposed use is to be established wholly through the interior reconfiguration of the existing structure.

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 property is located in the Shaw neighborhood in the Northwest quadrant. An irregularly-shaped interior lot the subject property fronts on Rhode Island Avenue with a sliver of a panhandle abutting a public alley.

The legal description of the subject property as recorded in the District of Columbia Surveyor's record is that it is located in Square 0476 and is lot 0020. The lot features 18 feet of width of lot where it abuts Rhode Island Avenue and is approximately 913 ft² in lot area.

Notwithstanding that the sliver of the panhandle portion of the lot abuts a public alley, the existing rear yard is not large enough to accommodate a standard required parking space.

The existing structure or improvement upon the lot occupies approximately 74.6% of the lot area, but the applicant does not propose any addition which would increase this nonconformity of structure aspect of the subject property.

The existing building consists of a basement and two floors above for a total three stories.

STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

The Applicant seeks variance relief pursuant to the Zoning Regulations, 11 DCMR § 3103.2, specifically to allow the renovation, alteration and repair of an existing building on the subject property for purposes of a three-unit apartment house or condominium not meeting the minimum number of required parking spaces for its underlying C-2-A zone district set forth in § 2101.1.

The C-2-A requires a minimum one (1) parking space for every two (2) dwelling units. The applicant contends that relief is required from providing only one (1) parking space based on credit earned by virtue of previous history of use at certain point as a residential building, even if a single family dwelling, but in any event the subject property is constrained by existing condition from providing any on-site parking to the extent that it is determined that relief is from providing two (2) spaces.

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 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 a 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.

EXCEPTIONAL SHAPE OF A SPECIFIC PIECE OF PROPERTY

The Applicant contends that the Subject Property demonstrates a unique characteristic of shape or size of lot in existence at the time of the adoption of the Zoning Regulations.

Although the C-2-A zone district does not stipulate minimum lot width and area requirements, the lot size of the subject property at 913 ft² is just above half of what the minimum lot area requirement is in the R-4 zone district.

The applicant contends that the fact of the limited size and shape of lot of the subject property, both conditions predating the May 12, 1958 adoption of the current Zoning Regulations, constrain the unique circumstance of the necessity for the relief sought before the BZA in the instant application.

In addition to its limited size in area, the subject property is irregularly-shaped such that it is not rectangular in dimension and features a narrow panhandle which offers narrow and restricted access to its rear yard.

Notwithstanding, the subject property given its width of 18 feet at its widest and the irregular shape of the existing rear yard, could not possibly fit one standard parking space of 9 ft. by 19 ft, as specified by the pertinent section of the Zoning Regulations.

The applicant contends that as the only lot so irregularly-shaped with a panhandle sliver with restricted access from a public alley, the subject property meets the uniqueness basis for the granting of the relief sought.

PECULIAR AND PRACTICAL DIFFICULTIES TO OWNER OF PROPERTY

The applicant contends that the very uniqueness of the subject property related to its shape and size, a condition which existed prior to the adoption of the Zoning Regulations, is what results in the peculiar and practical difficulties upon the owner to comply with the requirement of the Zoning Regulations to provide a specified number of parking spaces on the site upon which the use the parking is intended to serve is located.

As aforementioned, the size of the subject property at 913 ft² is comparably small when compared to the most restrictive zone district within which minimum lot area and width of lot is prescribed.

More importantly, the shape of the lot and in dimension, constrains compliance even if the owner desired to provide a single parking space on site.

The existing building on the subject property, which is constructed lot line to lot line without a side and front yard setback, was constructed prior to the May 12, 1958 adoption of the Zoning Regulations. Hence, it is and has always been impractical that required parking could be sited in a front yard, or side yard.

For the foregoing reason, the applicant contends that the subject property meets and complies with the second prong of the burden of proof for the granting of the specific variance relief sought.

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

The applicant seeks to establish two uses permitted in the underlying R-5-B zone district of the Subject Property. The renovation of the existing vacant and abandoned structure will eliminate what now constitutes a source of blight in the neighborhood. The northeast alley which is twenty feet (20 ft) wide has been carefully chosen as the vehicular access to the single parking space provided to serve the proposed artist studio

WITNESS

The following witness will testify in support of the Application:

1. Olutoye Bello.

CONCLUSION

The Applicant submits that the instant application complies with all conditions for the granting of the requested special exception set forth in § 2003.1 as outlined above and as shall be further documented, and requests that applicant should be granted.