TO: Board of Zoning Adjustment

FROM: GOAL, LLC

DATE: March 11, 2002

RE: BZA Application #16838
1717-19 5th Street, NW
Square 508N, Lots 801,808

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GOAl, LLC is requesting a variance to allow a third floor condominium unit on its property. GOAL, LLC is requesting that the BZA grant two variances, a lot area variance, and a lot occupancy variance. Specifically, GOAL, LLC is seeking an 18.44% lot area variance and a 30.7% lot occupancy variance.

I. BACKGROUND

Applicant purchased two lots located at 1717 and 1719 5th Street, NW, Washington, D.C. The legal descriptions are:

Square N508, LOT 808 (1717 5th Street, NW)
Square N508, LOT 801 (1719 5th Street, NW)

Neighborhood: Shaw.
Zoning District: R-4
Historic District: N/A

Lot 801 originally had a building on it that had remained dilapidated for over 20 years. The structure was small, less than 14 feet wide and about 50 feet deep. The building interior had been ravaged by fire and its south and east walls were buckling and on the verge of collapsing. Indeed the city had slated the building for condemnation.

Lot 808 was an overgrown lot with weeds almost 4 feet high. It was vacant and appeared to have been neglected for a long time. To be expected the lot was already subject to a "Clean it or Lien it" order.

Both lots were offered for sale as a package and Applicant purchased them in June, 2001, with the intent to enlarge and renovate the existing building to make it more marketable. A new building similar to that on Lot 801 would be erected on Lot 808. The objective was to have two new homes complementing one another. This is significant because a property flanking 1719 5th (Lot 801) is a vacant "problem" house. Marketing a new home without the promise of other new residents is difficult.

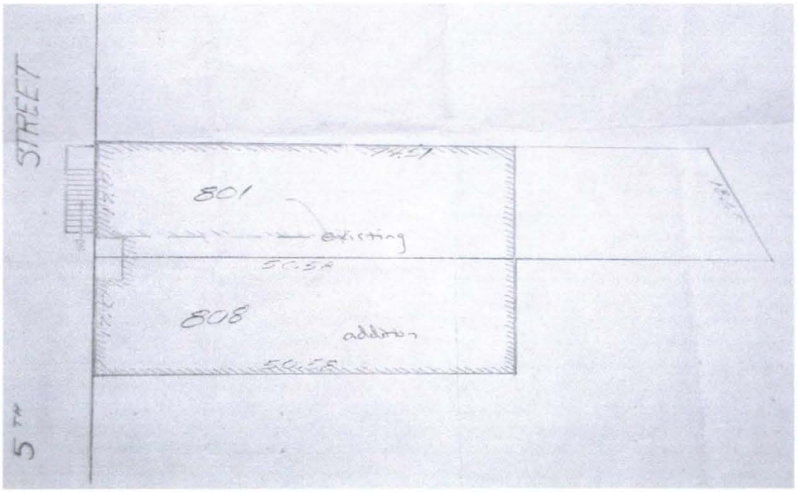
BZA
Case No. 16838
Exhibit No. 25

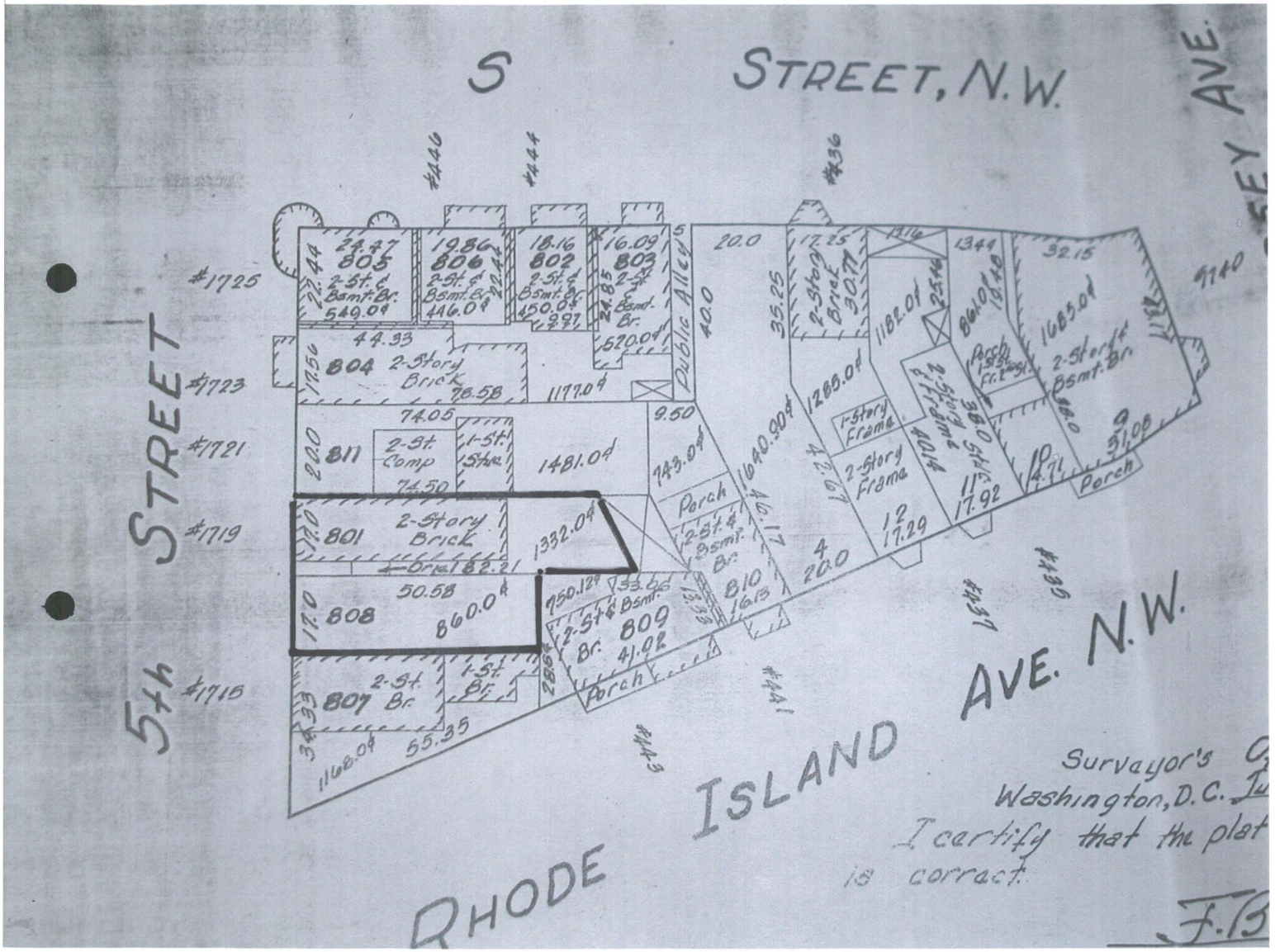
Board of Zoning Adjustment
District of Columbia
CASE NO.16838
EXHIBIT NO.25

II. LOT DESCRIPTION



Lot 808 was only 17 feet wide and 50 feet deep. It was also landlocked with no alley access. This lot was unique in the block because it was narrow, shallow and landlocked. Based upon zoning regulations Lot 808 was clearly substandard. Lot 801 was also unusual. It was 17 feet wide, 74.08 feet deep on the north side and 83.84 feet deep on the south side. Lot 801 also met zoning challenges in that it was narrow, odd shaped and landlocked. The other lots on this side of the block are wider than lots 801 and 808. (See Attached Plat of Survey)





PLAT OF SURVEY of SQUARE N 508

III. PRELIMINARY DEVELOPMENT APPROACH

Applicant originally planned to develop two houses on two separate lots. Applicant presented preliminary plans to DCRA in July, 2001 and was subsequently informed of lot restrictions that were presented by the unusual shape and size of lots 801 and 808. In order to build a house on each lot, as many as six (6) variances were needed.

During the preliminary review process, GOAL was informed that it could combine Lots 801 and 808 as they were contiguous to create a larger lot. A combined larger lot would be easier to develop because less variances would be required and allow a larger "footprint" for a building. With the concept of a larger lot in mind, it became evident that creating a larger lot would be practical only if Applicant could develop a structure comparable to the two houses originally planned. Based on projections, such a structure would have to house at least three dwelling units to be comparable.

A. Applicant Was Encouraged By DCRA To Proceed With The Project

Preliminary inquiries to DCRA indicated that erecting a three-unit building was permissible in an R-4 zoning district. Armed with that information, Applicant began drafting plans for a three-unit building sometime in August 2001. Applicant submitted plans for a three-unit building to DCRA sometime in late September. It was during the review process that Applicant became aware of the technical difficulty with a third unit regarding a minimum lot requirement of 900 squar feet per dwelling unit. DCRA indicated that further zoning review revealed that the lot was not large enough to support three units.

Nevertheless, Applicant was informed that its application would be processed as presented with consideration given to the plans as drawn. An exception was to be made, however, with regards to the third floor that would house the third unit. The plans clearly indicated lot coverage and incorporation of third floor access and common areas into the proposed structure. DCRA approved the plans with the exception of a third floor. The construction permit issued indicated that the apartment structure was limited to two stories.

At no point was Applicant made to understand that appearing before the BZA was an insurmountable process. Indeed, Applicant was informed that based on the prior use of the property, and the proposed use and design of the new property, the BZA would probably approve the addition. This same sentiment was echoed when Applicant submitted its Application to the Office of Zoning. The primary concern that had been raised by anyone at DCRA

regarding adding a third floor was the length of time Applicant would have to wait to obtain a hearing date and subsequent approval. Had Applicant been informed of the technical requirements for a zoning variance Applicant would have taken a different path.

IV. REGULATORY AND ECONOMIC CONSTRAINTS

In the interim Applicant had contacted the Office of the Surveyor and had commenced to combine both lots into one. Upon receiving a building permit from DCRA to build on the combined lot, Applicant began construction despite the fact that it planned to apply for a zoning variance for a third unit. It was crucial to the Applicant that construction would commence as soon as practicable.

The DC Board for the Condemnation of Insanitary Buildings (Board Case No. 99-09) had insisted that one way to halt the condemnation process was to show evidence of construction (conversations with Department Chief Hubert Johnson, Jr.)

The building was structurally unsound and appeared ready to collapse. Thus, the building presented a danger to the neighborhood. There was significant illicit activity in the vicinity of this structure and as such presented a danger to the public.

Applicant had already secured a builder's risk policy on the property, a policy that required a building to be under construction to be in effect. Vacant and abandoned properties in the District of Columbia prove to be practically uninsurable.

Applicant was also carrying an extremely expensive mortgage on the property. The projected expense associated with "holding" the property was tremendous for the Applicant. Awaiting a BZA decision before beginning construction meant the Applicant probably had a six month or so wait for a decision. Applicant would have had to start construction after Applicant had carried the property for a year. By that time Applicant would have begun construction while facing an impending balloon payment on Applicant's mortgage Our projections required that we be in and out of a project within three to six months to avoid facing economic hardship.

V. APPLICANT MEETS THE BZA'S TEST FOR VARIANCE

The BZA should grant the requested variances because the lots are unique and unusual in shape and size, and strict application of sections 401.3 and 403.2 create practical difficulties that result in exceptional and undue hardship to any development of the site.

A. Practical Difficulties with respect to Sections 401.3 and 403.2

The lots are shallow and unusual in shape and size and as such presents peculiar and exceptional practical difficulties in developing. They are landlocked with a dilapidated structure abutting the rear lot line. There is no alley access to the property.



Dilapidated structure abutting the rear lot line

The original plan was to have two houses on two different lots. The unusual shapes and sizes of the lots make that impractical. Applicant then submitted plans to combine the lot to the Office of the Surveyor. A single house on this combined lot would be a tremendous overimprovement. The resulting building would be over priced for the block and average house in the immediate vicinity.

With a combined lot, based on projections and cost estimates, such a structure would have to house at least three dwelling units to be comparable to two houses.

It is noteworthy that if Applicant had been motivated purely by profit as made be inferred, then Applicant would have chosen to develop four units on the building as permitted in an R-4 district. The same two variances presently at issue would have had to be obtained.

B. Unnecessarily Burdensome with respect to Sections 401.3 and 403.2

As mentioned earlier, Applicant was under significant pressure both regulatory and financially to commence development of the project. The building on Lot 801 was slated for condemnation. The structure was unstable and posed a danger to neighbors. Preliminary contact with DCRA had led the Applicant to believe that it would pass BZA scrutiny. DCRA encouraged the Applicant to proceed with the project and indeed issued a building permit. Finally, economic considerations were pressuring the Applicant to proceed with construction.

C. There is No Detriment to the Public Good

There is no detriment to the public and in fact the public stands to benefit by removing blight to the neighborhood. The proposed project promises to provide homes for three new families. These would be homeowners who would be contributing to the city's tax base and furthering the city's goal of gaining more residents. Strict application of the zoning regulations would penalize the Applicant for producing a much-needed housing project as well as ignoring the needs of the community. None of the immediate neighbors are adversely impacted by the project.

D. Relief Can Be Granted Without Impairing The Intent, Purpose And Integrity Of The Zoning Regulations.

As each case before the BZA is unique, granting a variance on this project does not set a precedent for allowing other three-unit buildings on the block. Our project is unique because it is our desire to create home ownership in the form of condominiums and not rental apartment houses. The District of Columbia Comprehensive Plan indicates that this area is a moderate density area and as such row and small apartment house are dominant.

VI. THE FULL ADVISORY NEIGHBORHOOD COMMISSION, THE SINGLE MEMBER DISTRICT AND THE NEIGHBORHOOD SUPPORT APPLICANT'S ADDITION

Applicant believes that it has undertaken a long desired renovation of an eyesore to the neighborhood. 1717 and 1719 5th Street had for a long time provided to be havens for illicit activity. Applicant undertook the project with the

objective of developing new housing while providing a community service to Applicant's former neighborhood. At the same time Applicant believed it would proceed with the project profitably.

The applicant appeared before the ANC 2C01 Community Forum on Wednesday, January 30, 2002, at 7:00 PM held at the Watha T. Daniel/Shaw Branch Library. Attendance was moderate to heavy. The project was very favorably received with not a single objection by anyone in attendance. Indeed much contact information was exchanged between the Applicant and interested residents. It was felt that the Applicant had taken a problem property that had remained undeveloped for over 20 years and converted it into a beautiful residential development.

On March 6, 2002, the full ANC 2C had an opportunity to review the project. Questions were asked and concerns were addressed satisfactorily. A motion was made to support BZA Application 16838, and upon a vote, the full ANC supported the project (2-1-1).

VII. CLOSING REMARKS

We are a District of Columbia based business that prides itself on producing reasonably priced housing. We hope to undertake "profitable" projects in order to continue to develop vacant and abandoned properties. It is noteworthy that if Applicant had been motivated purely by profit as may be inferred, then Applicant would have chosen to develop four units on the building as permitted in an R-4 district. The same two variances presently at issue would have had to be obtained.

Applicant followed the most feasible development path given the constraints posed by the odd shapes and sizes of the lots. Combining the lots allowed for greater utility of the land and required fewer variances. Regulatory and financial constraints required the Applicant to proceed with the renovation as soon as it obtained a building permit.



BZA HEARING APPLICATION #16838
1717-19 5TH Street, NW, Washington, DC
March 12, 2002