

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

**APPLICATION OF
4424 GEORGIA AVE, LLC**

**4424 Georgia Avenue NW
Lot 37 in Square 2917**

STATEMENT OF THE APPLICANT

I. INTRODUCTION

This Statement in Support of an Application for Variance is brought by 4424 Georgia Ave, LLC, (“Applicant”), the contract purchaser and authorized agent for the property owners, John B. Knotts and Richard H. Hiltner in support of area variance relief from the parking (§ 2101.1) and rear yard (§ 774.1) requirements of the Zoning Regulations pursuant to 11 DCMR § 3103.2, for the property known as 4424 Georgia Avenue N.W. (Lot 37 in Square 2917)(the “Property”) to allow construction of a mixed-use building of approximately 580 s.f. of ground floor retail and seven residential units (the “Project”).

II. JURISDICTION OF THE BOARD

The Board of Zoning Adjustment (“BZA” or “Board”) has jurisdiction to grant the variance relief requested pursuant to 11 DCMR § 3103.2 of the Zoning Regulations.

III. BACKGROUND

The Property is a landlocked, corner lot that consists of approximately 3,103 square feet of lot area. It is located in Northwest Washington, D.C. at the southwestern corner of the intersection of Georgia Avenue and Allison Street, N.W. *See* Baist Map attached hereto as **Tab A** and Property survey attached as **Tab B**. The Property is classified within the C-2-A Zone District. *See* Zoning Map attached hereto as **Tab C**. The Property is not in a historic district.

The Property has no alley access and is currently improved with commercial buildings. The area directly around the Property is commercial and moderate to medium density residential in character. Apartment buildings exist across Allison Street and Georgia Avenue from the

Property, as shown in the surrounding property photos included at **Tab D**. The adjacent property on Allison Street is used commercially. Row dwellings exist further to the west along Allison Street.

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 located approximately 1/2 of a mile from the Georgia Avenue/Petworth Metro Station which is served by the yellow and green lines. Moreover, Metrobus routes 63, 70, 79, 62 and 60 all stop within two tenths of a mile (.2 miles) from the Property and provide excellent bus access along 16th Street in and out of the City. In addition, the Property is within close proximity to a number of the District's bikesharing and carsharing programs. Capital Bikeshare stations are located at 9th and Upshur Street NW (.2 miles) and 1208 Emerson Street (.3 miles away). Also, there are seven zipcar/car share locations within 1/2 mile from the Property, three of which are less than 0.2 miles from the Property. Walkscore.com finds that the Property has "Excellent Transit" with a TransitScore of 74/100 and labels it as a "Walker's Paradise" with a WalkScore of 91/100, a "Biker's Paradise" with a BikeScore of 90/100.

IV. THE PROPOSED DEVELOPMENT

As shown on the architectural plans included at **Tab E**, the Project is proposed to consist of a four-story, mixed-use building with approximately 580 s.f. of ground floor retail and seven residential units.

The proposed retail will front on Georgia Avenue, continuing the tradition of community-serving retail at this Property and completing the strip of commercial uses from Webster Street to the south to Allison Street to the north. The residential units will face Allison Street. Residential access will be from exterior staircases along Allison Street that lead directly into the units. The proposed, three exterior staircases will visually divide the building into modular components that are designed to be harmonious in massing to the existing row dwellings to the west along Allison Street. The Project will be set back 15 feet from Allison Street allowing for the existing landscape strip along the Allison Street frontage to remain. The Project will activate and improve the

intersection of Allison Street and Georgia Avenue with high quality commercial and residential uses.

As will be discussed below, the Property is landlocked, and, accordingly, no parking can be provided as part of the Project. Further, the Project cannot provide a rear yard due to the exceptional conditions associated with the Property.

As permitted in the C-2-A Zone District, the Project will be constructed to approximately 40'- 8" in height, in satisfaction of the height requirement of Section 770.1. The Project also proposes an approximately 9'-6" roof structure in compliance with Section 770.6 of the newly adopted penthouse regulations. The proposed FAR is 2.5, of which less than 1.5 FAR is proposed for commercial uses, in satisfaction of Section 771.2. Also, the proposed lot occupancy is 59.9%, which also complies with the lot occupancy requirements of Section 772.1.

V. NATURE OF RELIEF SOUGHT AND STANDARD OF REVIEW

Variance relief is required from the requirements regarding parking (§2101.1) and rear yard (§774.1). 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 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 in the Prehearing Statement and at the public hearing, all three prongs of the area variance test are met in this Application.

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

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 above-quoted variance test applies not only to the land, but also to the existence and 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).

The subject Property is unusual and affected by an exceptional situation and condition as a result of a confluence of the following factors: (1) the Property is a corner lot; (2) the Property is landlocked and does not have alley access; (3) the Property is irregularly shaped; (4) the Property has a 15-foot building restriction line along Allison Street; and (5) the ground floor commercial nature of abutting uses to the south on Georgia Avenue.

1. Corner Location

As previously noted, the Property is a corner lot fronting on Georgia Avenue and Allison Streets NW, and has a land area of approximately 3,103 square feet. To the west, along Allison

Street, the Property directly abuts 1104 Allison Street, which is used commercially for the Georgia Avenue Family Support Collaborative, a non-profit organization.

2. No rear alley access

As shown on the Baist and zoning maps included at **Tabs A and C**, the Property is landlocked and has no rear alley access. An alley exists to the west of 1104 Allison Street (the adjacent property to the west), but the Property has no access to that alley. Accordingly, no off-street parking is possible on the Property without a curb cut, which would require DDOT approval.

3. Irregularly Shaped Property

As shown on the Baist map and survey included at **Tabs A and B**, the Property is irregularly shaped due to the diagonal southern-side lot line that creates a trapezoidal shape. Accordingly, the front property line on Georgia Avenue is approximately 16' – 6" shorter than the rear property line. This creates design inefficiencies for a proposed development on the Property, because the bulk of the building must be located towards the rear lot line where the lot is wider.

4. 15-Foot Building Restriction Line Along Allison Street

As shown on the survey at **Tab B**, the Property has a 15-foot building restriction line along the Allison Street frontage. Accordingly, the entire mass of the building must be located to the south and west in order to accommodate the required building restriction line. The substantial building restriction area restricts the width of the Project to approximately 13' – 7 ½" in the front along Georgia Avenue and 31' - 4 ½" in rear. This creates a narrow, trapezoidal-shaped building footprint that must be accommodated on the site.

5. Ground floor Commercial Nature of the Properties to the South Along Georgia Avenue

As shown in the photos of the surrounding area at **Tab D**, the ground floor uses along this section of Georgia Avenue are commercial in nature. The Applicant intends to keep the commercial strip complete by providing approximately 580 s.f. of ground floor commercial uses on the Project's Georgia Avenue frontage. The commercial uses require a different entrance and egress by code, which impacts the design and efficiency of the proposed building.

B. Strict Application Would Result in a Practical Difficulty to the Owner

Due to the Property's exceptional conditions discussed above, the strict application of the minimum parking and rear yard requirements of Sections 2101.1 and 774.1 would result in practical difficulties for the Applicant.

1. Parking (§ 2101.1)

Based on the proposed project, the Applicant is required to provide a total of four parking spaces pursuant to § 2101.1 (Residential requirement in the C-2-A: 1 space for each 2 dwelling units = 3.5 parking spaces, which is rounded up to 4 spaces pursuant to Section 2118.6.) No parking spaces are required for the commercial use because the square footage devoted to retail is less than the threshold to require parking spaces.

However, as a result of the landlocked, corner location of the Property, the Project cannot provide parking spaces on site. Because the Property has no rear alley access, on-site parking spaces would require a curb cut from a public roadway that would need DDOT approval.

DDOT would not support a curb cut from Georgia Avenue because of the substantial public space/sidewalk area and need to retain and enhance pedestrian circulation along that commercial corridor. Similarly, it is unlikely that DDOT would support a curb cut from Allison Street because of the 15-foot building restriction line along that frontage and the proximity to the north-south alley to the west of 1104 Allison Street.

Accordingly, 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 provide the proposed Project, which is permitted under the Zoning Regulations and will appropriately activate this intersection.

2. Rear Yard (§ 774.1)

Pursuant to 11 DCMR § 774.1, development on this Property requires a 15-foot rear yard. The existence of the unique features of the Property discussed above result in a practical difficulty for the Applicant if the zoning relief is not provided.

First, the Property is shaped irregularly because the Georgia Avenue lot line is approximately 16' -6" narrower than the rear property line. The Property's trapezoidal shape results in the bulk of the building being located in the rear, where the Property is widest. Mandating a rear yard – in the exact area where the Property has the widest width and the most lot area – would be unnecessarily burdensome because the resulting building layout would face severe programmatic inefficiencies.

Second, as stated above, the Property has a substantial, 15-foot building restriction line from Allison Street. Accordingly, the maximum building width is limited to a narrow building footprint with approximately 13' – 7 ½" in the front along Georgia Avenue and approximately 31'-4 ½" in the rear. In addition to the narrow building footprint, due to the building restriction area, approximately 1,193 s.f. of the Property cannot be constructed upon, restricting the maximum building square footage to 1860 s.f. per floor. Requiring a 15-foot setback from the rear property line in addition to the existing building restriction area would further truncate the developable building footprint by approximately 19%, causing a practical difficulty for the Applicant.

Finally, as stated above, this Property is the end unit of a commercial strip on Georgia Avenue and has been used commercially for years. The Applicant proposes to retain commercial uses along the Georgia Avenue frontage. However, because commercial and residential uses require different entrances by code, which would not be possible if the Project was required to provide a compliant rear yard, without a variance from the rear yard requirement, the Applicant may need to consider removing the Project's retail component. This would be unnecessarily burdensome to the Applicant and would result in leaving the existing commercial strip along Georgia Avenue incomplete.

C. Neither Substantial Detriment to the Public Good nor Substantial Impairment to the Intent, Purpose and Integrity of the Zone Plan.

The requested variances can be granted without causing substantial detriment to the public good and without substantial impairment to the intent, purpose, or integrity of the Zone Plan. As noted above, the Property is well-served by the surrounding transit network, and the requested variance from the minimum parking requirement will not have a substantial impact on the public good. Further, under the recently adopted Zoning Regulations Review (“ZRR”), only one parking space would be required for the Project because of its transit proximity. Accordingly, the District’s newly adopted parking modeling anticipates a lower demand for parking for this type of development in this location. Moreover, as stated above, a curb cut in this area would not be practical because it would not be supported by DDOT.

With respect to the requested rear yard relief, the Property is surrounded by ample open space along the Allison Street and Georgia Avenue frontages. As stated above, due to the required building restriction area along Allison Street, the Project allocates approximately 1,193 s.f. of the Property to open, green space along Allison Street. Also, in addition to the 15-foot set back within the Property’s lot lines, the property line itself is set back an additional 15-feet from the Allison Street roadway. Therefore, as designed, the Project is proposed to be set back at least 30 feet from Allison Street. The front of the Property along Georgia Avenue also is set back approximately 15 feet from that roadway due to the wide sidewalk. Accordingly, the Project is surrounded by open area, and the lack of rear yard will have no impact.

VII. 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,

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