

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

Application of Tiblez Adal

**APPLICANT'S PRE-HEARING STATEMENT
February 11, 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 § 2001.3 (a) to allow the retention of an existing two-story carriage house located at the rear of the subject property for adaptive alteration and repair for purposes of an artist studio. The nature of relief sought is variance relief from the maximum permitted lot occupancy for the proposed use in the underlying R-4 Zone District within which the subject property is located.

SUMMARY OF APPLICATION

The applicant seeks an area variance pursuant to 11 DCMR § 3103.2 to allow the alteration and repair of the existing carriage house for the stated purpose, wherein all work related to the restoration of the carriage house, including the main or principal structure have been substantially completed. On December 15, 2009, the Department of

Consumer and Regulatory Affairs (DCRA) approved and issued a building permit for the construction of a third floor on the existing main or principal structure on the condition that the roof of the carriage house be demolished so as to reverse the existing nonconformity of structure by eliminating the carriage house from counting towards percentage of lot occupancy.

The main building and the carriage house combined occupied approximately 75.5% of the area of the lot at the time of the application for the third story addition to the main building. The main building alone occupies approximately 55% of the lot.

Setting aside whether the mere removal of the roof of the carriage house thereby leaving the perimeter walls standing vacates the carriage house from inclusion in lot occupancy percentage calculations, the applicant contends that the specter of freestanding perimeter walls, which would render the carriage house unsuitable for occupancy and/or any use whatsoever, results in an undesirable outcome.

This application seeks to retain the carriage house roof having restored the carriage house for the useful purpose of an artist studio. This preserves a carriage house which was originally constructed in conjunction with the main building in 1890.

The main building has been converted for purposes of a two-family flat; the first floor containing one unit, while the upper two floors comprise the second unit. The proposed artist studio use is a permitted use in an accessory structure in the R-4 zone district as set forth under § 2300.3.

The applicant envisions the carriage house as a work/live space for a single artist with no apprentice(s), therefore the parking is not required in the context of §2300.3 (e), in any

event providing vehicular parking at the subject property has hardly been feasible beyond the horse and buggy days!

The applicant affirms that the proposed artist studio will comply with all the criteria set forth under §2300.3, subsection (a) through (e)

The relief sought therefore is from the maximum permitted percentage of lot occupancy for the underlying R-4 zone district resulting from the retention of the carriage house for purposeful use, which results in no net change in lot occupancy in existence since the 1890 construction of the improvements on the subject property.

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 Square 806 at the northeast corner of the intersections of K and 4th Streets in the northeast quadrant. Its legal description is record lot 44.

A rectangular corner lot, the subject property has street frontage both on 4th Street and K Street. Lot width on K Street is approximately 20.08 feet, whereas depth of lot measured alongside 4th Street is 95.00 feet, for a total lot area of 1,907.60 ft²

As aforementioned, the existing improvements on the subject property, including the carriage house, were originally constructed in 1890, according to available public records. The two-story carriage house, which is unconnected to the main building and is freestanding, is located at the north of the subject property where the rear property lot line abuts a 10 feet public alley.

The main building consisted of two floors prior to the authorized third floor addition under stated condition.

The applicant has been renovating the improvements on the subject property since 2007, starting with stabilizing the long abandoned, dilapidated structures which had been vacant for several years, and subjected to the degradation caused by water damage and exposure.

The applicant will provide testimony in the course of the hearing to establish that work to stabilize the damaged building had to be strategically incremental to improve the structural integrity. Hence different phases has been on-going since 2007

STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

The Applicant seeks variance relief pursuant to the Zoning Regulations, 11 DCMR § 3103.2, specifically under § 2001.3 (a) to allow the restoration of a two-story carriage house for productive use as an artist studio which would have subjected the constructed third floor addition on the main building to relief under the stated section relating to existing nonconforming structures.

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.

EXTRAORDINARY OR EXCEPTIONAL SITUATION OR CONDITION OF PROPERTY

The Applicant contends that the subject property demonstrates extraordinary or exceptional situation or condition of property by the unique fact that it is the only property in its square with a two-story carriage house originally constructed in conjunction with the main building in 1890.

The main building was originally a two-story structure row structure, except that towards its rear opposite K Street, the building narrows down to approximately 10 feet where it creates a conforming open court.

As aforementioned, in December of 2009, the owner was granted a building permit to construct a third floor addition, which did not extend to the doglegged part of the existing footprint, therefore no increase in footprint occurred.

However, since the existing improvement on the lot, including the carriage house, exceeded the maximum percentage of lot occupancy allowed (60% versus 75.5%), the

applicant was advised that annotation on the plat to the effect that the roof of the carriage house would be removed, was enough to secure the building permit sought for the third floor addition to the main building.

The applicant sought approval for a third floor addition on the main building in order to reconfigure the two dwelling units within it for better functional floor layout design. The existing improvements upon the subject property, including the carriage house, have existed since 1890 and long predate the adoption of the current Zoning Regulations

The foregoing fact, including that the subject property is uniquely the only property upon which a “historic” two-story carriage house is constructed is the extraordinary or exceptional situation or condition of property when viewed against the necessity to demolish its roof so as to subject it to unproductive use of any kind, worse its complete demolish in order to sustain a third story addition to the main building.

PECULIAR AND PRACTICAL DIFFICULTIES TO OWNER OF PROPERTY

The applicant contends that the very uniqueness of the subject property relating to its extraordinary or exceptional situation or condition of property, 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

As aforementioned, the improvements on the subject property, including the carriage house, have been in existence since their original construction in 1890. Hence the aggregate percentage of lot occupancy, which computes to approximately 75.5%, has been the same since inception and long before the May 12, 1958 adoption of the current Zoning Regulations which prescribes a more restrictive 60% maximum.

The applicant has been foreclosed from compliance with the more restrictive limitation on maximum permitted percentage of lot occupancy since the 1890 construction of the current improvements on the subject property.

Notwithstanding that the constructed third floor addition atop the main building does not change the existing aggregate lot occupancy, seeking the instant relief before the BZA is practically unavoidable.

The fact that the carriage house is required to be demolished in order that any addition to the main building is allowed establishes inherently the peculiar and practical difficulties upon the owner

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 use permitted as a matter of right in an accessory garage or structure in a Residence zone district by making adaptive use of an existing carriage house, which is the only existing one of its kind in the subject property's square of location.

Although the subject property is not within a specific Historic District, given the carriage house's year of construction in 1890 and the fact that it is the only one of its kind in the square, the applicant contends that these two factors alone bestow upon the carriage house a historic-like status that warrants its preservation, and militates against its demolition.

The applicant has expended significant resources, financial and sweat equity, to restore property that remained vacant, abandoned, and a blight to the community for productive use and occupancy.

Both the main building and the restored carriage house will devoted to uses permitted in the underlying R-4 zone district, therefore are compatible uses. The project does not result in any net change in visual impact because the envelope of the buildings that has existed on subject property since 1890 remains the same, save for positive impact of the adaptive renovation and use of a long abandoned and property which was a blight on the neighborhood or community for a long period of time.

The applicant contends that for all the foregoing reasons, the Board may grant the relief sought without substantial detriment to public good and without substantial impairment of the intent, purpose and integrity of the zone plan

WITNESS

The following witness will testify in support of the Application:

1. Kubrom Adal
2. Arsema H. Adal

CONCLUSION

The Applicant submits that the instant application complies with all conditions for the granting of the variance pursuant to § 3103.2 sought under § 2001.3 (a) as outlined above and as shall be further documented, and requests that applicant should be granted.

The applicant further contends that the Board may grant the relief without substantial detriment to public good and substantial impairment of the intent, purpose and integrity of the zone plan, as embodied in the Zoning Regulations and Zoning Map.