

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

CASE NO. 19203

Application of Sheela Tschand, pursuant to 11 DCMR §§ 3103.2 and 3104.1, for a variance from the side yard requirements under § 405, and a special exception from the conversion to apartment house requirements under § 336, to allow the conversion of a one-family dwelling into a three-story, three-unit apartment house in the R-4 District at premises 1844 Kendall Street N.E. (Square 4048, Lot 808).

APPLICANT'S HEARING STATEMENT

MARCH 1, 2016

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:

- a./ 11 DCMR § 3103.2 and 3104.1 for a variance to allow the renovation, addition to and conversion of an existing single family detached dwelling to a three-unit condominium building, which will not comply with the following provisions of the Zoning Regulations in the respective sections set forth for the underlying R-4 zone district within which the subject property is located: the minimum side yard as per § 405;
- b/ section § 336 – a Special Exception to convert the existing single family dwelling to a three unit residential condominium building.

All other sections of the Zoning regulations are complied with.

PROPERTY DESCRIPTION

The existing building is flanked to the south by a two unit condominium building and to the north by an alley. The street is populated by a mix of predominantly row houses, apartment buildings and a few single family residences. The alley connects Kendall street, NE to Corcoran Street, NE.

The existing building has a side yard of about 3 feet on the north and south face. The building on the south is face on the shared property line with the subject property. This means that the existing separation of the existing building from the neighbor on the south side (#1842) is 3 feet. The building is also 3 feet from the alley on the north face.

THE APPLICATION

The original application intended to use the original footprint of the existing building, and sought side yard variances on both the north and south property lines.

The Applicant presented this scheme to the ANC, DCOP and neighbors. Upon reviewing the comments from the community and neighbor, the Applicant revised the plans eliminating the side yard on the south side that would have resulted in very 'ugly' and undesirable gap, in between the two buildings. The face on common line of building at 1842 Kendall does not have any window openings; as well, the proposed face on line of the subject property does not have any fenestrations.

The resulting scheme, seeks the side yard variance on the north side, a 3 feet separation from the alley side property line.

This scheme was embraced by both neighbors and the community. We have written support from both the ANC and the neighbor supporting the current plans.

STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

The three prong test:

We hereby by the statement issued below and supported with building drawings, site plan and other exhibits satisfy the three prong test required for this variance.

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.

UNIQUE PHYSICAL CHARACTERISTIC OF SHAPE OF PROPERTY

The subject lot is, uniquely, oddly shaped and situated next to an alley: it is shaped a parallelogram with only two of its sides (north and south) having an even separation distance from each other. This coupled with its situation next to a public utility and transportation alley makes it unique and stand out from other lots in the vicinity and neighborhood. No other lots in this area share this geometric characteristic.

The Applicant therefore contends these shape and geometry characteristics unique and a testimony to compliance of the first burden of proof.

PECULIAR AND PRACTICAL DIFFICULTIES TO OWNER OF PROPERTY

The subject property is an existing building, which is now non-conforming due to the current requirements of the zoning Regulations. The owner proposes to convert them to a use allowed as matter of right subject to a Special Exception and the Zoning Regulations. He intended to do upper level additions but is unable to due to the fact that this building is non-conforming to the side yard requirements. The R4 zone allows development of both row, detached and semi-detached buildings.

Not approving this variance will lead to the difficulty of Owner not being able to develop the property as allowed by the code. Attempting to have side yards on both north and south property lines will mean substantial demolition of existing structure, excessive structural work and a very narrow maximum building width of 14 feet.

The owner agreed to making the above ground portions of the proposed building face on line. This consideration makes a better and more pleasant aesthetics and street scape, even though it attracts additional construction and costs. Making the north side yard 8 feet or more will attract more demolition, and increase the construction structural costs by almost 35%. On placing the building on property line on alley side yard some issues arise which present practical difficulties:

1. The need for access to the recreational common green area at rear of property for upper level units: The only way the upper level units can go to the property rear is through the north side yard. Else they would have to leave the property, get on to the alley and walk right round back into the property at the rear parking pad driveway opening. This will be very unpleasant and reduce the appeal of these upper level units.
2. In addition to cost issues, placing the north wall on alley property line also presents other practical difficulties one of which is vehicular impact. The public alley that adjoins this property line is very heavily used. The residents of the adjacent apartment building across the alley use this as a primary means of access, especially since Kendall Street is a one way street. Also DC School buses ply this alley to connect to Corcoran or to make a return to the bus yard which is close by. This is in addition to the trash vehicles and other public vehicles that use the alley frequently in the course of a day. The building wall if placed on the alley will thus be exposed to a high degree of impact, windows cannot be easily be placed on this side especially on the cellar and first floor levels and this will lead to a very undesirable residence, without the provision of enough interior light and air. These factors constitute a practical difficulty.
3. Security: The crime statistics for the PSA remain high, with burglaries very prevalent. That concern will force the owner not to have windows on the lower level of wall if placed on the alley to reduce likeliness of window forced entry. That presents a huge limitation on the owner as they cannot have windows on this side for the security concerns.

From the aforementioned, there are several characteristics of this property and site which will make development and use of this property very difficult for the owner without this singular side yard relief sought. Ranging from structural issues, to construction costs, to practical use difficulties, that arise in an attempt to strictly apply the zoning regulations either for face on line or for full side yard.

The Applicant hereby stands on these to support the test for peculiar and practical difficulties directly related to this side yard relief sought.

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

The Applicant seeks to add to and renovate an existing single family dwelling. The proposed use is allowed in this area. The proposed structure will also fit into this neighborhood of somewhat mixed building types and uses. By matter of right both row houses and detached houses are allowed in this area, and in fact exist. Two off street parking spaces are provided off the alley. The roof has been modified from gable to flat to further keep highest point of roof in line with surrounding buildings. The scaling and façade treatment also makes it blend in to the surrounding areas. Most especially the proposed use is as allowed by the zoning regulations for the R4 zone. The requested relief and proposed building will thus not cause any impairment of intent, purpose and integrity of the zoning regulations.