GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: D.C. Board of Zoning Adjustment

FROM: Andrew Altman, Director

DATE: December 6, 2001

SUBJECT: Waiver of Rules for Late Submission of Office of Planning Report
BZA Application 16803 –1358 Girard Street, N.W. Variances

The enclosed report of the Office of Planning (OP) concerning BZA Application No. 16803, a request for an area variance and a parking variance in an R-4 district, is being submitted less than 7 days prior to the Board of Zoning Adjustment's consideration of the application at the continuation of a public hearing. As noted in documents submitted for the record by the applicant on December 4, 2001 – the day the OP report was due – the applicant submitted substantial information for OP's consideration only yesterday.

The Office of Planning (OP) requests that the Board waive its rules to receive the report into the record.

Attachment

aa/sc

BZA
Case No. 16803
Exhibit No. 25

Board of Zoning Adjustment
District of Columbia
CASE NO.16803
EXHIBIT NO.25

GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman, Director

DATE: December 6, 2001

SUBJECT: BZA Application #16803 (Application of JFC Builders of D.C.)
1358 Girard St., NW
Square 2860, Lot 56

I. APPLICATION-IN-BRIEF

Applicant:	Edgar T. Nunley of Temple Hills, MD for JFC Builders
Relief Sought:	Variance from Land Area Requirements for Apartment Units Variance From Parking Requirements
From Section:	11 DCMR §401.3 and §2101.1
Zoning:	R-4
Regulations Require:	More Land Area Per Apartment Unit Possibly 1 More Parking Space
Relief Sought Under:	§3103.2

II. OFFICE OF PLANNING RECOMMENDATION

The Office of Planning (OP) recommends the application for an area variance and a parking variance be approved.

III. SITE AND AREA DESCRIPTION *(See Attachment 1)*

Square 2860 in northwest Washington is bounded by:

- South: Fairmont Street
- East: 12th Street
- North: Harvard Street
- West: 14th Street.

Lot 56 is on the southern side of Girard Street, towards the western end of the street.

The parcel comprises 2,000 square feet. It is improved with a two-story-plus-basement row house. The building occupies 1,345 square feet; 145 square feet more than would be allowed a new structure. There is a five-foot rear yard; 25 feet fewer would be required for a new structure. There is no alley serving the property, or the adjacent lots. The parcel, therefore, has no off-street parking.

The property is located in the rapidly changing Columbia Heights neighborhood, approximately five blocks from the Columbia Heights Metro station. There are several row houses to the east, and one row house, and a public playground, to the west. The parking lot for garden apartments on Fairmont Street borders the property on the south.

The neighborhood consists primarily of row houses, some of which have been converted into flats or apartments. There are also a significant number of garden apartments and, along 14th Street, mid-rise and high-rise apartments. 14th Street is the principal commercial corridor for the neighborhood.

IV. AREA ZONING AND HISTORIC DISTRICTS *(See Attachment 1)*

The site is zoned R-4, as is most of the nearby residential area. The 14th Street corridor is zoned C-2-A and C-2-B. There is an irregularly shaped area of R-5-C zoning, directly across Girard Street from the subject property, that stretches up to Columbia Road.

There are no nearby historic districts.

V. APPLICATION DESCRIPTION

The applicant wishes to convert a vacant row house, with a certificate of occupancy for a 2-unit flat, into a 3-unit condominium building. The building currently provides no parking and the applicant seeks a variance to continue to provide no parking. This conversion would clearly require a variance from the area requirements of 11 DCMR Section 401.3 and, less clearly, from the parking requirements of 11DCMR Section 2101.3.

VI. RELATIONSHIP OF THE APPLICATION TO THE COMPREHENSIVE PLAN *(See Attachment 2)*

The Comprehensive Plan's Generalized Land Use Map shows the general area as being suitable for moderate density residential, with corridors of commercial and retail uses along 14th Street and U Street. Moderate Density Residential is typically associated with zone districts ranging from R-3 to R-5-B. Row houses and garden apartments are the predominant uses.

The Ward 1 Element of the Comprehensive Plan stresses the provision of additional housing, and the need for neighborhood stabilization. It also promotes the creation of additional housing near Metro stations. The granting of the area variance would be consistent with the three Comprehensive Plan objectives: it would add housing; stabilize the neighborhood by enabling a

vacant and formerly fire-damaged building to be re-occupied; and would locate that housing within five blocks of a Metro station.

VII. REQUESTED ZONING RELIEF

Pursuant to Sections 3103.2 of the Zoning Regulations, the applicant is requesting a variance from the area requirements of Sections 401.3.

Other requirements having been satisfied, a pre-1958 building may be converted to apartment use in an R-4 zone. However, only one apartment unit may be created for each 900 square feet of land area. The applicant would thus be entitled to no more than two dwelling units on the 2,000 square foot property. Should the Board approve the area variance request, the desired three units would have, on average, 633 square feet of lot area per unit. This would be 30% less square footage than Section 401.3 requires.

The applicant is also seeking a variance from the parking requirements of Section 2101.1. The Zoning Administrator had stated that if the BZA approves the area variance, the applicant would be required to provide 2 parking spaces. By tradition, the property would have a credit for one parking space, even though none are provided or could be provided. By the Zoning Administrator's interpretation, the applicant would thus be required to request a variance from a requirement for one additional parking space.

OP takes exception with the Zoning Administrator's interpretation of Section 2101.1. While a flat in an R-4 district is required to have one parking space for every two units, an apartment house in an R-4 district is required to have only one parking space for every three units. It appears to OP that, if the tradition of crediting one parking space to the property is appropriate, the applicant should not be required to seek a parking variance.

VIII. AUTHORITY TO GRANT VARIANCES

11 DCMR, Sec. 3103.2 cites the D.C. code provision that authorizes the BZA to grant the requested variances *"where, by reason of*

- *exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption or the regulations, or by reason of*
- *exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property,*

the strict application of any regulation … would result in

- *peculiar and exceptional practical difficulties to or*
- *exceptional and undue hardship upon the owner of the property…;*

Provided, that the relief can be granted

- *without substantial detriment to the public good and*
- *without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning regulations and Map".* (bullets added)

IX. DOES THE APPLICATION MEET THE VARIANCE TESTS FOR SECTION 401.3?

In addition to attachments to this OP report, please see the cover letter, statement and exhibits A – M submitted by the applicant to OP and to the OZ record on December 4, 2001.

A. With respect to exceptional conditions that create a significant practical difficulty in using or developing the property under the strict application of the existing zoning:

It does meet the test.

The applicant has recently filed additional documentation that, in OP's opinion, demonstrates practical difficulty.

1. There are exceptional conditions:
   - While it appears that the certificate of occupancy that DCRA has on file is for a two-unit flat, every indication the applicant had was that the property had been a legal three-unit apartment building. As the documents filed by the applicant on December 4, 2001 indicate, DCRA issued the applicant a construction permit for a three unit apartment building. Both Pepco and Washington Gas had been delivering service to three separately metered units since at least 1981. Various neighbors, as well as a former D.C. building inspector, have filed documents indicating that the structure had been used as a three-unit apartment building.
   - While the applicant should probably have verified the existence of a certificate of occupancy for an apartment building, it is not unreasonable for a purchaser to assume that DCRA would not have issued a building permit for an apartment house, and that utilities would not have separately metered three apartments in a building, had that building not legitimately been an apartment building.

2. There is a *"practical difficulty" that would be "unnecessarily burdensome"* to the applicant should the application for are variance not be approved:
   - Based on the DCRA building permit, which confirmed the applicant's ocular determination that the property had three units, the applicant proceeded with the building's renovation. The building's renovation was over 70% complete at the time the applicant first learned that there was not a valid certificate of occupancy for three units. This understanding came when the applicant's attorney was drawing up papers for conversion of the former rental property into a condominium regime. Should the requested area variance be denied, the applicant would be forced to remove one partially completed kitchen, and reconfigure three two-bedroom units (one unit per floor) into a different configuration, at considerable expense.

B. Can The Relief Be Granted Without Substantial Detriment to the Public Good?

It can.

- The renovation appears to be substantial and well done. The units are well-appointed, and do not push the emerging market.

- The property was abandoned and had suffered fire damage at the time the applicant purchased it. Ward 1, the area of the District in which this structure is located, has a great need for additional code-compliant housing.

- Delivering additional housing units to the market comports with the District's high-priority objective of retaining existing residents, and gaining 50,000 to 100,000 more residents within the next ten years.

C. Can the Relief Be Granted Without Substantially Impairing the Intent, Purpose and Integrity of the Zone Plan as Embodied in the Zoning Regulations and Map?

It can.

The existence of three apartments in one 3,035 square foot row house is not unusual in a row house in an R-4 zone. The zone district is mapped primarily in denser, older, often historic areas surrounding the central employment area of the District. As is the case with the applicant's property, these areas are frequently convenient to Metro stations. The existing density of a building of this size, in this location is congruent with the R-4 district's intent to create moderate density neighborhoods with row house, flats and garden apartments. In addition, the area is categorized in the "Moderate Density Residential" land use classification of the Generalized Land Use Map, which encompasses housing types from row houses up to garden apartments.

The applicant has demonstrated the existence of exceptional conditions and practical difficulty that justify the variance from matter of right are restrictions for apartments in an R-4 district.

X. DOES THE APPLICATION MEET THE VARIANCE TESTS FOR SECTION 2101.1?

The Office of Planning has some question about whether a parking variance is actually required. While flats in an R-4 zone require one parking space for every two units, apartment buildings in an R-4 zone require one parking space for every three units. If the tradition of crediting one parking space to a property has validity, and if the Board were to grant the requested area variance, then it seems the property would be governed by the parking rules for an apartment building, rather than those for a flat. In that case, the one required parking space would be covered by the credit.

However, OP has evaluated the requested variance based on the Zoning Administrator's determination that an additional parking space is be required.

A. With respect to exceptional conditions that create a significant practical difficulty in using or developing the property under the strict application of the existing zoning:

It does meet the test, but only if the area variance is granted.

1. With respect to exceptional conditions:
   - The property is landlocked. It has no alley access. Therefore the only way it could provide parking would be to seek a curb cut and put a garage in the basement of the structure.
   - Given distances from intersections and the absence of substantial street trees, it does not seem unreasonable that the applicant would be able to obtain permission for a curb cut. However, the very act of putting in the parking would eliminate the third apartment that would have required the parking, under the Zoning Administrator's interpretation.

2. With respect to the *"practical difficulties" that would be "unnecessarily burdensome"* to the Applicant should the application for are variance not be approved:
   - Again, this applies only if the area variance is granted and the Zoning Administrator's interpretation of the parking requirements is correct. If the area variance is granted and the parking variance is not granted, the applicant would then be required to construct parking by eliminating the third apartment that was the basis for requesting the area variance in the first place.

D. Can The Relief Be Granted Without Substantial Detriment to the Public Good?

There may be some detriment to the public good, but that the detriment, if any, would not be substantial.

As with most relatively dense neighborhoods surrounding central Washington, the supply of street parking is already stressed. To grant the parking variance while adding a residential unit would likely add to the demand for street parking. However, the property is only five blocks from Metro, and less than ½ block from a number of major bus lines running along 14th Street. It is well served by transit. Therefore, not all condominium owners or tenants may choose to have automobiles.

E. Can the Relief Be Granted Without Substantially Impairing the Intent, Purpose and Integrity of the Zone Plan as Embodied in the Zoning Regulations and Map?

Again, granting the variance would have some impact, but it is not likely to be substantial.

The zoning regulations require one parking space per single-family dwelling units (du) in all districts. Generally, the requirement per dwelling unit decreases as the zoning intensity increases. The zoning requirements for R-4 districts are already somewhat less intense than is otherwise the case for moderate density uses. Parking requirements for R-4 districts follow the parking standards of medium and medium-high density zones, rather than those for the moderate density zones with which R-4 is usually grouped. Granting the exception would only somewhat erode the already looser parking standards of an R-4 district.

Again, however, OP notes that it does not believe it is necessary for the applicant to request a parking variance in this case.

XI. COMMUNITY COMMENTS

There had been neither comment from ANC 1B, nor any other comments, as of December 3, 2001.

XII. OTHER AGENCY COMMENTS

No agency comments had been received as of December 3, 2001.

Aa/slc

Attachments (3)

ATTACHMENT 3: ILLUSTRATIONS



Figure 1: 1358 Girard Street and Blockfront

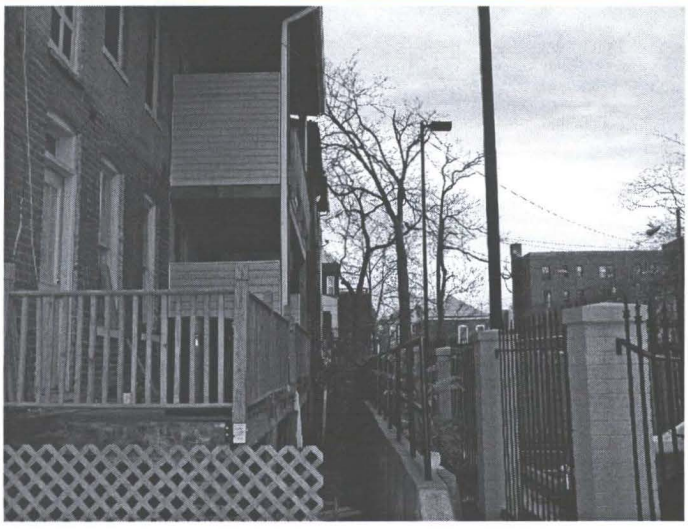


Figure 2: 1358 Rear, w/Privacy Panels. Note, No Alley

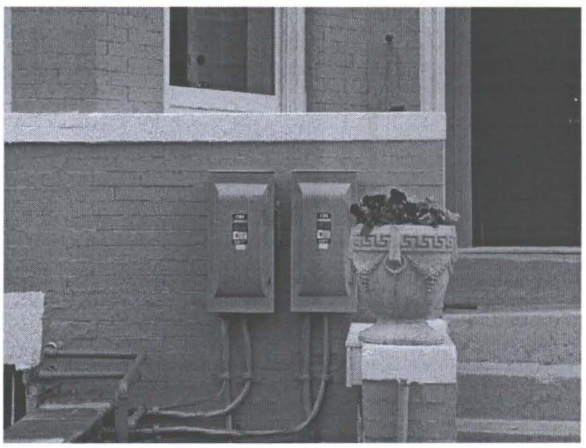


Figure 3: 1358 Utility Upgrades



Figure 4: Completed 1st Floor Kitchen



Figure 5: Completed 2nd Floor Kitchen

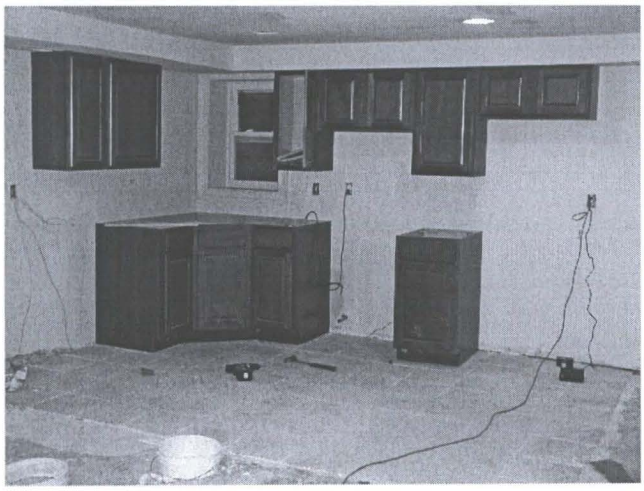


Figure 6: Basement Kitchen, On Which Work Has Been Stopped



Feature Key

Zoning Boundaries
Property Squares

1358 Girard Street, N.W.
Site Location and Zoning Map

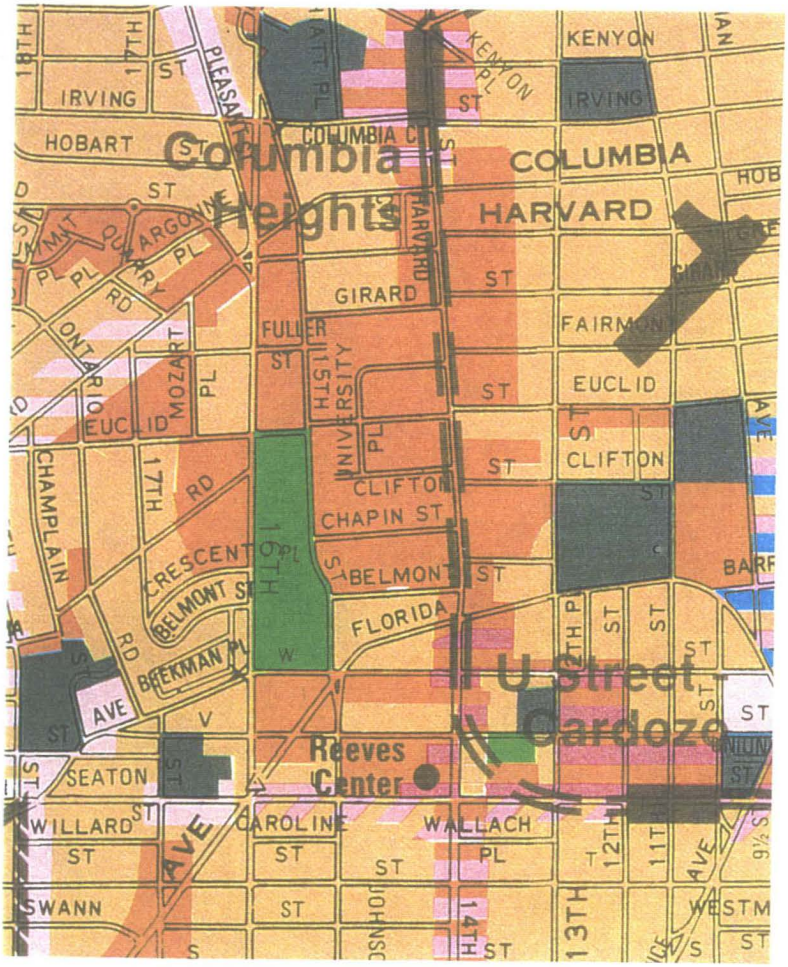
DC Office of Planning
December 2001

ATTACHMENT 1

Scale 1:2000

N

40 0 40 80 120 Feet



residential land use categories

low density
Single-family detached and semi-detached housing are the predominant uses.

moderate density
Row houses and garden apartments are the predominant uses; may also include low density housing.

medium density
Multiple-unit housing and mid-rise apartment buildings are the predominant uses; may also include low and moderate density housing.

high density
High-rise apartment buildings are the predominant uses; may also include low, moderate, and medium density housing.

commercial land use categories

low density
Shopping and service areas that are generally low in scale, character and activity and that provide a limited range of retail goods and services are the predominant uses.

moderate density
Shopping and service areas that generally provide a much broader range of goods and services are the predominant uses. Chain drug stores and grocery stores as well as branches of department stores, some specialty shops, and personal service establishments may be present.

medium density
Shopping and service areas that generally offer a large concentration and variety of goods and services outside the Central Employment Area are the predominant uses. Most customers arrive by car, bus or subway.

medium - high density
A shopping and service area that generally offers the largest concentration and variety of goods and services outside the Central Employment Area is the predominant use. Most customers arrive by car, bus or subway.