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C. Detailed Statement of Existing and Intended Use of Lot 3.

Square 5545, Lot 3 is currently vacant unimproved land. It is the only vacant lot on the 3100 block of Pennsylvania Avenue, Southeast. Lot 3 was created in 1932, approximately 26 years before current-zoning regulations went into effect. The lot has remained unimproved since its creation in 1932 to the present. The applicant's parents have resided next door to lot 3 since 1971 in their own fee simple single-family dwelling. Applicant's parents purchased Lot 3 in 1972, and deeded fee simple title to the applicant on May 22, 2001.

The applicant seeks to construct a single-family detached barrier free three story residential dwelling. To accommodate wheelchair accessibility, the proposed dwelling shall have an elevator and handicap accessible entrances, hallways, and bathrooms. To maintain the aesthetic look of current dwellings on the same block as Lot 3 (i.e., the 3100 block of Pennsylvania Avenue, SE.), outdoor handicap ramps will not be constructed.

Further, the new dwelling shall have a 9-foot driveway for off-street parking. Every dwelling currently on the 3100 block already has such off-street parking. Because this section of Pennsylvania Avenue is a main thoroughfare, on-street parking is both prohibited and dangerous.

Therefore, applicant seeks an area variance to construct its dwelling described herein on a sub-standard lot of 4,000 square feet by 40 feet where minimum lot size requirements for residential development are 5,000 square feet by 50 feet. Moreover, to accommodate wheelchair movement within the dwelling, the applicant seeks to intrude upon side yard limitations by approximately 2 feet 17 inches.

Case No. BZA 16929
Exhibit No. 7

Board of Zoning Adjustment
District of Columbia
CASE NO.16929
EXHIBIT NO.7

D. Applicant Meets The Tests Identified In Zoning Regulations For Area Variance and Special Exception.

The applicable standard for the granting of an area variance has been aptly stated in Russell v. District of Columbia Zoning Adjustment, 402 A.2d 1231 (1979). An area variance is to be granted where the property owner proves "peculiar and exceptional practical difficulties" caused by the uniqueness of the property, provided there is no substantial detriment to the public good nor substantial impairment to the zone plan. Id. at 1235.

In Russell, supra, the court affirmed the Board of Zoning Adjustment's grant of a variance from the minimum lot area requirement of 5,000 square feet where a property owner's substandard lot only measured 3,834.45 square feet in area. The court noted that the district was zoned purely residential, that the lot was substandard for residential, that the lot had been recorded prior to current zoning regulations, and that the lot met the 80% requirement of section 3301.3.

The court also noted that the property owner could ***never*** sell the unimproved lot for a residential use absent a variance. ID. at 36. Given the facts as noted above, the court granted the variance, and opined "deprivation of beneficial use is an extreme example of practical difficulty". Id.

The instant case is nearly identical to Russell. In this case, the applicant's substandard lot is 4,000 square feet by 40 feet (as opposed to the 5,000 square foot requirements of section 401.3); the applicant's district is also zoned residential (R-1-B); the applicant's lot was recorded in 1932 (26 years before current zoning regulations), and the applicant's lot meets the 80% requirement of section 3301.3.

Moreover, the lot in question has remained vacant for almost 70 years. It is reasonable to conclude that the lot has no beneficial use or value apart from its development into residential realty, which will require a variance. The lot in question will remain a vacant lot absent a variance to applicant.

Additionally, the applicant's request to vary the side yard requirement by 2 feet 17 inches should be granted. Current zoning requires an 8-foot side yard (section 405.9), although many of the dwellings on the 3100 block of Pennsylvania have side lots with permitted zoning of "less than 8 feet but more than 5 feet" (Exhibit 1). Granting the side-yard variance is necessary to accommodate wheelchair maneuvering throughout the dwelling, and to provide for wheelchair accessibility to the new dwelling in a manner that does not distort the existing aesthetic look of the 3100 block of Pennsylvania Avenue. None of the current 3100 block properties have front view wheelchair accessible ramps. By widening the structure by 2 feet 17 inches to allow for wheelchair accessibility, the applicant will keep the new dwelling in harmony with existing structures. Moreover, granting the side-yard variance will permit the applicant to safely ingress and egress from the property. The applicant's parents are the neighbors who will be directly affected by the side-yard variance, and they have no objections (Exhibit 2).

Therefore, in light of Russell, and as enumerated herein, the applicant seeks an area variance from minimum lot size and side yard requirements of zoning regulations.