

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

Application of Reneau Real Estate LLC

**APPLICANT'S HEARING STATEMENT**

**November 2015**

This Pre-Hearing Statement ("Statement") outlines the existing and proposed use of the property of application and the manner in which the application ("Application") complies with the specific tests and burden of proof for the variances sought in this application before the Board of Zoning Adjustment (BZA)

**NATURE OF RELIEF SOUGHT**

This is an application pursuant to 11 DCMR § 3103.2 for variances to allow the new construction of four-unit apartment building, which will not comply with the following provisions of the Zoning Regulations in the respective sections set forth for the underlying R-5-B zone district within which the subject property is located, to wit;

1. The maximum percentage of lot occupancy set forth under § 403.2;
2. The maximum allowed floor area ratio (FAR) set forth under § 402.4
3. The minimum width and area requirements for a closed court set forth under § 406.1
4. Special exception pursuant to § 3405.1 from the minimum Green Area Ratio (GAR) requirement set forth under § 3401.2

## **SUMMARY OF APPLICATION**

The applicant seeks the above area variance(s) pursuant to 11 DCMR § 3103.2 under §§ 403.2, 402.4, 406.1 and special exception pursuant to § 3405.1 under § 3401.2 to allow the construction a new residential building containing four (4) dwelling units in the R-5-B zone, not in compliance with the applicable provisions itemized above.

The proposed project complies with all other applicable provisions of the Zoning Regulations

## **JURISDICTION OF THE BOARD**

The application is properly before the BZA. The Board is authorized to grant the requested variances under § 8 of the Zoning Act, DC Official Code § 6-641.07 (g) (3) (2001), as further set forth in 11 DCMR § 3103.2

## **PROPERTY LOCATION AND PROJECT DESCRIPTION**

The property is located within the boundaries of Old City II in the DuPont Circle Historic District, more specifically The Striver's Section Historic District.

Although DC Surveyor's records and lot dimensions computation confirm lot area to be two thousand square feet (2,000 ft<sup>2</sup>), encroaching party walls constrict lot width and by extension lot area, in effect limiting actual development bulk without the benefit of exclusion.

The applicant proposes to construct a new three-story plus cellar 4-unit apartment building or structure featuring one dwelling unit per floor. The third floor unit includes a mezzanine, which serves the dual function of additional habitable space and providing access to a roof deck with a green roof feature.

The subject property is twenty feet (20 ft.) wide and one hundred feet (100 ft.) deep and is rectangular in shape.

The subject property is located on the North side of T Street where it is hemmed in between two large apartment buildings. The neighborhood is a predominant mix of four (4) to five (5) story apartment buildings, walk-up garden apartments, and other residential uses. The two lots adjoining the subject property on the East and West are each over four thousand square feet in lot area and are improved with large apartment houses, which dwarf the proposed three-story building which is the subject of application.

The narrowness of the lot, including the encroaching adjacent portions of party walls constrains building design to a lot depth linear design in order to accommodate the minimum of functional residential space layout. Hence it dwelling unit only accommodates one-bedroom units and ancillary spaces. The proposed dens are constrained by other municipal regulations from being represented as a legal sleeping room or bedroom.

A closed court is proposed opposite an existing closed court on the adjacent lot to the West to provide and enhance the light and air available to the two adjoining buildings. Without the proposed closed court, the natural light and air provided by the existing court at the neighboring building would be greatly diminished by the proposed new three-story structure. This would negatively impact the inhabitants of 1721 T Street, NW.

The project proposes to provide two standard parking spaces accessible via a public alley which abuts the subject property at its North property line, in compliance with the minimum of required parking spaces set forth for the proposed use as set forth under § 2101.1

#### **STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF**

The Applicant, by preponderance of the materials submitted with this Application, facts to be presented in the course of the public hearing and further evidence to be submitted fourteen days prior to the hearing date, will prove compliance with the three prong test necessary for the granting of the area variance sought, as outlined below.

The Board is authorized to grant an area variance where a property demonstrates three characteristic elements:

1. The subject property must demonstrate a unique physical characteristic of shape or size, exceptional narrowness or shallowness which existed as of the time of the original adoption of the Zoning Regulations, or that there exists exceptional topographical conditions or other extraordinary or exceptional situation or condition of property;
2. That the physical characteristic(s), or extraordinary or exceptional situation or condition of the property makes the strict application of the Zoning Regulations result in peculiar and exceptional practical difficulties to the owner of the property;
3. That the Board is able to grant the variance without substantial detriment to the public good and without substantial impairment of the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map.

#### **PHYSICAL CHARACTERISTIC OF SHAPE AND EXCEPTIONAL NARROWNESS OF PROPERTY**

The Subject Property is the only, most narrow and smallest undeveloped lot in its square of location.

As aforementioned and as graphically and empirically represented, the existing lot is encroached upon by adjacent party walls to the effect that the twenty feet (20 ft.) of lot width of legal lot description is not available to the subject property, while unfairly counting towards lot occupancy and FAR attributable to the development rights of the proposed building.

Put differently, four percent (4%) of the vacant lot is already occupied by encroaching party walls and 0.13 FAR or 265 gross square feet of structure, is attributable to the encroaching party walls.

The applicant therefore contends that the narrowness of the lot in conjunction with the party wall encroachment constitutes in itself, a unique physical characteristic of shape and is a condition of property that existed as of the time of the original adoption of the Zoning Regulations, and forms the basis for compliance with the first burden of proof on.

### **PECULIAR AND PRACTICAL DIFFICULTIES TO OWNER OF PROPERTY**

The unique physical characteristic of the subject property results in peculiar and practical difficulties upon the owner, because the strict application of the Zoning Regulations results in impractical floor space building design which is constrained from compliance with other municipal regulations affecting light and air, emergency escape exit windows.

The encroaching party walls constrict for the depth of the two adjoining buildings, the width available to the proposed building for function space layout. Because the subject property is an interior lot by definition, openings on the side property lot lines are not allowed, thereby limiting the option of providing light and air and required emergency exit windows from sleeping rooms to the rear and front of the subject property

What building design cannot achieve with width given the constraint in floor space layout due to the narrowness of lot, compels the additional depth and the resultant necessity for greater percentage of lot occupancy.

The physical characteristic of the subject property also informs the vertical construction which results in the request for FAR relief, despite the fact that the proposed building is within the height limit allowed in its underlying R-5-B zone district.

The applicant therefore contends that the unique physical characteristic of the shape of property results in peculiar and practical difficulties upon the owner and is directly related to the areas relief sought in this application before the Board.

**SUBSTANTIAL DETRIMENT TO PUBLIC GOOD AND SUBSTANTIAL  
IMPAIRMENT OF INTENT, PURPOSE AND INTEGRITY OF THE ZONE  
PLAN**

The applicant seeks to construct a new residential apartment house in the underlying R-5-B zone district on a lot that is the only lot in its square of location that remains vacant and undeveloped.

Absent the reliefs sought, the condition of lot presents a spatial design challenge, which makes compliance with the requirement of other municipal requirements difficult. Except for the top unit which features a mezzanine, the other three dwelling units are consigned to one-bedroom and a den floor space design.

The proposed use as a four-unit apartment house is a permitted use as a matter of right in the R-5-B zone district.

The requested reliefs do not result in building bulk or massing incompatible with the prevailing scale of adjacent buildings to the subject property. As aforementioned, the subject property is flanked by two large apartment buildings to its West and East of greater bulk or density. In fact as an infill project, the proposed building is hardly noticeable and appears sandwiched between the two adjoining buildings.

The applicant proposes to provide the minimum number of required parking spaces. Hence no adverse impact on available street parking is contemplated.

Although for the purpose of Historic Preservation Review Board (HPRB) review, the project has undertaken a round of community review and input which resulted in support and subsequent HPRB approval.

**Special exception pursuant to § 3405.1 from the minimum Green Area Ratio (GAR) requirement set forth under § 3401.2**

“The Board is authorized under § 8 of the Zoning Act, D.C. Official Code § 6-641.07(g)(2) (formerly codified at D.C. Code § 5-424(g)(2) (1994 Repl.)), to grant special exceptions, as provided in this title, where, in the judgment of the Board, the special exceptions will be in harmony with the general purpose and intent of the Zoning Regulations and Zoning Maps and will not tend to affect adversely, the use of neighboring property in accordance with the Zoning Regulations and Zoning Maps, subject in each case to the special conditions specified in this title”

The subject property is subject to a minimum 0.40 GAR which results in eight hundred square feet (800 sf), whereas it provided a maximum five hundred and twenty six (526 sf); two hundred and twenty four square feet (274 sf.) or approximately thirty-four percent (34%) less than the minimum required.

The applicant will supplement the record and testify in the course of the hearing how the instant application complies with the impracticality provision set forth under § 3405.1

The project design as submitted is supported by the affected Advisory neighborhood Commission (ANC) and the DuPont Circle Conservancy

The applicant therefore submits that for all the foregoing reasons, the reliefs sought may be granted without substantial detriment to the public good, and without substantial impairment of the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map

**WITNESS**

1. Gregory Kearley
2. Stefan Schwarzkopf
3. John Hopkins
4. Paul Reneau
5. Toye Bello

**CONCLUSION**

The Applicant submits that the instant application complies with all conditions for the granting of the requested area variances as outlined above and as shall be further documented, and respectfully requests that the application be granted.