

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, VA)
KINLEY R. BRAY (DC, MD)
ERIC M. DANIEL (MD, DC)
IRIS E. POSTELNICU (VA, DC*)

*PENDING

DIRECT DIAL: (202) 530-7159
DIRECT E-MAIL: aagboola@washlaw.com

October 7, 2015

VIA IZIS

Lloyd Jordan, Chairperson
Board of Zoning Adjustment
441 4th Street, N.W., Suite 210S
Washington, DC 20001

Re: BZA Application for 1537-1541 6th Street NW
Lot 0801, Square 0962 (the "Property") – Area Variance Application

Dear Chairperson Heath & Members of the Board:

Please accept for filing the enclosed application of 1537 6th Street NW, LLC (the "Applicant"). The Applicant requests variance relief, pursuant to 11 DCMR §3103.2, from the requirements regarding parking (§2101) to allow the Applicant to construct three flats in the R-4 District at the premises 1537-1541 6th Street NW.

The application package includes the following materials:

1. Application Form;
2. Fee Calculator Form;
3. Statement of Intended Use;
4. Zoning Self-Certification Form;
5. Proposed Architectural Plans & Elevations;
6. List of Names and Mailing Addresses of Owners within 200 Feet;
7. Statement of the Applicant;
8. Authorization Letter;
9. DC Zoning Map; and
10. Surveyor's Plat.

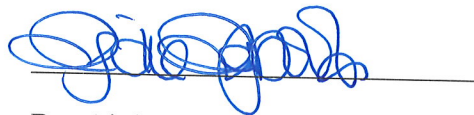
Board of Zoning Adjustment
District of Columbia

We believe that the application is complete and acceptable for filing, and request that the Board schedule a public hearing for the application as soon as possible. If you have any questions, please do not hesitate to contact me on behalf of the Applicant.

Thank you for your attention to this application.

Sincerely,

GRIFFIN, MURPHY,
MOLDENHAUER & WIGGINS, LLP



By: Ajoke Agboola

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

**APPLICATION OF
1537 6th Street NW, LLC**

**1537-1541 6th Street, NW
ANC 6E**

STATEMENT OF THE APPLICANT

I. NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of 1537 6th Street NW, LLC (the “Applicant”), the owner of property located at 1537-1541 6th Street NW, Lots 56-58 in Square 0478 (the “Property”), in support of its application for an area variance from the requirements regarding parking (§2101) to allow the Applicant to construct three flats in the R-4 District.

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 §3103.2 of the Zoning Regulations.

III. BACKGROUND

A. Background Information Regarding the Property

The Property, also known as Lots 56-58 in Square 0478, is comprised of three contiguous substandard lots. Lot 56 is 17.7 feet wide and contains approximately 1,603 square feet of land area; Lot 57 is 16.83 feet wide and contains approximately 1,571 square feet of land area; and Lot 58 is 18 feet wide and contains approximately 1,680 square feet of land area. Lots 56 and 58 are each encroached upon by a structure on an adjacent lot. Lot 56 is encroached upon by the structure on the adjacent lot to the north by four inches. Lot 58 is encroached upon by the structure on the adjacent lot the south by 1.16 feet.

The Property is located in the Shaw neighborhood. The Property fronts along 6th Street and is landlocked with private property abutting the remaining three lot lines. *See* 1903 Baist Atlas Map at **Tab A**. The Property does not have rear or side access either to a public alley or a street. The Property is currently unimproved; however as shown in the 1965 Baist Map at **Tab B**, the Property was improved with dwellings until at least 1965, but for reasons unknown to the Applicant, the original buildings were razed.

B. Description of the Improvements in the Surrounding Area

Square 0478 is bounded Q Street NW to the north, 5th Street NW to the east, P Street NW to the south and 6th Street NW to the west. Square 0478 is in the R-4 zoning district. *See* Zoning Map at **Tab C**. Square 0478 is a residential square with mostly rowhomes, semi-detached dwellings, flats and walk-up apartments. The Square is also home to two churches; Third Baptist Church is located at the northeast corner of the Square and Hemingway Temple AME Church is located at the southeast corner of the Square.

C. Description of the Traffic Conditions and Mass Transit Options in the Surrounding Area

The Property is well serviced by a number of public transportation facilities and services including Metro, Metrobus routes, Capital Bikeshare, and Zipcars. The Property is within 1 mile of all Washington Metro rail lines. Located only 0.3 miles from the Property is the Shaw Metro Station and the Mt. Vernon Square/7th Street Convention Center metro stations, both of which provide access to the Green and Yellow lines. The Property is only 0.9 miles from the Gallery Place Chinatown Metro station which provides access to the Red line, and only 0.9 miles from the McPherson Metro station which provides access to the Orange, Blue, and Silver Lines. The Property is located approximately 1.1 miles from Union Station, a major transportation hub that provides access to MARC trains, and Amtrak trains.

In addition to rail lines, the Property is very accessible by bus. Metrobus G2 has a stop less than 2 blocks from the Property, at the corner of P Street NW and 5th Street NW. Metrobus 70 is also located approximately 2 blocks away at the corner of P Street NW and 7th Street. Metrobus 79, 96 and G8 are all within 0.2 miles of the Property. Also in close proximity to the Property are a number of the District's bikesharing and carsharing programs. There are seven Capital Bikeshare stations located within 0.5 miles of the Property. The closest Capital Bikeshare station is located 0.2 miles away at 1708 New Jersey Avenue NW. There are five Zipcar facilities within 0.5 miles of the Property. The closest, a Zipcar facility at 625 Rhode Island Ave NW and a Zipcar facility at 801 R Street NW, each have one car available for use. Walkscore.com labels the property as a "walker's paradise," "a biker's paradise," and as having "excellent transit."

D. Description of the Proposed Development

As shown on the architectural plans, *see* Architectural Plans at **Tab D**, the Applicant proposes construct three flats for a total of six dwellings. Each dwelling will have 2 bedrooms, 2 full bathrooms and 1 powder room. The proposed development would be an infill development. It would restore the Property to its prior use as residences. Though the lots will be substandard, the proposed lots are larger in size and width compared to many of the lots in Square 478.

IV. NATURE OF RELIEF SOUGHT AND STANDARD OF REVIEW

The Applicant seeks to develop the last undeveloped parcel along the 1500 block of 6th Street, and build three flats. The only variance relief required for this project to move forward is a parking variance¹. 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 proposed lots do not comply with lot area requirements, and two of the lots do not comply with lot width requirements. However, as shown in the Baist Atlas maps of 1903 and 1965, the Property was previously improved with residential dwellings. As has been determined by the Zoning Administrator in similar cases, the prior

- (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 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).

Applicants for an area variance need to demonstrate that they will encounter “practical difficulties” in the development of the property if the variance is not granted. *See Palmer v. District of Columbia Bd. of Zoning Adjustment*, 287 A.2d 535, 540-41 (D.C. 1972)(noting that “area variances have been allowed on proof of practical difficulties only while use variances require proof of hardship, a somewhat greater burden”). An applicant experiences practical difficulties when compliance with the Zoning Regulations would be “unnecessarily burdensome.” *See Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1170 (D.C. 1990). 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.

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

A. The Property is Affected by an Exceptional Situation or Condition

residential dwellings vest the right to build a matter of right structure on these nonconforming lots even though the lots have nonconforming lot dimensions. Consequently, the Applicant only seeks a parking variance. If the Board determines that the above stated area of relief is required, we will modify this application.

The Property is affected by an exceptional situation or condition. 1537-1541 6th Street NW is the only undeveloped parcel on the 1500 block of 6th Street NW. The Property stands out as an eyesore among the neat line of improved lots. Square 478 does not have alley access. When Square 478 was originally developed, a majority of the properties in the Square had private pedestrian footpaths that provided pedestrian access; however, even in 1903, this group of lots did not. See, 1903 Baist Map at **Exhibit A**. The only access point to the Property has always been from 6th Street NW.

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

Strict application of the Zoning Regulations with respect to the parking requirement (§2101.1) would result in a practical difficulty to the Applicant. Without a parking variance the Applicant cannot restore the Property to its prior productive use. As late as 1965, the Property had a series of dwellings improving each lot. A parking variance is needed to develop these infill lots and restore the consistency on the block. The physical characteristics of the Square do not present the Applicant with an opportunity to provide vehicular access to the Property. Moreover, a curb cut to provide vehicular access to the Property from 6th Street NW is not practical. Consequently, without a variance the Applicant will face a practical difficulty in that no development could occur on this Property and the lots will continue to languish unutilized.

One of the purposes of variances is to prevent usable land from remaining undeveloped due to the strict interpretation of the Zoning Regulations. The D.C. Court of Appeals, in *Luis De Azcarate, et al. v. DC BZA*, stated that a variance “is designed to provide relief from the strict letter of the regulations, protect zoning legislation from constitutional attack...**and prevent usable land from remaining idle.**” 388 A. 2d 1233, 1236 (1978) (emphasis added)(quoting, *Palmer v. BZA*, D.C. App., 287 A.2d 535, 541 (1972)). The Property was productive from at least 1903 through at least 1965; without a parking variance, it will remain a vacant lot in the middle of beautifully maintained dwellings.

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

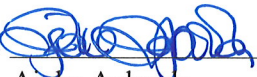
There will be no substantial detriment to the public good and no substantial impairment to the intent, purpose, and integrity of the zone plan by approving the zoning relief. The proposed project replaces a vacant lot with much needed residential use. Moreover, the proposed project completes the block and improves the view shed by constructing an infill row dwelling. Flats are permitted in the R-4; consequently, the proposed development aligns with the purpose and intent of the Zone Plan. Furthermore, the Property is very accessible by public transportation thus granting a parking variance will not have a negative impact on the community. For these reasons, approval of the zoning relief requested will not cause a detriment to the public good or Zone Plan.

VI. 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

GRIFFIN, MURPHY,
MOLDENHAUER & WIGGINS, LLP

By:  _____
Ajoke Agboola
Meridith Moldenhauer
1912 Sunderland Place, N.W.
Washington, D.C. 20036
(202) 429-9000