

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

**Application of Murillo Malnati Group, LLC  
3831 Georgia Avenue, N.W.  
(Square 3028, Lot 809)**

**PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF**

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This statement is submitted by Murillo Malnati Group, LLC, the contract purchaser of the property located at 3831 Georgia Avenue, N.W. (Square 3028, Lot 809) (the "Site"), in support of its application pursuant to 11 DCMR §3103.2 for an area variance from the off-street parking requirements under 11 DCMR § 2101.1 to allow the construction of a new mixed-use retail/residential building in the GA/C-3-A District at the Site.

Pursuant to Section 3113.8 of the Zoning Regulations, the Applicant will file its Prehearing Statement with the Board of Zoning Adjustment no fewer than 14 days prior to the public hearing for the application. In the Statement, and at the public hearing, the Applicant will provide testimony and evidence to meet its burden of proof to obtain the Board's approval of the requested relief. Following herein, as required by the Board's application process, is a preliminary statement indicating how the Applicant meets the burden of proof.

**I. Background**

The Site is located at 3831 Georgia Avenue, N.W. and includes Lot 809 in Square 3028. Square 3028 is bounded to the north by Randolph Street, to the east by 8<sup>th</sup> Street and New Hampshire Avenue, to the south by Quincy Street, and to the west by Georgia Avenue, all in the northwest quadrant of the District. The Site is located on the southeast corner of the intersection of Georgia Avenue, N.W. and Randolph Street, N.W., and abuts a 15-foot wide public alley to the rear (east). The Site is an irregularly-shaped trapezoid, with a total of 34.4 linear feet of frontage on Georgia Avenue (divided in two lengths—one at 23.64 feet and one at 10.77 feet—that have different angles along Georgia Avenue); 107.88 linear feet of frontage on Randolph Street to the north; 24.97 linear feet of frontage on the public alley to the east; and 103.52 feet of linear frontage on private property to the south. The Site has approximately 3,117 square feet of land area and is presently improved with a two and three-story building that most recently housed a funeral home. The Site is located within the C-3-A District and the Georgia Avenue ("GA") Overlay District.

As shown on the plans included with the application, the Applicant proposes to construct a new six-story, 70-foot mixed-use retail/residential building. The building will include approximately 1,488 square feet of ground floor retail and 20 residential units on floors two through six. The cellar incorporates retail storage space and a bicycle storage room. The ground floor residential lobby will be accessed from Georgia Avenue, and the retail use will be accessed from Georgia Avenue and Randolph Street. Two at-grade parking spaces are located at the rear of the Site and accessed from the public alley. The project complies with all of the applicable provisions of the Georgia Avenue Overlay District, and the proposed uses are consistent with the

Site's GA/C-3-A zoning designation. However, due to a number of site and design constraints, the Applicant is compelled to seek an area variance from the off-street parking requirements of 11 DCMR § 2101.1.

## **II. Burden of Proof**

Under D.C. Code § 6-641.07(g)(3) and 11 DCMR § 3103.2, the Board is authorized to grant an area variance where it finds that three conditions exist:

1. the property is affected by exceptional size, shape or topography or other extraordinary or exceptional condition or situation;
2. the owner would encounter practical difficulties if the zoning regulations were strictly applied; and
3. the variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

*See French v. District of Columbia Bd. of Zoning Adjustment*, 658 A.2d 1023, 1035 (D.C. 1995) (quoting *Roumel v. District of Columbia Bd. of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)). *See also, Capitol Hill Restoration Society, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987). As discussed below, and as will be further explained at the public hearing, the Applicant meets this three-prong variance test.

### **A. Exceptional Situation or Condition**

The Site's irregular, long, and narrow shape, small land area, sloping topography, and corner lot location create an exceptional condition that severely limits the ability to provide more than two on-site parking spaces. The Site is small, with only 3,117 square feet of land area, and is exceptionally narrow, with only 24.97 linear feet along the rear alley. The Site is bounded by a major commercial street to the west, a less-trafficked residential street to the north, and a public alley to the east, which together impact access to the Site and the configuration of the proposed development. Given DDOT's policy of requiring parking access to be taken from an abutting public alley rather than from a street, the Applicant is required to provide parking access from the rear alley. However, the Site's rear width of 24.97 feet can only accommodate two surface parking spaces, one of which is required by the Building Code to be a handicap parking space.

The Site's small size and narrow dimensions also preclude the Applicant from providing below-grade parking spaces, since a minimum width of 60 feet is required in a parking garage to provide a row of parking spaces and associated drive aisles. Moreover, the alley is at the high point of the Site, which further impacts the ability to provide below-grade parking. As a result, the Site's size, dimensions, topography, and corner location together create an exceptional situation or condition that directly impacts the ability to provide on-site parking.

## **B. Resulting Practical Difficulty**

Strict application of the off-street parking requirements would result in a practical difficulty to the Applicant. Pursuant to 11 DCMR § 2101.1, the proposed development requires 10 parking spaces for the 20 residential units. Parking is not required for the retail use. *See* 11 DCMR § 2101.1. However, as shown on the architectural drawings, the Applicant is seeking a variance to allow two off-street parking spaces accessed from the public alley.

The Applicant has maximized the number of surface parking spaces on the Site. Due to the Site's rear width of only 24.97 feet and its long, narrow shape, it is impractical to accommodate 10 surface parking spaces. Lined side-by-side in a row perpendicular to the alley, 10 standard-sized parking spaces (9 feet x 19 feet) would require a minimum width of 90 feet, which is more than three times the Site's rear width. The Applicant also cannot provide an on-site drive aisle to access a row of surface parking spaces, since the Site is not wide enough to accommodate a 20-foot drive aisle (*see* 11 DCMR § 2117.5) and a row of parking spaces.

Furthermore, the Applicant cannot provide any below-grade parking or a ramp to access below-grade parking. A parking garage would require a minimum lot width of 60 feet, which the Site cannot provide. Due to the Site's narrow width and small land area, it is also practically difficult to construct a ramp that could meet the minimum ramp width of 14 feet (11 DCMR § 2117.8(c)(2)) and still provide 10 parking spaces. Moreover, once a vehicle were to reach the foot of the ramp, there would be insufficient space on the Site for vehicle turning movements, drive aisles, and row(s) of parking spaces. Therefore, based on the exceptionally small and narrow site, it is practically difficult for the Applicant to provide any below-grade parking.

## **C. No Substantial Detriment to the Public Good or Zone Plan**

The requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan. Although the Applicant cannot provide all 10 required parking spaces, the Applicant believes that building residents and retail employees and patrons will not need or want a car to access the Site, given the Site's convenient access to multiple alternative forms of public transportation and its location in a vibrant, mixed-use neighborhood. The Site is well-served by a number of Metrobus routes along Georgia Avenue (Routes 60, 62, 63, 64, 70, 79, and H8 are all located within 0.1 miles of the Site) and is in convenient walking distance to the Georgia Avenue-Petworth Metrorail station, which is 1.5 blocks south of the Site and services the Green and Yellow lines. In addition, three Capital Bikeshare stations are located within 0.5 miles of the Site (two of which are within 0.2 miles of the Site), and eight car-share spaces are located within 0.4 miles of the Site (serviced by Zipcar and Enterprise CarShare). Moreover, according to Walkscore.com, which measures the walkability and transit access of properties, the Site is rated a "Walker's Paradise" and scores 93 points out of a possible 100, due to its location in a mixed-use, walkable neighborhood with a variety of grocery stores, retail establishments, and restaurants/bars.

In addition, the following nearby buildings have available parking spaces that can be rented daily and/or monthly, if necessary:

- Three Tree Flats Apartments (3910 Georgia Avenue, N.W. – 243 feet away)
- Park Place Apartments (850 Quincy Street, N.W. – 420 feet away)

- The Residences at Georgia Avenue (4100 Georgia Avenue, N.W. – 0.2 miles away)

Together, the variety of transportation options and the mixed-use neighborhood will attract residents and retail employees/patrons who do not want or need to own a car to access the Site, thus eliminating any detriment to the public good or impairment to the zone plan. Moreover, the construction of a new mixed-use development in the GA/C-3-A District will significantly contribute to the vibrancy of the neighborhood while supporting the city's housing and affordable housing goals for this area.