GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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MEMORANDUM

TO: Board of Zoning Adjustment

FROM: JLS for Andrew Altman
Director

DATE January 21, 2002

SUBJECT: BZA Application 16829
1803 9th Street, NW

APPLICATION
The applicant requests variance relief from the lot area provisions to facilitate the grant of a residential certificate of occupancy.

SUMMARY RECOMMENDATION

The Office of Planning **recommends denial** of the variance.

SITE AND AREA DESCRIPTION

The property is located at 1803 9th Street, NW, part of a two story structure located on the northeast corner of 9th and S Streets NW, with apartments on the top floor and commercial establishments on the ground level. The immediate area surrounding 9th and S Streets NW consists of single-family row house residences in various stages of rehabilitation and commercial establishments north along 9th Street towards U Street. The property is located in the R-4 zone District.

PROJECT DESCRIPTION

The applicant is proposing to obtain a certificate of occupancy for four efficiency apartment units on the top floor of 1803 9th St. NW. Presently, no residential certificate of occupancy is recorded for this structure. Previously issued certificates described

BZA
Case No. 16829
Exhibit No. 23

Board of Zoning Adjustment
District of Columbia
CASE NO.16829
EXHIBIT NO.23

commercial uses granted in 1947 and 1965. The applicant is seeking to comply with DCRA regulations by acquiring a residential occupancy certificate for the existing top floor efficiency apartments.

ZONING REQUIREMENTS

Section	Item	Required	Provided	Deviation
401.3	Lot Area	900 square feet/apartment or bachelor apartment (3,600 square feet)	2,133.53 square feet	-1466.47 square feet (-40.73%)
401.3	Lot Width	N/P	34.5 feet	
403.2	Lot Occupancy (Conversion to multiple dwelling)	N/P		
404.1	Rear Yard	20'	3.79 feet	-16.21 feet (-81.05%)
405	Side Yard	N/A		

ANALYSIS

The general provisions for R-4 Districts outlined in 11 DCMR Section 330.5 (c) permits the conversion of a building or other structure existing before May 12, 1958, to an apartment house by right subject to the limitations of Section 401.3.

Section 401.3 allows conversion to an apartment house in this zone with no minimum lot width and lot occupancy prescribed. However, the lot area provision requires 900 square feet (ground area) per apartment. Based on the existing area, only two apartments are allowed by right and the applicant has four efficiency apartments, two at 13.5'x29' and two at 17.5'x32'. The applicant must prove that the efficiency apartments existed before May 12, 1958 as specified in Section 330.5 (c).

The applicant has to meet the burden of proof requirements outlined in 11 DCMR §3103.2 for the variance relief from the lot area provisions.

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

The property is not unique in shape or size to prevent the applicant from using the structure as a two-unit apartment residence based on the lot area provision outlined in Zoning Regulations. The property has comparative rectilinear shape and lot area to surrounding properties.

(b) *By reason of the aforementioned unique and 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 applicant has not provided evidence that the R-4 Zoning provisions pose practical difficulties and undue hardship. The applicant has informed OP that the current tenants have been in the apartments for over twelve years and considers the displacement of current low-income residents as hardship on the tenants.

(c) *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 general provisions of the R-4 zone District are outlined in Section 330 as follows:

330.1 The R-4 district is designed to include those areas now developed primarily with row dwellings, but within which there have been substantial number of conversions of the dwellings into dwellings for two (2) or more families.

330.2 Very little vacant land shall be included within the R-4 district, since its primary purpose shall be the stabilization of one-family dwellings.

330.3 The R-4 district shall not be an apartment house district as contemplated under the General Residence (R-5) districts, since the conversion of existing structures shall be controlled by a minimum lot area per unit requirement.

The section requirements allow the conversion of dwellings constructed prior to 1958 in this zone into dwellings for two or more families, provided the minimum lot area per unit requirement is satisfied. While the regulations allow conversions to provide housing for families, its intent was not to create an apartment district in the R-4 zone. Grant of a variance will impair the intent of the regulations, since the applicant has not provided evidence of the existence of the apartments before the 1958 regulations were adopted, as stated in 330.5 (c), and there is no evidence that the lot size, shape and area create a unique property whereby the applicant was not able to meet the minimum lot area requirement for conversion to an apartment house.

COMMUNITY COMMENTS

To date, OP has not received the ANC 2C report.

CONCLUSION

The Office of Planning concludes that the applicant has not met the burden of proof, pursuant to 11 DCMR 3103.2, Section 401.3 and Section 330 (the general provisions for R-4 districts) for the grant of a variance to permit apartment conversion at 1803 9th St., NW. The request cannot be granted without substantially impairing the intent, purpose, and integrity of the Zoning Regulations. The Office of Planning recommends that the Board of Zoning Adjustment deny the variance request.