

**Before the District of Columbia
Board of Zoning
APPLICATION OF KATEH ZAHRAIE
1546 NEW JERSEY AVE NW
ANC 6E2**

Opening Statement of the Applicant

I. Nature of Relief Sought

This statement is submitted by Kateh Zahraie, (the "Applicant"), the owner of Lot 0050 in Square 0510, which has a street address of 1546 New Jersey Ave NW (the "Property") in support of her application for an area variance from the lot area requirement (§401.3), an area variance from the lot occupancy requirement (§403.2) and a special exception from the roof structure setback requirements (§400.7b) to allow the Applicant to convert a flat with two 4-bedroom units to an apartment house with three 2-bedroom units within an R-4 District at the Property.

II. Description of the Proposed Development

As shown on the architectural plans, the Applicant proposes to convert the Property from a 2-story flat with two 4-bedroom units with no parking to a 3-story multi-family building with three 2-bedroom units and two parking spots.

The existing building is in dilapidated condition, and the structure's current state devalues the neighborhood. The proposed plans will revitalize and enhance the block by turning the currently dilapidated and uninhabitable Property into a safe and up-to-code residential building, as is intended within the R-4 District.

The ground floor will contain one unit and the 2nd and 3rd floors will contain 2 duplex units, each with a rooftop exit. The proposed design complements the architectural character of the neighborhood and conforms to the existing row house streetscape. The proposed roof level is at 31 feet and the maximum height of the proposed structure, including roof structures hidden from both street and alley view will be 38.9 feet, which is permitted as a matter of right.

The existing structure occupies 64% of the lot. The proposed lot occupancy of 69% is due to the addition of a small exterior balcony (3.9') and staircase in the back.

The lot does not currently include parking spaces. The Applicant's proposal includes the creation of two new parking spaces.

III. The Applicant Meets The Burden of Proof For Variance Relief

This opening statement will outline the argumentation as to why the Applicant meets the burden of proof. A full length burden of proof statement, including the necessary exhibits to support the arguments, will be submitted at a later date.

1. The Property is Unusual Because of its Size, Shape or Topography and is affected by an Exceptional Situation or Condition

a. Exceptional Location and Surroundings

The Applicant will provide documentation to proof that the location of the Property is exceptional because it is surrounded by various multi-family buildings and is part of a section of New Jersey Avenue with exceptional characteristics compared to other R4 residential streets. Additionally, the Property is located on a square which is of exceptionally low density.

Some neighboring properties are multi-family residential buildings with up to 6 units. Currently, a 6 unit building is under construction on the same block. Moreover, the building directly facing the back of the Property is an 8 unit multi-family residential building.

In addition to being surrounded by various multi-family buildings on the Property's block, the Property faces a wide and traffic-heavy avenue as well as an underdeveloped commercial square (Square 0510E, lot 800) with a large parking lot. This location presents unique challenges for residential use. The commercial square and large parking lot (Square 0510E, lot 800) directly across from the Property are opposed to R-4 General Provisions (330.2).

The Property is located on square 0510, a square of which more than 50% is occupied by Montgomery Elementary School, Kipp DC and a 50+ car parking lot. This square constitutes an exceptionally low density even when compared to other low-density R4 squares.

b. The Existing Non-conforming Aspects of the Property

The existing structure is nonconforming with respect to lot occupancy. The structure occupies 64% of the lot. In addition, the Property has an existing nonconforming court. Without demolition, or drastically changing the footprint of the existing structure, both of which would be wasteful and costly, the structure's lot occupancy can not be minimized. The existing nonconformities are unique and contribute to the practical difficulties associated with this Property.

c. The Existing Dilapidated Condition of the Property

The Property was purchased vacant in May of 2014. Prior to that, it was used to house approximately 20+ occupants (3 per room and 1 bathroom per floor). While not a justification for a variance relief in and of itself, the high number of occupants over the years and the neglect and lack of care by the owners as well as tenants only exacerbated the dilapidated state of the structure.

The deteriorated condition of the existing structure as well as bringing existing repairs up to code present exceptional challenges for the Applicant. Professionally conducted inspections have shown that the roof as well as structure have been improperly repaired creating unsafe conditions. Other systems such as electrical wirings, flooring, fixtures, HVAC and other mechanical systems must be replaced in order to provide standard living conditions and adhere to building codes and regulations.

Without partial demolition and redevelopment of the site into three units the cost to return the structure to a residential use cannot be recovered. The front and rear of the building have been poorly maintained and are in a deplorable condition. Maintenance without reinforcement of the existing structure exposes the Applicant to significant liability and exacerbates the exceptional condition at the Property. The Property has various construction compliance issues. Contributing to the exceptional condition of the Property is the liability associated with embarking on unknown rehabilitations without full interior demolition and reinforcement.

d. Fire Damage

The Property suffered substantial fire damage and was never properly repaired creating unsafe living conditions for the inhabitants of the Property. Inspections show that repairs made to Property were not made by professional contractors and are not in line with international building codes. Due to improper repairs the building's condition has deteriorated rapidly. This condition presents unique challenges to the Applicant.

In the Applicant's judgment the condition of the Property is exceptional due to the confluence of the above mentioned arguments.

2. The Owner Would Encounter Practical Difficulties If The Zoning Regulations Were Strictly Applied

a. Lot Area Requirements 401.3

Strict application of the zoning regulations with respect to lot area would result in a practical difficulty to the Applicant. Under §401.3, the conversion of a building or structure to an apartment house in the

R-4 District is permitted but requires a minimum of 900 square feet of lot area per apartment unit. In light of the extensive renovations required, a three unit structure is the minimum required for the project to be financially feasible, requiring an additional 445 square feet of lot area (16% deviation). As will be demonstrated in more detail in a financial feasibility study, strict application of the zoning regulations would prevent the renovation and reconstruction of the Property thus constituting a practical difficulty for the Applicant.

In this instance, it is not simply that having fewer units would produce less of a profit for the Applicant. Rather, due to the exceptional circumstances at the Property described above, partially demolishing the existing structure and construction of an additional floor is the best option for the neighborhood and the only practical option for the Applicant. *Any* renovation of the existing structure that results in sales income from fewer than three units would result in an economically infeasible project. The Applicant will testify, based on a Profit and Loss Analysis, that there is no economically feasible alternative for rehabilitation of this Property because compliance with the Zoning Regulations will result in a loss or unacceptable financial risk. Thus, a practical difficulty exists because the existing structure requires such a large investment that construction and renovation becomes feasible only with sales income from three units.

b. Lot Occupancy Requirements 403.2

To provide additional rear egress, the construction of a small balcony and external staircase is needed. The existing structure's lot occupancy is currently greater than the allowed 60% lot occupancy under R4 and strict application of the zoning law under §403.2 would not allow any addition increasing the lot occupancy and thus creating a practical difficulty for the Applicant.

c. Roof Structure Setback Requirements 400.7b

Strict application of the roof structure setback requirements would not allow for the height of the rooftop penthouses to comply with international building codes.

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

There will be no substantial detriment to the public good and no substantial impairment to the intent, purpose, and integrity of the zone plan by approving the zoning relief. With regard to the lot area variance, there will be little impact to residential density. The residential density on Square 510 is very low due to the presence of the Montgomery Elementary School, Kipp DC, a Church and a large parking lot. Any disruption is further limited because a number of neighboring properties, like the proposed project, are also multi-unit structures.

The Property is part of an architecturally inconsistent block. Most buildings on the block have three stories.

The height, permitted as a matter of right and as visible from the front and back, will only exceed the neighboring properties by four feet without altering the architectural character of the block.

Furthermore, by renovating a poorly maintained and neglected structure, the Applicant is replacing what is currently a detriment to the neighborhood with an asset to the nearby community. The Applicant submits that the proposed project adequately balances the Zoning Regulations' goals of protecting neighboring properties and modernizing a Property to a more appropriate and more desirable use.