BRIEF STATEMENT OF EXISTING AND PROPOSED USE
REAR OF 935 26th STREET NORTHWEST
LOT 95 IN SQUARE 16
BOARD OF ZONING ADJUSTMENT CASE NUMBER _____

BACKGROUND

The subject property is located in the FBOD/R-3 residential zone (Foggy Bottom Overlay with an underlying R-3 residential zone). The property is located in a historic district. Pursuant to Section 320.3(b), R-3 Districts: General Use Provisions of the D.C. Zoning Regulations, row dwelligs are permitted as a matter of right on the R-3 residential zone. With regards to Section 199, DEFINITIONS, 11DCMR, the D.C. Zoning Regulations, a row dwelling is defined as "a one-family dwelling having no side yards." Lot 95 in Square 16 is an alley lot. Provisions Under Section 2507, BUILDINGS ON ALLEY LOTS, Subsection 2507.1 specifies " Except for use as a one-family dwelling, a structure shall not be erected, constructed, converted, altered, remodeled, restored, or repaired for human habitation on an alley lot. In addition, Subsection 2507.2 indicates that a one-family dwelling shall not be erected or constructed on an alley thirty feet (30 ft.) or more in width. Subsection 2507.4, indicates that the height of a structure erected or construction on an alley lot shall not exceed the distance from the opposite side of the abutting alley to the outside wall of the structure nearest the alley. The whole of Hughes Mews and Queen Anne's Lane development built in the 1960's is not in compliance with the D.C. Zoning Regulations (see plat of development). The proposed row one-family dwelling (of lot 95) is in a similar circumstance as all other existing structures.

SITE AND ZONING ANALYSIS

The site (Lot 95 in Square 16) is bounded on the west by lot 94 which is 935 26th Street, N.W., an existing four story structure. The proposed structure impacts the rear of Mr. Freschi's existing four story one-family dwelling. (Mr. Freschi and Mr. Rasekh have worked closely to minimize the impact to surrounding existing properties). Hughes Mews a thirty foot wide alley is to the east of lot 95. To the south are lots 80, 81, 82 and 83 in square 16 all of which have existing three story row structures located on Queen Anne's Lane. To the north there is an existing four story apartment building. The whole existing Hughes Mews development (built in the 60's) have lots which are substandard and are not in compliance with the D.C. Zoning Regulations. The existing lot 95 in square 16 has a width is 18.17 feet and has a lot area of 926.67 square feet. Subsection 401.3 the minimum lot area and lot width required to build a row structure is 2000.0 square feet and 20.0 feet (width). The maximum allowed lot coverage for a row structure is sixty percent. The minimum rear yard setback allowed is 20.0 feet. The maximum allowed height is thirty feet under Subsection 2507.2. Under Subsections 400.7 , 400.8 and 411 a structure on the roof for roof access, maintenance and mechanical equipment is allowed on the roof, but shall not exceed 18.5 feet in excess height. If an open court is provided for a row dwellings, the minimum width shall be 6.0 feet in accordance with Subsection 406.1 (COURTS IN RESIDENTIAL DISTRICTS). The subject property is owned by Mr. Bruno Freschi, AIA.

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Mr. Sid Rasekh, AIA an Architect is the contract purchaser and the architect for the proposed house. Mr. Rasekh will move into the row single family dwelling if the Board of Zoning Adjustment, the Advisory Neighborhood Commissioner(s), and Historic Preservation and the Office of Planning approve the proposed construction of the structure.

Review and zoning analysis of the architectural plans and D.C. Builders Plats reflect that four variances will be required to construct on the existing lot. In order to construct a one-family row structure on alley lot number 95 in square 16 the following variances must be approved by the Board of Zoning Adjustment:

(A) Variance from Section 401.3 the minimum width of lot and lot area provision to construct a row one-family dwelling in the FBOD/R-3 residential zone (Section 3103.2)

(B) Variance from Section 403.2 the maximum allowed lot occupancy requirement in the FBOD/R-3 residential zone (Section 3103.2).

(C) Variance from Section 404.1 the minimum allowed rear yard setback requirement in the FBOD/R-3 resinential zone (Section 3103.2).

(D) Variance from Section 2507.4 the maximum allowed height row one-family dwelling located in the FBOD/R-3 zone (Section 3103.2).

LEGAL TEST FOR A VARIANCE

The standards which the the Board of Zoning Adjustment may approve area variances are set forth by the D.C. Court of Appeals, Palmer V the Board of Zoning Adjustment, 287 A.2d 535, 541 (D.C. 1972), Variances may be granted when the following conditions are shown to exist.

(A) The property is unique because of its size, shape, topography, and Other extraordinary or exceptional situation or condition;

(B) The owner would encounter exceptional practical difficulties as a result of the strict application of the D.C. Zoning Regulations to its particular property;

(C) The variances would not cause substantial detriment to the Public

Good and would not impair the intent, purpose and integrity of the Zone Plan. Carlinger V the Board of Zoning Adjustment, 412 A.2d 52, 53 (D.C. 1980); Capitol Hill Restoration Society, Inc, V the District of Columbia Board of Zoning Adjustment , 534 A.2d 939 (D.C. 1987.

The existing lot is 926.67 square feet and 18.17 feet wide. The lot is deficient by 1073.33 square feet 1.83 feet in width (9.15%) and 1073.33 square feet (53.67%). The site is smaller than the reqired lot size prescribed and is unique and provides the architects with practical difficulties in trying to meet all provisions of the D.C. Zoning Regulations. Both architects have designed, redesigned and tried to the best of their ability to design a structure which would require the minimum amount of relief from the Board of ZoningAdjustment because of the it is a unique alley lot located on Hughes Mews a 30.0 foot wide public alley. The lot size does not conform with the R-3 requirements for a row dwelling and there is no way to conform, under Subsrction 3103.1 VARIANCES, the D.C. Zoning Regulations allows the Board of zoning Adjustment to grant variances " where by reason of exceptional narrowness, shallowness, or shape of a specific peace of property at the time of the original adoption of the regulations or by reason of exceptional topographysical 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, 2001 Ed. Subsections 6-641.01 to 6-651.02 would result in perculiar and exceptional practical difficulties to or exceptional practical difficulties to or exceptional and undue hardship upon the owner of such property, to authorize, upon an appeal relating to such property, a variance from such strict strict application so as to relieve such difficulties or hardship; provided, such 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 the Map." To develop lot 95 in square 16 with and to meet all provisions of the FBOD/R-3 residential specifically relates to the shape and undersize lot area 926.67 square feet and lot width of 18.17 feet which is 1.83 feet deficient results in undue hardship in designing a row one-family dwelling which complies with all of the provisions of the D.C. The rear yard setback provided is measured at the edge of a 2.0 foot bay window which is designed and desired for natural light for the structure. The bay window starts at the second floor level projects into the 20.0 foot rear yard two feet by 11.67 feet in width. Under Subsection 2503 STRUCTURES IN REQUIRED OPEN SPACE of the D.C. Zoning Regulations, there are no provisions for bay windows which project into open space at an upper level, this leaves a rear yard of 18.0 feet (10.0%) and an open court of 6.33 feet in width and two feet deep. An open court is required to be a minimum of 6.0' in width. The maximum allowed height allowed is 30.0 feet. The maximum height allowed is 30.0 feet. The maximum height of the proposed main structure is 31.33 feet which is 1.33 feet (4.43%) over the 30.0 foot limit. The height of the structure is measured at the top of grade at the mid point of the building to the finished ceiling of

the top story. The maximum allowed lot occupancy is sixty percent (556.0 square feet), the lot occupancy provided is 586.77 square feet is over by 30.77 square feet (5.5%).

SUMMARY

The size of the existing determines and dictates the mass, the scale and the design of any proposed structure. The lot limits the design of the proposed row one-family dwelling. Mr. Rasekh presented conceptual architectural drawings of the proposed structure at an Advisory Commission meeting on January 21, 2004 which started at 7:00 pm. The proposed structure was presented as a conceptual submission to be reviewed by the Historic Preservation Review Board on January 22, 2004 at 4:45 to 5:10 pm. A revised roof structure plan which allows the propective purchaser access to the roof was sent to Mr. Tim Denee at the Historic Preservation Office. Revised conceptual architectural plans have been submitted to Mr. Denee (2/04). The Historic Preservation specified that the roof structure which allows access to the roof from a spiral staircase be kept to a minimum. The proposed roof access structure plans have been revised and reduced by thirty eight percent (38%) from the original set of plans submitted for conceptual Historic Preservation Board review. The proposed structure will require Board of Zoning Adjustment approval due to the size of the and the restrictions placed on the designer by the D.C. Zoning results in unique practical difficulties and poses undue hardship on the existing parcel. The lots (95) size renders obstacles that the designer must overcome in trying to present a reasonable row one-family dwelling, therefore, an application is submitted to the Board of Zoning Adjustment to seek approval of four variances as cited on page 2 of the brief statement submitted with this application. Three of the variances require minimum relief Section 2507.4 the height of an alley dwelling, Section 403.2 the maximum allowed lot occupancy, Section 404.1 the minimum allowed rear yard setback requirement. Section 401.3 the maximum width of lot is a minimum request. The maximum request of lot area which is defficient by 1073.33 square feet is an existing condition which requires Board Of Zoning Adjustment approval due to the unique hardship of the lot area can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the Zone Plan and Map of the and the Comprehensive Plan of the District of Columbia.

Respectfully,

Gladys Hicks

Gladys Hicks
Zoning Consultant