

**BEFORE THE DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT
PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF**

Application of C&S Development, LLC.

November, 2015

This statement is submitted by C&S Development, LLC, the Applicant and purchaser of the property(s) located at 1620-1622 E St. SE Square 1090, Lots 813 & 814 (the "Site"), in support of its application pursuant to DCMR § 3103.2 for an area variance from the minimum lot area and width requirements by section 401.3, to allow the subdivision of two adjacent tax lots into three record lots not meeting the minimum lot width and area of lot prescribed under § 401.3 for row dwellings and flats in the underlying R-4 Zone District within which the subject property is located.

SUMMARY OF APPLICATION

The applicant seeks the above area variance pursuant to 11 DCMR § 3103.2 under § 401.3, to allow the construction of three structures, each containing two family dwelling units, or flats, as that term is defined in § 199.1.

The subject property is located within the R-4 zone district within which the proposed use as a flat is permitted as a matter of right. The applicant seeks relief from the minimum width of lot and area prescribed for the proposed use under § 401.3 in the underlying R- 4 Zone District.

The proposed project complies with all other applicable provision of the Zoning Regulations, including maximum lot occupancy, setbacks, height, number of stories, and required parking.

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

Description of the site

The Site is zoned R-4 and is improved with a vacant, semi-detached, two-story structure with approximately 1,911 ft² of gross floor area. The existing building pre dates the cities permitting system established in 1877, with the earliest evidence of any improvements is a building permit for a kitchen addition dated 1882. The structure is wood framed with a slab-on grade foundation. The building was most recently occupied by Ms. Lisa Ann Nesbit-Fields. It should be noted that the structure predates all modern zoning and building codes, is poorly constructed, and maintains no historical significance. It should also be noted C&S Development has recently been granted approval from Zoning, Historic, as well as the local ANC (ANC-6B) regarding the razing of the existing structure. (Please see attached approval letters from these agencies)

Description of Proposal

As shown on the architectural plans and elevations included with the application, C&S Development proposes to construct 3 new, attached three-story plus cellar flat structures with parking in the rear. Each unit will provide two (2) parking spots, which will be accessed from the public alley in the rear. The proposed residential use for the Site is consistent with the Site's zoning designation and with other uses in the neighborhood.

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.

A) UNIQUE PHYSICAL CHARACTERISTICS OF SHAPE OR SIZE

The subject property at approximately 4,320 ft² and 48 ft in width, is the largest undeveloped property in its square of location and this unique characteristic of size and shape, which predates the original adoption of the Zoning Regulations, results in an extraordinary condition of the property. The subject property is three times the average lot width of 16 ft. in the vicinity, as well as three and a half times the average lot area of 1,220 ft² in the vicinity.

For your reference, of twenty-three (23) neighboring properties located on the south side of square 1090, only three (3) meet or exceed the lot width minimum of 18'. Four (4) are 14.75' wide with sixteen (16) properties measuring roughly $\leq 16'$ in width.

Directly across from the Site on the north side of square 1091, of twenty-two (22) lots, only two (2) meets or exceed the lot width minimum of 18'. Six (6) are 14.77' wide; nine (9) are 15', while five (5) are 17' in width.

The subject property is located within the R-4 residential zone district, which as set forth in 330.1 of its General Provisions section, is designed to encompass areas developed primarily with row dwellings and where substantial conversions of existing structures into two or more family dwellings are contemplated to occur and continue to occur. Section 401.3 prescribes a minimum lot width and area of 18 feet and 1,800 ft².

The subject property, as a matter of right, could be subdivided into two equal 24 ft. wide lots, resulting in an approximate lot size of 2,160 ft² each. Whereas two lots created would exceed the minimum lot width and area as prescribed in § 401.3. Additionally, they would exceed the lot width average on the block by 7' and area by 943 ft².

B) PECULIAR AND PRACTICAL DIFFICULTIES TO OWNER OF PROPERTY

A matter of right development of the subject property is impractical, unfeasible in its market area, and will be incompatible in the neighborhood, which is predominantly developed with row dwellings on approximately sixteen feet (16 ft.) wide lots or less.

By matter of right the subject property could be subdivided into two equal lots, each 24ft in width, resulting in an approximate lot size of 2160 ft² each. There are two possible by right developments that could occur in this scenario of these two lots. The first being two (2) single family dwellings and the second being two (2), two unit flats.

As part of the final submission and in the course of the hearing the applicant shall provide Performa financial documents of these two development outcomes, and evidence of their impracticality, incompatibility with the character of the neighborhood, which directly impacts their unsuitability for the market area, and which invariably result in peculiar and practical difficulties on the owner of the property.

C) SUBSTANTIAL DETRIMENT TO THE PUBLIC GOOD AND SUBSTANTIAL IMPAIRMENT OF INTENT, PURPOSE AND INTEGRITY OF THE ZONE.

The applicant seeks to construct three row structures, each on a lot that is approximately 16 feet wide and 90 feet in depth. Both the width and area of these proposed lots are consistent with the prevailing conditions of existing lots in the subject property's square of location, and more specifically on lots adjacent to it.

The proposed project complies with all the other requirements and provisions of the Zoning

Regulations and would cause to be improved an otherwise under improved lot which is likely to remain unimproved due to market variables related to its size, absent the relief sought before the BZA. Additionally, the proposed plans call to exceed parking requirements set forth in § 2101.1 by providing two spots for each proposed two unit flat.

The proposed project is intended to result in a development, which will not be incompatible with the scale and character of the neighborhood. Please reference proposed plans and elevations, which have been included along with all relevant supplemental documentation.

WITNESS

1. Joel Nelson
2. J.D Schmidt

CONCLUSION

C&S Development submits that the subject property exhibits all the characteristics which merit the granting of the use variance or the relief sought in this application. As will be further documented the subject property is constrained by market forces outside of the owners control to smaller unit sizes.

The proposed construction will not adversely affect neighboring properties for the following reasons:

- Parking spaces for up to six (6) full sized vehicles will be provided. This exceeds the requisite set forth in 11 DCMR § 2101.1 requiring one (1) parking space for each two unit flat. It should also be noted that the subject property is located within 3.5 blocks of

the Potomac Avenue Metro station, which services the Blue, Orange, and Silver lines.

- The density of the project is in direct keeping with the intent of the zoning regulations and with the established precedence of the surrounding area
- No other zoning relief is needed to complete the project.

The property is likely to remain underutilized absent the relief sought for reasons of economic infeasibility.

For all the foregoing reasons, C&S Development respectfully requests that the Board grant the relief sought in this application.