

LAW OFFICES
GRIFFIN, MURPHY, MOLDENHAUER & WIGGINS, LLP

MARK G. GRIFFIN (DC, MD)
BRIAN P. MURPHY (DC, MD)
ASHLEY E. WIGGINS (DC, MD, VA)
MERIDITH H. MOLDENHAUER (DC, MD)
Y. AJOKE AGBOOLA (MD, DC*)
SAMANTHA MAZO (DC, MD)
PATRICIA MILLERIOUX (DC)
PENDING
DIRECT DIAL: 202-530-7158
DIRECT EMAIL: smazo@washlaw.com

November 13, 2015

Marnique Heath, Chairperson
Board of Zoning Adjustment
441 4th Street, NW
Suite 210S
Washington, DC 20001

**Re: Application No. 19056 – 3324 Dent Place NW (Square 1278, Lot 251)
 Supplemental Statement of the Applicant**

Chairperson Heath and Honorable Members of the Board:

On behalf of CLYDECO 2015, LLC, the contract purchaser of the above-referenced property and the applicant in this case, please find enclosed the Supplemental Statement for the above-referenced application. As discussed herein, after working with representatives of ANC 2E, the Citizens Association of Georgetown and the nearby neighbors, the Applicant now proposes one, single-family dwelling on the lot. Accordingly, the request for variance relief has changed from the initial request for relief from the minimum lot width requirements of Section 401 to allow two row houses on the Property to a request for side-yard relief from the requirements of Section 405.1 to allow one, appropriately-sized, single-family detached home. The Applicant continues to request relief from the parking requirements of Section 2101.1.

The application, as revised, is now scheduled to be heard before the Board of Zoning Adjustment on December 1, 2015.

Thank you for your attention to this matter.

Sincerely,

GRIFFIN, MURPHY,
MOLDENHAUER & WIGGINS,
LLP



By: Samantha Mazo

Enclosures:

Cc: Advisory Neighborhood Commission 2E
c/o Ron Lewis, Chair and SMD 2E02 (via email)
Office of Planning (via email)
Citizens Association of Georgetown c/o Richard Hinds (via email)
John and Martha Walda (via email)
Dr. Robert Alloway and Dr. Susan Childs (via email)
Richard F. Saalfeld (via email)

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

APPLICATION NO: 19056

**APPLICATION OF
CLYDECO LLC**

**3324 DENT PLACE NW
ANC 2E02**

SUPPLEMENTAL STATEMENT OF THE APPLICANT

I. AMENDED NATURE OF RELIEF SOUGHT

This supplemental statement is submitted on behalf of CLYDECO 2015, LLC (the “Applicant”), the contract purchaser of the vacant property located at 3324 Dent Place NW, Lot 251 in Square 1278 (the “Property”). At the October 6, 2015 meeting, the Board of Zoning Adjustment (“Board”) granted the Applicant’s request for a postponement to work with the community, and the hearing was rescheduled to December 1, 2015.

As discussed in more detail below, since the October 6, 2015 Board meeting, the Applicant has met with representatives of ANC 2E (the “ANC”), the Citizen’s Association of Georgetown (“CAG”) and the immediate and nearby neighbors and presented a revised project to the Old Georgetown Board (“OGB”). As a result of these meetings, the Applicant has updated its previous design to propose one, single-family detached dwelling instead of two row dwellings for the Property. Therefore, while the prior application sought a variance from the R-3 Zone’s minimum lot width requirement to construct two row dwellings, the current application that is the subject of this Supplemental Statement proposes one, single-family home on the Property, for which a minor, 1-foot of variance relief is required from the zone’s side-yard width requirement of Section 405.1. Indeed, the current proposal provides two, 7 ½-foot side yards instead of the

eight-foot side yards that are required pursuant to Section 405.1.¹ No off street parking space can be provided with the single-family dwelling because the Property is landlocked and no new curb cut will be supported by DDOT.

As a result of the change from two row dwellings to one, single-family detached dwelling, the Applicant now requests variance relief from the minimum side-yard requirements (§405.1) as well as minimum off street parking requirements (§2101.1) to allow the Applicant to construct a new, single-family dwelling (the “Project”) on the Property located in the R-3 District at the Property.

II. EXHIBIT IN SUPPORT OF THE SUPPLEMENTAL STATEMENT

Exhibit A: Baist Map and Revised Site Plan

III. REVISED PROPOSAL

As referenced above, the Applicant now proposes one, single-family dwelling on the Property. As shown in the Revised Site Plan included at **Exhibit “A”**, the Project proposes two, 7 ½ side yards; a minor, approximately 6% reduction from the 8-foot side yards required for one-family detached dwelling in the R-3 zone. This side-yard reduction is necessary in order to provide a building width that allows for an efficient and attractive layout for a single-family residential home in this location. The Applicant intends to landscape both side yards to provide

¹ The Applicant notes that the requested one foot of side-yard relief is less than 10% of the linear requirements of the side-yard requirements (16-foot total side yard required / 1 feet of side yard provided = 6.3%). Accordingly, the Zoning Administrator would be authorized to grant the requested side yard relief pursuant to Section 11-407.1. However, in furtherance of its diligent efforts to work with the community on this Application, the Applicant submits the following request for a side-yard variance to the Board for approval.

open space and a view into the center of the square, as has been requested by community members.

The Project will satisfy all of the other R-3 Zone District's development standards. Other than the Project's proposed location and width (20 feet), the specifics of other design aspects of the proposed Project, including materials, fenestration and roof line will be determined in conjunction with and approval of the OGB.

IV. ARCHAEOLOGICAL SURVEY

In June 2015, the City Archaeologist for the District of Columbia under the auspices of the District's State Historic Preservation Office commenced an archaeological study of the Property. That study was supposed to have been completed in October 2015. As discussed in the Applicant's Pre-Hearing statement included at **Exhibit 33** of the record for this case, based on statements by the City Archaeologist, it is understood that the study has not located relevant archeological evidence regarding the life or times of Mr. Yarrow Mamout.

V. APPLICANT MEETS BURDEN OF PROOF FOR VARIANCE RELIEF

The Board is authorized to grant an area variance where it finds that the Applicant fulfills the three-prong area variance standard. As described in the prior filings and as will be further explained at the public hearing, all three prongs of the area variance test are satisfied.

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 variance test applies not only to the land, but also to the property's history and the configuration of a building on the land. *See, Clerics of St. Viator, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 320 A.2d 291, 294 (D.C.

1974). Moreover, the unique or exceptional situation may arise from a confluence of factors which affect a single property. *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990). In addition to the conditions described in the previous filings, the Property is also unusual and affected by an exceptional situation and condition as a result of a confluence of the following factors: (1) the historicity associated with the Property; (2) vacant nature of the Property; (3) history of development on the Property; (4) the landlocked nature of the Property; and (5) the existence of abutting, existing curb cuts on both sides.

1. Historicity: It is understood that in the early 1800's the Property was owned by Yarrow Mamout, a freed slave, property owner and bricklayer. Mr. Mamout is the subject of a book by a local historian, entitled From Slave Ship to Harvard: Yarrow Mamout and the History of an African American Family. At the time of Mr. Mamout's death, a newspaper ran an obituary alluding to the fact that his body may have been buried on the Property. This received the attention of the City Archeologist, who convened, with the help of the Applicant, the archaeological dig discussed above. Accordingly, the Applicant understands that the Property is of historic interest to the District and the residents of Georgetown.
2. Property is vacant and underutilized: The Property has been vacant since the prior, small historic home was razed in 2013 following a hurricane.

3. Prior development on the Property: As shown on the Baist Map included in **Exhibit “A”**, the Property appears to have been previously improved a single-family detached dwelling located towards the center of the lot with substandard side yards of approximately 4 to 5 feet on the east side and 7 to 9 feet on the west side of the prior dwelling.
4. Property is landlocked: The Property has no rear alley access and no curb cut. Accordingly, it is landlocked and cannot be accessed by vehicle.
5. Adjacency of existing curb cuts: The width of the Property is 35 feet. Public space curb cuts providing vehicular access to personal homes exist on both the Property’s east and west lot lines. As discussed below and more thoroughly in the Applicant’s Pre-Hearing Statement, DDOT requires at least 24 feet between curb cuts for a new curb cut. Therefore, because the lot is only 35 feet wide, no new curb cut could be accommodated on the site due to the location of the existing curb cuts.

B. Strict Application of the Zoning Regulations would Result in Practical Difficulty

Strict application of the zoning regulations regarding side yard (§405.1) and parking (§2101.1) would result in a practical difficulty to the Applicant.

1. Side Yard Width (§405.1)

Pursuant to 11 DCMR §405.1, the minimum width of each side yard for a single-family detached home in the R-3 Zone District is 8 feet. The Project proposes two, 7 ½ side yards, a minimal, approximately 6%, reduction in the overall side-yard requirement. Approval of this minor reduction would allow construction of a 20-foot-wide home, which is necessary to allow for a functional and efficient floor plans and room layout.

As explained above, the Property's prior ownership by Yarrow Mamout and current vacant nature make it unique. However, this same uniqueness creates practical difficulties for the Applicant in developing the Property because the appropriate balance must be struck between providing a certain amount of side-yard area to allow open space as an homage to the Property's historic nature and developing the vacant Property with an appropriately-sized residential home in order to return the Property to a productive use. Also, as stated above, the prior improvements on the Property have had substandard side yards. Indeed, the structure shown on the Baist map attached in **Exhibit "A"** provides an approximately 4-to 5-foot side yard to the east and an approximately 7- to 9-foot side yard to the west. Therefore, the proposed side-yard reduction is most in keeping with the nature of a prior structure on the Property. Accordingly, the goal of improving vacant land with a new, single-family detached home that aligns with the historic nature of the Property creates a practical difficulty for the Applicant's ability to comply with the side-yard requirement.

Also, it should be noted that for a single-family detached home of this nature, each exterior wall will be built to approximately one-foot in width. Accordingly, even with the requested 7 ½ side yards, the width of the interior of the home will be limited to 18 feet, the absolute minimum interior width to allow for a functional floor layout and plan. Also, based on feedback from the OGB, the final design of the home may be further reduced in height and depth. Accordingly, the requested 7 ½-foot side yards (a one-foot reduction from the required side-yard width) provide the minimum home footprint width necessary to allow for the development of a feasible home that best suits the neighborhood and allows for development of this vacant parcel.

2. Parking (§2101.1)

Under §2101.1, a single-family detached dwelling is required to provide one off-street parking space.² As stated above, the Project is not able to provide an off-street parking space because it is landlocked and has no rear access.

Accordingly, the only option to locate off-street parking spaces on the Property would be to obtain a new curb cut from DDOT to allow vehicular access from Dent Place. However, as explained in the Pre-Hearing Statement on this matter, DDOT most likely would not support a new curb cut on the Property because both adjacent properties already have off-street parking via existing curb cuts. As discussed in the email from Ryan Westrom, one of DDOT's Senior Transportation Planners, included as Exhibit 33B in the record, DDOT's policies are to maintain at least a 24-foot offset between adjacent driveways, and, where new curb cuts do not meet this guidance, DDOT "do[es] not typically support their proposal."

As shown on Sheet A100 included as Exhibit 33A in the record, the edgeline of the existing curb cuts are located on both the Property's east and west lot lines. Therefore, to satisfy DDOT's standards for a curb cut, the Property would have to be a minimum of 48-feet wide to provide a 24-foot offset from each curb cut. As stated above, the Property width is only 35 feet, and does not satisfy this requirement. Consequently, strict application of the Zoning Regulations would result in a practical difficulty because the required curb cut necessary to create off-street parking spaces would not be supported by DDOT due to the proximity of existing curb cuts along the

² Most properties in Georgetown are exempt from the off-street parking requirement. This Property would have been exempt from this requirement, but for the emergency razing of the historic wooden frame building that was on the Property as has been discussed in the Initial Application materials. However, due to that incident, coupled with the Applicant's goal of developing the vacant property, this Property is currently subject to the parking requirement.

Property's east and west lot lines. Finally, based on the photos of Dent Street taken at approximately 9:30 a.m. and 6:00 p.m. on two weekdays included as Exhibit 33C in the record, it appears that because many of the houses on the block have off-street parking spaces, on-street parking spaces are available. Accordingly, these photos document the availability of sufficient on-street parking.

C. No Substantial Detriment to Public Good or Inconsistency with Zone 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 requested zoning relief. As an initial matter, it is well accepted that the District's land use policies support returning vacant land to a productive use, because variances are "...designed to ... prevent usable land from remaining idle." 388 A. 2d 1233, 1236 (1978) (*Palmer v. BZA, D.C. App.*, 287 A.2d 535, 541 (1972)). In so doing, the proposed Project completes the block by constructing a single-family detached dwelling that provides sufficient side yards to ensure the adjacent neighbors' access to light, air and privacy on their own properties.

The requested one foot of side-yard relief is minimal. The approval of this request will have no substantial detriment to the public good or the zone plan because the difference between the side yards provided (7 ½ feet), and the side yards required (8 feet) will imperceptible to the surrounding neighbors. Also, as designed, the side-yards will be wide enough to provide views into the center of the Square to be reminiscent of the prior developments on the Property as well as what might have been the view in Mr. Mamout's time, thereby benefitting the public good.

Further, the requested parking relief will also have no substantial detriment because there is documentation of available, on-site street parking spaces in Dent Place. Also, but, for the razing

of the prior structure on the Property, a credit for one, off-street parking space would have been grandfathered, and no parking relief would have been required. Accordingly, the parking relief is not inconsistent with the Zone Plan.

Lastly, the development of the Property has allowed for a full archeological dig to be performed that, as the Applicant understands, has resulted in locating no evidence of historical significance on the Property regarding the life and times of Mr. Yarrow Mamout.

For these reasons, approval of the minor zoning relief requested will not cause a detriment to the public good or zone plan and will instead enhance the neighborhood by construction of high-quality, well-designed single-family detached dwelling the returns the Property to productive use and completes the streetscape by development of a vacant lot.

VI. COMMUNITY OUTREACH

Since the initial hearing was postponed on October 6, the Applicant has engaged in significant outreach to the community, including representatives of the ANC, CAG and immediate neighbors (collectively the “Community”). The Applicant also presented a proposed design for the single-family dwelling to the OGB.

First, the Applicant and its representatives participated in a meeting with the Community at CAG’s offices on October 19, in which, the Applicant obtained a better understanding of the importance of incorporating two side yards into the Project. Based on the discussion during that meeting, the Applicant and Community agreed that the Property could be improved with a 20-foot-wide, single-family detached home with substandard side yard(s) that would be subject to OGB review and approval. The Community also said it would support side-yard variance relief necessary to achieve the 20-foot building footprint.

At the October 19 meeting, the Applicant also raised the question of whether either of the adjacent neighbors would be inclined to share their existing curb cuts to allow parking access to the Property. From the discussion during the meeting, the Applicant understood that neither adjacent neighbor was so inclined, but the Applicant followed up with those neighbors in person and in email after the meeting to see if there was any interest in sharing a curb cut. In the end, based on neither neighbor's interest in sharing a curb cut and subsequent direction obtained from the ANC and OGB, the Applicant no longer seeks to provide off-street parking as part of this Project. Accordingly, it continues to request the parking variance as discussed above.

Next, following the October 19 meeting, the Applicant submitted final plans to the OGB in advance of its November meeting. Those plans reflected the 20-foot wide home agreed to by the Applicant and the Community at the October 19 meeting, but showed different side yards, with one a smaller, three-foot side yard and the other a larger, 12-foot side yard, for a total of 15 feet of side yard on the Property. Those plans also showed a proposed driveway in the wider side yard, which is no longer being pursued.

The ANC reviewed those plans at its November 2nd meeting and adopted a resolution supporting the 20-foot width of the house as well as a substandard side yard width. The ANC did not support off-street parking on the Project and requested changes to the number of stories, depth and roof decks from the design provided to the OGB. As discussed above, the Project being presented as part of this Supplement Statement does not propose off-street parking. Also, the ANC's design and massing comments are not at issue in the subject application before the BZA, and they will be addressed in a subsequent filing to the OGB, for which new plans will be provided.

The Applicant presented the plans to the OGB on November 5, 2015. During that meeting, the OGB did not take issue with the proposed, 20-foot width of the dwelling, but instead recommended that the Project be centered on the Property to allow for two side yards of equal width. The OGB also advised that it would not support off-street parking on the Property. The OGB asked the Applicant to revise the number of stories and massing and to submit updated plans for further review. The Applicant intends to submit more detailed architectural plans to the OGB in December for review at the OGB's January 2016 meeting.

As to future outreach, a meeting with the ANC, CAG and other neighbors is scheduled for November 17 at CAG's offices to review the revised plans included with this Supplemental Statement. Also, the ANC has agreed to put the subject Application on its November 30, 2015 agenda so the ANC can provide input to the Board at the December 1 hearing on this matter.

In sum, the Applicant has worked, and will continue to work, diligently with the ANC, CAG and surrounding community to present a Project that can be supported by the neighbors. The Applicant appreciates the Community's time and efforts and anticipates providing a development that is contextual with the surrounding character and in tune with the Property's historic background and prior improvements.

VII. WITNESSES

The following witnesses will appear on behalf of the Applicant:

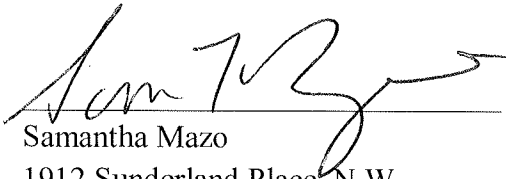
1. John Casey, on behalf of the Applicant
2. KC Price, Design Consultant
3. Any other witnesses necessary

VIII. CONCLUSION

For the reasons stated above, and for the reasons enumerated in the Applicant's prior filings, we hereby submit that the Application meets the requirements for area variance relief. We look forward to presenting our case to the Board on December 1, 2015.

Respectfully submitted,

GRIFFIN, MURPHY,
MOLDENHAUER & WIGGINS,
LLP



Samantha Mazo
1912 Sunderland Place, N.W.
Washington, D.C. 20036
(202) 429-9000