GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

Memorandum

TO: Board of Zoning Adjustment

FROM: Andrew Altman, Director
Office of Planning

DATE: September 11, 2001

BZA
Case No. 16747
Exhibit No. 24

SUBJECT: BZA Application #16747 (Hair Zone)
5108 MacArthur Blvd., N.W. (Square 1418, Lot 809)

APPLICATION

The application by Ellen Mackey requests, pursuant to 11 DCMR 3103.2, variances from the non-conforming property requirements of §2001.3, the Floor Area Ratio requirements of §771, the rear yard requirements of §774, and the parking requirements of §2101, to allow the enlargement of a nonconforming structure as in the C-1 District for a beauty salon.

PROPOSAL

The applicant proposes to enlarge the existing building through the construction of a rear addition. The building currently houses a beauty shop which provides hair and nail services. The additional space will enable the applicant to provide additional personal care services such as manicure and pedicure services on the upper and middle levels and a new pet grooming service is proposed for the lower floor of the new addition.

SUMMARY RECOMMENDATION

The Office of Planning (OP) recommends that the variances be **APPROVED**. The proposed expansion of the building will alleviate a hardship to the applicant that was not self-created. The existing building was constructed in 1928 and the lower two levels do not meet the current Building Code requirements regarding ceiling height. Therefore, there is no existing area within the building suitable for expansion. In addition, the adjacent building has created a situation whereby light and air for the rear of the property have been minimized. Parking can not be

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provided because the building is constructed across the full width of the property; there is no alley or other vehicular access and no physical capacity to accommodate on-site parking.

SITE AND AREA DESCRIPTION

The subject property is located in the Palisades community at 5108 MacArthur Boulevard, N.W., Square 1418, Lots 809 (Attachment 1). The site is developed with a 2,046 square foot, brick building. Due to a steep change in the grade, the building has a single story at the street front and two stories in the rear. The building is mid-block and attached to adjoining buildings on two sides. Currently, the building houses a beauty shop that provides hair and nail services on the main level and limited skin care services in the first basement level. On the second basement level is a small upholstery business that is accessed from the non-vehicular public right-of-way and easement located to the west of the property. The remainder of the basement spaces ~~area~~ is used for storage and mechanical equipment.

The surrounding neighborhood is a mixture of neighborhood serving retail and residential uses. Within this block between Dana Place and Arizona Avenue and fronting on MacArthur Boulevard, most of the properties are in the C-1 District. This block houses a variety of uses including restaurants, a dry cleaner, a veterinary office, a post office, small offices, an antique furniture store, offices of the Brazilian Government, and a three-story apartment building. Surrounding this area in all directions are predominantly single-family detached residences in the R-1-B District.

MacArthur Boulevard is a 6-lane divided roadway with one lane for parking in each direction. Westbound along MacArthur Boulevard, parking is limited to two hours, between 7:00 AM and 8:30 PM, while eastbound there is 1-hour metered parking. There are no meters between the subject property and Dana Place.

ZONING REQUIREMENTS

The subject site is zoned C-1 commercial, which permits matter-of-right neighborhood shopping and low-density development to a maximum lot occupancy of 60% for residential use, a maximum FAR of 1.0, and a maximum height of 3 stories or 40 feet.

ANALYSIS

The proposal is to enlarge an existing building to allow for an expansion of an existing beauty shop so that they may provide additional personal care services to residents of the Palisades neighborhood. The applicant proposes to renovate the existing building and construct an addition to the rear of the building (Attachment 2). The addition will extend the existing roofline but include three levels due to the existing topography of the property. The existing hair care business at the front of the building will remain with a manicure/pedicure area added to the rear.

The middle level of the new extension will be used for skin care and the ground level of the extension will be rented to a pet grooming service. The remainder of the area will be used for storage and mechanical equipment (Attachment 3). The proposed extension will be constructed in the area between the existing building and the rear property line and will increase the area of the building to 3,446 square feet.

§2001 – Nonconforming Structures Devoted to Conforming Use and 774 Floor Area Ratio

The building is a non-conforming structure built in 1928, before the Zoning Regulations were enacted and it currently exceeds the maximum FAR requirements. The maximum FAR permitted in the C-1 District is 1.0 and the FAR of the building is 1.36. The extension of the existing building into the rear yard will further increase the FAR to 2.30 thereby increasing the nonconforming FAR and also creating a new a non-conformity to the rear yard requirement. Therefore, a variance from Section 2001.3 is requested.

> **"2001.3 Enlargements or additions may be made to the structure; Provided, that the following requirements shall be met:**
>
> **(c) The addition or enlargement itself shall not increase or extend any existing, nonconforming aspect of the structure, and shall not create any new nonconformity of structure and addition combined."**

The standards by which the BZA should approve a variance is set forth in §3103.2 of the Zoning Regulations. The following demonstrates how these standards are met:

> **"The property is unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition;"**

The property is unique because of the topography of the site wherein the grade drops sharply from the front to the back of the property. The building has one floor at street level and two basement levels in the rear. More specifically, more than half of the basement level is considered cellar space. In addition, due to the age of the building the existing ceiling heights are less than 6'6" and do not meet the current requirements of the Building Code.

The property is also unique in its relationship to the adjoining properties. To the south and east is a storage building that wraps around the property with solid masonry 33-foot tall walls, creating a shadowed and cavernous rear court that has severally limited light.

> **"By reason of the aforementioned unique or exceptional condition of the property, the strict application of the Zoning Regulations will result in peculiar and**

exceptional practical difficulties or to exceptional and undue hardship upon the owner of the property."

Due to the fact that the basement/cellar levels have low ceilings, and are long and narrow it is very hard get light and air to these areas. The proposed uses are such that adequate ventilation and maximum natural light are required and the topography is such that it cannot be provided. Therefore the required rear yard is not usable or beneficial.

Additionally, the lack of light and air is made worse by the enclosure around the rear yard by the adjacent neighbor. The construction of a 33-foot building wall along the eastern property line and 30-foot building wall along the southern property line has turned the applicant's rear yard into a virtual "black hole". Therefore, it is impossible to expand the beauty shop into the existing lower level space.

The rear of the subject property has access only from the existing building and by a ten-foot wide easement that connects across the adjacent western property and connects to the public right-of-way. The addition has been designed with an alcove on the lower level and entrances that align with the easement to ensure that if the neighboring property to the west should expand, the subject addition will still have access and light.

"The variance will not cause substantial detriment to the public good and will not impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map."

The proposed variance request will allow the applicant to extend the building into the rear yard and increase the FAR. If the proposed addition were smaller there would remain a very small rear yard, which would be hard to maintain and would not serve the purpose of providing light and air due to the peculiar arrangement of the adjoining buildings. This extension will allow the area in which the public will be served to conform to the existing Building Code. The design of the addition will be used to introduce light into the new space for a business that requires ventilation and natural light.

The expansion of the nonconforming building will not be visible from the street. The side walls of the adjacent buildings do not have any windows and therefore the proposed expansion will not affect their light and air. Therefore, the addition will not adversely impact the surrounding community.

The extension will not impair the intent, purpose or integrity of the Zoning Regulations and Map. Due to the adjacent buildings the light and air to the subject property have been affected and the proposed building will recapture some of the available light. Granting of the variance will not cause "substantial detriment to the public good" but will enhance the neighborhood through the

renovation of an existing building and will provide neighborhood services that have been requested and supported by the businesses and residents of the community.

Rear Yard

Section 774.1 requires a minimum rear yard of 20 feet and the property has an existing rear yard of 25 feet. The proposed addition will eliminate the existing rear yard completely. Over the years an adjacent property owner has constructed additions that have eliminated much of the adjacent rear yards and in effect, left the rear yard of the subject property as a type of court. The rear of the subject property has access only from the existing building and by a ten-foot wide easement that connects across the adjacent western property and connects to the public right-of-way. The intent of the rear yard requirement is to provide open space, light, and air to properties. This intent has been thwarted by the construction of the adjacent 33-foot concrete block wall along the rear property line and a 30-foot brick wall on the south property line which has resulted in a deep and shadowed court on the subject property. These walls do not have any windows and the wall to the south has a door abutting the adjacent property.

The following demonstrates how the standards of the variance are met:

> **"The property is unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition;"**

The property is unique due the fact that the rear is nearly land locked by its adjacent neighbors. The existing building is joined to other buildings on both its east and west sides. In addition, the building to the west extends the entire length of the subject property's east and south property lines. The buildings which are along these property lines extend 33-and 30-feet high. These walls have created an exceptional situation in that the rear yard of the subject property has become a court area that is often shadowed and dark. The rear of the subject property has access only from the existing building and by a ten-foot wide easement that connects across the adjacent western property and connects to the public right-of-way.

> **"By reason of the aforementioned unique or exceptional condition of the property, the strict application of the Zoning Regulations will result in peculiar and exceptional practical difficulties or to exceptional and undue hardship upon the owner of the property."**

The topography of the site, in combination with the constructed heights of the adjacent property walls, has resulted in a lack of light and air into the existing rear yard. Due to the existing sub-standard ceiling heights, the applicant is unable to expand into the existing lower floors. These issues have created a practical difficulty for the applicant by prohibiting the use of the existing building for uses that require ventilation and light, and negating the intent of the rear yard. In

order to expand and provide services to their clients, the only available area for expansion is the rear yard for the applicant to use the light generated from above.

> **"The variance will not cause substantial detriment to the public good and will not impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map."**

The variance will not be detrimental to the public good as the adjacent masonry walls do not have any penetrations and the rear yard will not block the light and air of any neighbors. Additionally, the extension will not be visible from the roadway due to the topography of the site and it is surrounded by adjacent structures. The intent of the zoning regulations and map to provide light and air to the rear of the property will not impugned as currently the adjacent property has already affected the light and air of the subject property. Allowing the expansion with its architectural design to bring more light and air into the building, will uphold the intent, purpose, and integrity of the Zoning Regulations and Map.

Parking

The addition will increase the total square footage of the building to 3,446 square feet. Under Section 2101, five (5) parking spaces are required. Currently, there is no parking on the subject site. Vehicular access to the rear of the property is not possible as it is a party-wall structure and there are no parking opportunities on the other sides of the property. A majority of the businesses in this Palisades neighborhood use off-street parking. There are three restaurants on this block that depend on off-street parking but receive the highest number of patrons in the evenings. The hours of operation of the beauty shop will continue to be Tuesdays through Saturdays between the hours of 9:00 AM to 5:00 PM, which does not significantly overlap with the peak hours of the restaurants. There is ample on-street parking in the daytime both along MacArthur Boulevard and residential side streets that have parking limited to 1-and 2-hour periods. There are no meters directly in front of the Hair Zone but the applicant and the ANC are trying to get the meters replaced that were removed during construction on an adjacent site.

The following demonstrates how the variance standards are met for the parking request:

> **"The property is unique by reason of its exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional situation or condition;"**

The property is unique due the fact that it is nearly land locked and the existing building is constructed across the full width of the lot. This has caused an exceptional situation because it does not allow any parking spaces to be located on the site. The 10-foot wide public right-of-way provides only pedestrian access to the rear of the property and there are no curb cuts from MacArthur Boulevard for vehicular access.

> **"By reason of the aforementioned unique or exceptional condition of the property, the strict application of the Zoning Regulations will result in peculiar and exceptional practical difficulties or to exceptional and undue hardship upon the owner of the property."**

Due to the fact the property is nearly surrounded by adjacent private structures and the existing building stretches the full width of the lot, it is impossible for the applicant to provide parking. Even if the space to the rear of the building was able to accommodate parking, there is no vehicular access to the rear of the lot. Therefore, the requirement of the zoning ordinance cannot be met.

> **"The variance will not cause substantial detriment to the public good and will not impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map."**

Granting the variance will cause customers to seek parking spaces on the street as they do currently with no reported problems. The proposed expansion results in a requirement for only 3 additional spaces. These additional spaces should not cause a problem to the current on-street parking demand. Additionally, this salon serves mainly customers who live in the neighborhood and walk to the beauty salon. The applicant does not envision the customer base to expand greatly beyond the community. Furthermore, the adjacent businesses have a quick turnover of customers, regularly freeing up on-street parking. The peak hours of the salon does not conflict with the largest amount of the patrons of the restaurants, which come in the evening when the salon is closed. Therefore, the intent of the zoning ordinance and map will not be compromised.

COMMUNITY COMMENTS

The subject property is within ANC 3D which reviewed the application at its meeting on July 11, 2001 and voted to approve the requested variances.

SUMMARY AND RECOMMENDATION

The proposed expansion of the building will alleviate a hardship to the applicant that was not self created. The building was constructed in 1928 and the lower two levels do not meet the Building Code requirement regarding ceiling height and therefore are not suitable for business expansion. In addition, the topography of the site and the construction of the neighboring buildings have created a situation wherein light and air for the rear of the subject property has been minimized. Therefore, to make maximum use of the site for the established business an addition is needed and can be constructed in the rear yard with no adverse impact.

The requested variances for the expansion of a non-conforming building, and from the FAR, rear yard and parking requirements can be granted without causing any "substantial detriment to the

public good" as the addition is to the rear of the site where it is not visible and the additional parking can be accommodated off-site without creating a traffic hazard. The intent, purpose, and integrity of the zone plan will be upheld as the applicant is finding a way to introduce natural light and ventilation into an area to be used by the public. The Office of Planning therefore recommends that the Board of Zoning Adjustment **APPROVE** the requested variances.

ATT:

1 Aerial Photograph
2 Surveyors Plat
3 Plan Layout
4 Building Elevation & Section

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HAIR ZONE
Hurst Ter NW
Edmunds Pl NW
Mac Arthur Blvd NW
Dana Pl NW
Subject Property
Edmunds Pl NW
Sherrier Pl NW
Dana Pl NW
Cushings Pl NW
Government of the District of Columbia, Office of Planning