

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

**APPLICATION OF
MURILLO MALNATI GROUP, LLC
3831 GEORGIA AVENUE, N.W.**

**BZA APPLICATION NO. 19038
HEARING DATE: JULY 14, 2015
ANC 4C08**

PREHEARING STATEMENT OF THE APPLICANT

**I.
NATURE OF RELIEF SOUGHT**

This Prehearing Statement of the Applicant is submitted on behalf of Murillo Malnati Group, LLC (the "Applicant") in support of its application pursuant to 11 DCMR § 3103.2 for an area variance from the off-street parking space requirements of 11 DCMR § 2101.1. The Applicant will provide two on-site parking spaces (ten spaces are required) for the construction of a new mixed-use retail/residential building in the GA/C-3-A District at 3831 Georgia Avenue, N.W. (Square 3028, Lot 809) (the "Site").

**II.
JURISDICTION OF THE BOARD**

The Board of Zoning Adjustment (the "Board" or "BZA") has jurisdiction to grant the variance relief requested herein pursuant to 11 DCMR § 3103.2.

**III.
EXHIBITS IN SUPPORT OF THE APPLICATION**

- Exhibit A: Portion of the Zoning Map showing the Site.
- Exhibit B: Portion of the Baist and Sanborn Atlas plats showing the Site.
- Exhibit C: Architectural Plans and Elevations.
- Exhibit D: Parking and Generalized Transportation Assessment, Prepared O.R. George & Associates, Inc.
- Exhibit E: Outlines of Testimonies and Resumes of Expert Witnesses.

IV. BACKGROUND

A. Description of the Site and Surrounding Area

The Site is located in Square 3028 at 3831 Georgia Avenue, N.W. Square 3028 is located in the northwest quadrant of the District and is bounded on the north by Randolph Street, on the east by 8th Street and New Hampshire Avenue, on the south by Quincy Street, and on the west by Georgia Avenue. As shown on the Zoning Map attached hereto as Exhibit A, Square 3028 is split-zoned: the properties on the west portion of the square with frontage on Georgia Avenue are zoned GA/C-3-A; the properties on the southeast portion of the square with frontage on Quincy Street and New Hampshire Avenue are zoned C-3-A; and the properties on the east portion of the square with frontage on Randolph Street and 8th Street are zoned R-4.

The Site is small with approximately 3,117 square feet of land area, and is presently improved with a two and three-story building that is currently occupied as a funeral home. 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 (*see* the Baist and Sanborn Atlas Plats attached hereto as Exhibit B). The Site is located within the C-3-A District and the Georgia Avenue (“GA”) Overlay District.

The Site is located in the Petworth/Georgia Avenue neighborhood of Washington, D.C., in an area that is highly walkable and rich in public and private transportation alternatives. Over the past several years, Petworth has seen an uptick in new retail businesses serving the

neighborhood's growing population, including grocery stores and a significant number of new restaurants and food establishments, which has resulted in the area's emergence as a vibrant urban neighborhood (*See D.C. Neighborhood Profiles 2014*, Washington, DC Economic Partnership, p. 42). The Site has excellent public transportation options, with convenient access to the Georgia Avenue/Petworth Metrorail Station, multiple Metrobus routes, car- and bike-share facilities, on-street bicycle routes, and safe pedestrian infrastructure.

B. Description of Proposed Development

As shown on the Architectural Plans and Elevations (the "Plans"), attached hereto as Exhibit C, the Applicant proposes to demolish the existing building on the Site and 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 will incorporate 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 will be located at the rear of the Site and accessed from the public alley. The proposed 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

V.
THE APPLICANT MEETS THE BURDEN OF PROOF FOR VARIANCE RELIEF

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 situation or condition;
- (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 Board of Zoning Adjustment, 658 A.2d 1023, 1035 (D.C. 1995) (quoting *Roumel v. District of Columbia Board of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)); *see also, Capitol Hill Restoration Society, Inc. v. District of Columbia Board of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987). As discussed below, and as will be further explained at the public hearing, all three prongs of the area variance test are met in this application.

A. The Property Is Unusual Because of its Size, Shape or Topography and is Affected by an Exceptional Situation or Condition

The phrase "exceptional situation or condition" in the above-quoted variance test may arise from a confluence of factors which affect a single property. *Gilmartin v. D.C. Bd. of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990). 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 alley access to below-grade parking. As a result, the Site's size, dimensions, topography, and corner location collectively create an exceptional situation or condition that directly impacts the ability to provide on-site parking.

B. Strict Application of the Zoning Regulations Would Result in a 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 parallel, 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 19-foot long parking spaces.

Furthermore, the Applicant cannot provide below-grade parking or a ramp to access below-grade parking. A parking garage would require a minimum lot width of approximately 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.

The ability to accommodate only two parking spaces on the Site translates to an ability to provide only four dwelling units at the Site, rather than the 20 that are proposed. This would result in a significant underutilization of the Site, and a lost housing opportunity, which in turn would result in a practical difficulty.

C. **No Substantial Detriment to the Public Good Nor Substantial Impairment to the Intent, Purpose and Integrity of the 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 ten required parking spaces, the Applicant believes that most all 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:

- The Griffin (3801 Georgie Avenue, N.W. -- 210 feet away)
- Three Tree Flats Apartments (3910 Georgia Avenue, N.W. – 243 feet away)
- Park Place Apartments (850 Quincy Street, N.W. – 420 feet away)

Moreover, as indicated in the Parking and Generalized Transportation Assessment Report, attached hereto as Exhibit D, the requested relief will not have any adverse impacts on the local area given the availability of on-street parking on the surrounding streets. The parking inventory indicates that approximately 83% of the on-street parking within the study area is designated for Residential Parking Permits (“RPP”), with an emphasis on protecting residential uses within the area. During the highest level of on-street parking space occupancy, over 80 of the designated RPP spaces remain available.

Moreover, the Applicant has agreed to the following transportation demand management (“TDM”) measures, which will fully mitigate any potential parking impacts caused by the proposed development:

1. Installation of a Transit Screen in the building lobby showing real-time schedules for Metrorail and Metrobus service to the local area. The screen will also show locations of car-share and bike-share stations within the area.

2. Provision of either one annual bike-share membership, or one annual car-share membership, or one \$50 Metro Smartcard with each initial lease upon tenant move-in.
3. Provision of secure storage for 20 bicycles accessible to residents by elevator 24-hours/day.
4. Provision of a clause in the tenant lease precluding residents from applying for Residential Permit Parking stickers.
5. The Applicant will work with tenants to schedule no more than two (2) move-ins/move-outs on a single day, and will schedule the major loading and off-loading activities during off-peak periods on weekdays and on weekends.

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.

VI. **COMMUNITY ENGAGEMENT**

This Site is located within the boundaries of Advisory Neighborhood Commission (“ANC”) 4C. The Applicant met with ANC 4C on several occasions, and formally presented at the ANC’s June 10, 2015 monthly meeting. However, the ANC indicated that it was unwilling to vote on the application at that time. The Applicant has requested to be placed on the ANC’s agenda on July 8, 2015, for another opportunity for a presentation and a vote on the application.

VII. **WITNESSES**


- A. Julio Murillo or Don Malnati, Murillo Malnati Group, LLC.
- B. Bill Bonstra, Bonstra Haresign Architects.
- C. Osborne R. George, O.R. George Associates, Inc.

VIII.
CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards for variance relief under the Zoning Regulations. Accordingly, the Applicant respectfully requests that the Board grant the application.

Respectfully submitted,

HOLLAND & KNIGHT, LLP

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