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 September 24, 2002

SUBJECT: BZA Application 16919 – Request filed by Mike Meier for a use variance to construct a five-unit apartment building at 4517 Georgia Avenue, N.W., proposed by Mike Meier.

APPLICATION
Application of Mike Meier for:

> **Variance to Section 330.5(c) pursuant Section 3103.2 of Title 11 DCMR** for a use variance to construct a five-unit apartment building

for property located on the east side of Georgia Avenue and the west side of a 15 foot wide public alley, between Allison and Buchanan streets, N.W., 4517 Georgia Avenue, Square 3016, Lot 13. The property is located within the R-4 (row dwellings, conversions, and apartments) Residence District.

SUMMARY RECOMMENDATION
The Office of Planning recommends denial of the request for a variance in order to permit an apartment building with five dwelling units. However, the Office of Planning recognizes the benefits of redeveloping the subject property, which is currently a vacant lot. The subject property, with an area of 5,209 square feet and a width of 40 feet, is of sufficient size that it could be subdivided into two legal lots. As two separate lots, the applicant could construct two flats, one on each lot and side-by-side, yielding four dwelling units, as a matter of right, and only one unit less than requested by this application.

PROJECT DESCRIPTION
The applicant proposes to construct an apartment building with five dwelling units, each of which will consist of two-bedrooms and one full bath on the subject property. The

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Exhibit No. 29

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District of Columbia
CASE NO.16919
EXHIBIT NO.29

applicant has indicated that the existing foundation to the single-family detached dwelling that formerly occupied the site will be removed. Due to the topography of the site, the proposed building will be three stories in height as viewed from Georgia Avenue and two stories from the rear. Four accessory parking spaces are proposed to be located to the rear of the site, each directly accessed via the public alley.

SITE AND AREA DESCRIPTION

The property consists of Lot 13, Square 3016, in the North West quadrant of the District, and is 5,209 square feet in area. The property is located on the east side of Georgia Avenue and the west side of a 15-foot wide public alley, between Allison and Buchanan streets, in the 4500 block of Georgia Avenue. It is a vacant lot that had been previously improved with a one-family detached dwelling that was razed by the District within the last few years. The applicant has indicated that the foundation to that dwelling, constructed in 1913, still exists on-site, having been filled in with dirt. According to the applicant, the dwelling was abandoned in 1989 and the owner stopped paying taxes at that time.

The site slopes gently downward from the alley to the west for a distance of approximately 100 feet, and then more steeply toward the front of the site at Georgia Avenue for a distance of approximately 30 feet. Vehicular access to the site is from the public alley, via from Buchanan Street. Pedestrian access is provided from the public sidewalk at Georgia Avenue via concrete staircases.

The surrounding neighborhood is predominantly residential, consisting of a mixture one-family detached dwellings, semi-detached dwellings, row houses and apartment buildings, but also includes storefronts on the west side of Georgia Avenue. At the northwest corner of Georgia Avenue and Buchanan Street is a well maintained single-family detached dwelling.

To the north, adjacent to the subject property, is a one and one-half story one-family detached dwelling constructed in 1913 with a detached garage to the rear within the R-4 district, followed by another one-family detached dwelling. To the east, across the alley, is a two and one-half story frame one-family detached dwelling constructed in 1910 within the R-3 district. To the southeast, across the alley, is a two-story semi-detached dwelling constructed in 1912 and located within the R-3 district. To the south is a three-story, 8-unit brick apartment building within the R-4 district constructed in 1961. To the west, across Georgia Avenue, are two two-story brick apartment buildings. One is a 14-unit building constructed in 1925 and the other, constructed in 1924, is under renovation to convert it from a 16-unit building to a 13-unit apartment building.

ZONING REQUIREMENTS

The subject property is located in the R-4 row dwellings, conversions, and apartments residence district.

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

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

"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 family requirement." (§330.3)

Apartments are not specified as a use permitted as a matter of right within the R-4 district under §330.5. Due to the width of the property (40 feet) and the area of the property (5,209 square feet), the subject property could be subdivided into two lots. Two row houses could then be constructed on the site, one on each lot, for a total of two dwelling units. Two flats, one on each lot, could also be constructed, for a total of four dwelling units. Both of these options, though, result in fewer dwelling units than the five proposed by the application. The applicant does not have the option of converting an existing dwelling on the site to apartment units because the one-family structure that previously occupied the site was demolished prior to the applicant taking procession of the property.

The proposed apartment building, although not listed as a use permitted as a matter of right within the R-4 district, is also not similar to the apartment house district as contemplated under the R-5 district. The R-5, district under §410, is described as a *"group of one-family dwellings, flats, or apartment houses, or a combination of these buildings..."*. The applicant's proposal is not for a group of buildings, but rather for just one building. However, it is also not a conversion, as no structure exists on the site. Therefore, a use variance must be obtained in order for the proposed five-unit apartment building to be permitted.

With the exception of the need for a use variance to permit an apartment house, the proposed structure is otherwise in conformance with the Zoning Regulations, as described in the following table.

ITEM	REQUIRED/PERMITTED
LOT OCCUPANCY	
- Row dwelling or flat	Maximum 60 percent
- Apartment house	Maximum 40 percent
PARKING	
- 2 row dwellings	Minimum 2 spaces
- 4 flat dwelling units	Minimum 2 spaces
- 5-unit apartment house	Minimum 3 spaces
REAR YARD	
- All structures	Minimum 20 feet
SIDE YARD	
- Not sharing common wall	Minimum 8 feet each side
- Sharing common wall	Minimum 8 feet one side
BUILDING HEIGHT	
- All structures	Maximum 3 stories and 40 feet

RELIEF REQUESTED
Variance to the use provisions of Section 330.5, pursuant to Section 3103.2

The Board of Zoning Adjustment is empowered to grant variances as provided by Section 3103.2 as follows:

> *"As set forth in D.C. Code Ann. §5-424(g)(3) (1981), "[w]here, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of 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 adopted under D.C. Code Ann. §§5-413 to 5-432 (1981) would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property, to authorize, upon an appeal relating to the property, a variance from the strict application so as to relieve the difficulties or hardship; 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."*

The subject property was developed as a conforming use (a one-family detached dwelling) at the time of the original adoption of the Zoning Regulations, and its dimensions exceed the minimum requirements for lot dimensions for row dwellings, flats and single-family detached dwellings, as shown below:

Type of Dwelling	Minimum Lot Area	Minimum Lot Width
Required for Row Dwelling	1,800 square feet	18 feet
Required for Flat	1,800 square feet	18 feet
Required for one-family detached dwelling	4,000 square feet	40 feet
Provided	5,209 square feet	40 feet

The site slopes to a greater extent at the front of the property than it does for the remainder of the site. The slope impacts only approximately 20 percent of the site. The site is of sufficient depth (minimum 128.91 feet) to accommodate a one-family detached dwelling, even after taking into account the minimum 20-foot rear yard setback requirement, as evidenced by the fact that the site was previously developed with a one-family detached dwelling that existed on the site for more than 80 years. Therefore, even though the site is relatively steep towards the front, this does not result in exceptional topographic conditions that prevent the site from being developed as permitted by the R-4 district.

The applicant has indicated that the cost of constructing a one-family detached dwelling on the subject property would exceed the market value of the dwelling upon completion. One of the reasons cited for this is that the foundation of the previously existing dwelling must be removed, increasing the development costs. Although the foundation is on-site, its existence does not preclude the development of the site in accordance with the Zoning Regulations.

An apartment building on the subject property would reflect the existing development to the south (an 8-unit apartment building), and the three apartment buildings located on the west side of Georgia Avenue between Allison and Buchanan streets (14, 13 and 12 unit apartment buildings.) The application indicates that the design of the proposed building was based on the existing 8-unit building to the south. However, the test for a use variance is not based on compatibility of the proposed use to the existing uses. It is based on extraordinary or exceptional situations. In addition, the uses to the north and east are one-family detached dwellings that are not as easily compatible with a 5-unit apartment building. In this case, two flats or two row houses, which are permitted as a matter of right, would be more compatible as they would provide for an intermediate use between the higher density of the apartment use and the lower density of the one-family detached dwellings.

It is the Office of Planning's conclusion that the application does not meet the criteria for variance relief under §3103.2, in that it has not been documented that the subject property *"by reason of exceptional narrowness, shallowness or shape...would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship..."*(§3103.2)

COMPREHENSIVE PLAN
The Generalized Land Use Map recommends the Moderate Density Residential land use category for the subject property- "Row houses and garden apartments are the predominant uses; may also include low density housing."

The Comprehensive Plan contains several objectives for housing in Ward 4, including:

"*Encourage the private sector to provide new hosing to meet the needs of present and future District residents at locations consistent with District land use policies and objectives.*" (§1508.1(c)).

"*Continue to enforce the strict application of housing, building and zoning codes in Ward 4.*" (§1529.1(h)).

COMMUNITY COMMENTS
ANC 4C has informed the Office of Planning by telephone that they voted in favor of the application at their meeting of September 17, 2002. The Office of Planning understands the community's concerns regarding the vacant lot, but believes that they can be addressed through a matter-of-right development that yields four units on two lots, and maintains the intent of the R-4 district.

CONCLUSION
The subject property is a vacant lot that was developed with a one-family detached dwelling that has since been razed. The lot size is in excess of the minimum required for the development of a new one-family detached dwelling and equal to the minimum lot width required. It is also in excess of the minimum lot size and lot width for the creation of two lots for the development of two flats or two row houses. As such, the subject property could potentially be developed with one, two or four dwelling units in conformance with the Zoning Regulations, without the need for variances.
It is the conclusion of the Office of Planning that there are no *"peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property"*, and that the variance therefore cannot "*be granted without substantially impairing the intent, purpose, and integrity of the zone plan embodied in the Zoning Regulations and Map.*"

RECOMMENDATION
The Office of Planning has reviewed the application in terms of the property's zoning and the standards for a variance. OP concludes that the proposal does not meet the required variance test and cannot 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."*

The Office of Planning recommends denial of the following:

Variance to Section 330.5(C) pursuant to Section 3103 of Title 11 DCMR to permit a five-unit apartment building. However, the Office of Planning recognizes the benefits of redeveloping the subject property, which is currently a vacant lot. The subject property, with an area of 5,209 square feet and a width of 40 feet, is of sufficient size that it could be subdivided into two legal lots. As two separate lots, the applicant could construct two flats, one on each lot and side-by-side, yielding four dwelling units, as a matter of right, and only one unit less than requested by this application.

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Feature Key

Zoning Boundaries

Square Index

Board of Zoning Adjustment
Application No. 16919

DC Office of Planning
September 24, 2002

Scale 1:1355

25 0 25 50 75 100 Feet

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Attachment 1