

BOARD OF ZONING ADJUSTMENT

Ramin Mehdizadeh and Hyun Ah Lee (“Applicant”)
254 15th Street, SE

Applicant’s Prehearing Statement – BZA Application No. 18994

I. Introduction.

This Statement is submitted on behalf of Mr. Ramin Mehdizadeh and his wife Ms. Hyun Ah Lee (together, the “Applicant”), owners of the property located at 254 15th Street, SE, Square 1073, Lot 22 (the “Subject Property”). Situated at the front of the Subject Property is an existing one-family dwelling (the “Building”). The Subject Property is located in the C-2-A zone district, about one-half block south of Massachusetts Avenue. Of the fifty-four structures located in Square 1073 (the “Square”), the subject Building is the only structure that cannot be accessed from the rear by way of the alley in that Square.

The Applicant plans to construct a matter-of-right addition to the Building, with a matter of right conversion to five (5) residential units. To do so, the Applicant requests parking space variance relief for the two (2) space parking requirement under 11 DCMR §2101.1, because there is no vehicular access to the rear of the Subject Property and therefore no way to provide the required parking spaces.

II. Requested Relief.

Pursuant to Sections 2100 and 2101 of the Zoning Regulations, a conversion from a one-family dwelling constructed prior to 1958 to a five-unit apartment house requires the provision of two (2) parking spaces. The Applicant requests relief from this requirement, as there is no possible means of vehicular access to the rear of the Subject Property.

III. Variance Relief and the Burden of Proof.

The burden of proof for an area variance is well established. The Applicant must

demonstrate three elements: (1) unique physical aspect or other extraordinary or exceptional situation or condition of the property; (2) practical difficulty from strict application of the Zoning Regulations; and (3) no substantial detriment to the public good or the zone plan. *Gilmartin v. D.C. Board of Zoning Adjustment*, 579 A.2d 1164, 1167 (D.C. 1990). As the D.C. Court of Appeals has noted, the variance procedure “is designed to provide relief from the strict letter of the regulations, protect zoning legislation from constitutional attack, alleviate an otherwise unjust invasion of property rights and prevent usable land from remaining idle.” *Palmer v. D.C. Board of Zoning Adjustment*, 287 A.2d 535, 541, (D.C. 1972). As set forth below, the Applicant meets the three-part test for the requested variance from the requirement of two (2) parking spaces.

A. The Property is Subject to an Exceptional Situation or Condition.

The phrase “exceptional situation or condition” in the variance test applies not only to the land, but also to the existence and configuration of a building on the land. See *Clerics of St. Viator, Inc. v. D.C. Board of Zoning Adjustment*, 320 A.2nd 291, 294 (D.C. 1974) (emphasis added). Moreover, the unique or exceptional situation or condition may arise from a confluence of factors which affect a single property. *Gilmartin v. D.C. Board of Zoning Adjustment*, 579A.2nd 1164, 1168 (D.C. 1990).

In this case, due to the complete lack of vehicular access to the Subject Property, no parking can be provided on the Property. Abutting the Subject Property to the rear is a property owned by the District of Columbia which is used to park emergency vehicles. This parking area is surrounded by a fence and completely land locks the rear access to the Subject Property. The complete lack of vehicular access, unique for this Square, is an exceptional condition affecting only the Subject Property.

B. Strict Application of the Zoning Regulations Would Result in a Practical Difficulty to the Owner.

The second prong of the variance test is whether a strict application of the Zoning Regulations would result in a practical difficulty. In reviewing the standard for practical difficulty, the Court of Appeals stated in *Palmer v. Board of Zoning Adjustment*, 287 A.2d 535, 542 (D.C. App. 1972), that “[g]enerally it must be shown that compliance with the area restriction would be unnecessarily burdensome. The nature and extent of the burden which will warrant an area variance is best left to the facts and circumstances of each particular case.” In area variances, applicants are not required to show “undue hardship” but must satisfy only “the lower ‘practical difficulty’ standards.” *Tyler v. D.C. Bd. of Zoning Adjustment*, 606 A.2w 1362, 1365 (D.C. 1992) (citing *Gilmartin v. Bd. of Zoning Adjustment*, 579 A.2d 1164, 1167 (D.C. 1990).

It is well established that the BZA may consider “a wide range of factors in determining whether there is an ‘unnecessary burden’ or ‘practical difficulty’ ... Increased expense and inconvenience to an applicant for a variance are among the factors for the BZA’s consideration.” *Gilmartin*, 579 A.2d at 1711. Other factors to be considered by the BZA, according to *Gilmartin*, include: “the severity of the variance(s) requested”; “the weight of the burden of strict compliance”; and “the effect the proposed variance(s) would have on the overall zone plan.” Thus, to demonstrate practical difficulty, an applicant must show that strict compliance with the regulations is burdensome, not impossible.

A strict application of the parking requirements in this case is actually impossible, as a result of the complete lack of vehicular access. The Applicant intends to construct a matter-of-right addition to the Building, providing five (5) residential units. The construction and conversion are permitted as a matter-of-right. The Subject Property is the only property in the Square which backs up to the District of Columbia’s property and does not have access to the alley, making it unduly burdensome—if not impossible—to provide the required parking spaces. (While there are three other lots that also abut the District of Columbia’s property, access to these lots is from the sides of

these lots). Accordingly, requiring the Applicant to provide two parking spaces that cannot be legally accessed would result in a practical difficulty to the Applicant.

C. The Requested Relief Will Cause No Substantial Detriment to the Public Good or to the Intent, Purpose, and Integrity of the Zoning Regulations.

The Subject Property is located in the commercial C-2-A zone district on a block which includes a mix of one-family dwellings and apartment houses. The Subject Property is very unique because it is blocked from alley access by the District's parking lot. The Subject Property is uniquely blocked, thereby protecting the integrity of the Zoning Regulations.

IV. Conclusion.

For the reasons stated above, this Application meets the requirements for area variance relief, and the Applicant respectfully requests that the Board grant the requested relief.

Respectfully submitted,



Martin P. Sullivan, Esq.
Sullivan & Barros, LLP

April 21, 2015