BEFORE THE BOARD OF ZONING ADJUSTMENT
OF THE
DISTRICT OF COLUMBIA

Application of Dinesh Sharma & Murali Nadipelli
BZA Application No.
Hearing Date:
ANC: 6C

STATEMENT OF THE APPLICANT

I.

NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of Dinesh Sharma and Murali Nadipelli (the "Applicant") in support of the above-referenced application for variances from the requirements of Sections 330.5, 401.3, 404.1, 403.2 & 2101.1 of the Zoning Regulations. The request is being made in order to allow the Applicant to construct a residential building consisting of four condominium units on Lot 835 of Square 755 (the "Property").

II.

JURISDICTION OF THE BOARD

The Board of Zoning Adjustment (the "Board") has jurisdiction to grant variances requested herein pursuant to Section 3103.2 of the Zoning Regulations.

III.

BACKGROUND

A. Description of the Subject Property

The subject Property is a very small, narrow rectangular lot 835 located in Square 755 of approximately 1,372 square feet and only 14 feet wide. The Property is vacant with no structure situated thereon. The property has been the source of significant drug activity, rodent infestation, dumping and vagrant squatting. According to the Lusk Book

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and DCRA survey papers; there was a structure on the property that contained approximately 605 square feet. The Property is not located in a historic district. The Property is designated on the District of Columbia Comprehensive Plan Generalized Land Use Map as medium and low density residential.

B. Description of Surrounding Area

The Property is located in an area with a mix of apartments, cooperatives, condominiums, commercial and residential. The Property is bordered by Third Street to the South, a alley to the North, an condominium structure to the west and a large multi family apartment building to the east. The Property is zoned R-4. The neighboring properties are zoned R-4, R-5-B, R-5-D, C-2-A and C-2-B. There are parking lots in the area, Union Station and the numerous apartment complexes.

C. Description of the Requested Variances

The Property is unique because it is only 14 feet wide. Also, the unique size of the lot because it is small. The practical difficulties of economically developing the Property as a single family row dwelling is impossible and requires the Applicant to seek a variance from the requirements of the Zoning Regulations concerning use.

The Property is unique because it is only 14 feet wide. Also, the unique size of the lot because it is small. The practical difficulties of building on a site this small requires the Applicant to special order a number of materials for the construction of the building, the cost of construction is basically the same if you build a one unit building or a four unit building because both buildings would be of similar size and shape to be consistent with the existing structures in the neighborhood. Economically developing the Property as a single family row dwelling is impossible and requires the Applicant to seek a variance from the requirements of the Zoning Regulations concerning lot area, rear yard and lot occupancy.

The uniqueness of the Property because it is only 14 feet wide makes the Applicant's requirement of providing two parking spaces for a four unit building

impossible because a parking space is required to be 9 feet wide and 19 feet in length *11 DCMR 2115.1* the Property as mentioned above is unique because it is only 14 feet wide making it impossible to provide two parking spaces thus requiring the Applicant to seek a variance from the parking requirements.

IV.

THE APPLICANT MEETS THE BURDEN OF PROOF FOR VARINACES FROM USE, LOT AREA, LOT OCCUPANCY, REAR YARD AND PARKING

A. Standards for Granting a Variance

Under D.C. Code Section 5-424(g)(3) and 11 DCMR 3103.2, the Board is authorized to grant variances from the strict application of the regulations where it finds three conditions exist:

(1) the property is unique because, *inter alia*, of its size, shape or topography or other extraordinary or exceptional situation or condition;

(2) the owner would encounter practical difficulties or undue hardship if the Zoning Regulations were strictly applied; and

(3) the variance would not cause substantial detriment to the public good and may be granted without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map. See *French v. District of Columbia Board of Zoning Adjustment*, 658 A.2d 1023, 1035 (D.C. 1995) (quoting *Roumel v. District of Columbia Board of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)); see also, *Capitol Hill Restoration Society, Inc. v. District of Columbia Board of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987).

In the case of a use variance, the Applicant must show that the uniqueness of the property imposes a practical difficulty on the Applicant's ability to comply with the Zoning Regulations (i.e. creates a financial hardship for the owner in using the property consistent with the Zoning Regulations) and such variance will not injure the public good

or substantially impair the intent and purpose of the Zoning Regulations and Map. In the subject case, the variances relate to the unique condition of the Property by being 14 feet wide and the small area of the Property (1372 square feet), the practical difficulties of developing the Property and the exceptional situations and conditions affecting this Property. The requested variance from use requirements of the Zoning Regulations, meet the requirements under the law for the approval of the use variance.

In the case of an area variance, the Applicant must show that the uniqueness of the property imposes a practical difficulty on the Applicant's ability to comply with the Zoning Regulations and such variance will not injure the public good or substantially impair the intent and purpose of the Zoning Regulations and Map. In the subject case, the variances relate to the unique condition of the Property by being 14 feet wide and the small area of the Property (1372 square feet), the practical difficulties of developing the Property and the exceptional situations and conditions affecting this Property. The requested variances from lot area, rear yard, lot occupancy and parking requirements of the Zoning Regulations, meet the requirements under the law for the approval of the area variances.

B. Variance Relief Under Sections 303.5 (Use)

The Applicant is seeking a use variance from the requirements of Sections 303.5 of the Zoning Regulations in an R-4 District. 303.5 permitted uses for new structures are row dwellings, flats, rooming house, one family semi detached and one family detached house. The Property has approximately 1,372 square feet of land and the lot width is only 14 feet. The Applicant is proposing four residential dwelling units for the Property. The Property is unique because (1) the width is only 14 feet and (2) the Property is a small narrow lot consisting of 1,372 square feet, these facts presents practical difficulties that make it impossible for the Applicant to construct a new dwelling which is a row dwelling or flat that is economically feasible.

If the Applicant was not granted a use variance the Applicant would suffer a practical difficulty because the Applicant could not build anything that is economically feasible for the Property

1. **The Property is Unique and Affected by an Exceptional Situation or Condition.**

The Property is unique in regards to 303.5 for the facts the lot is 14 feet wide and consists of 1,372 square feet which is a small size lot. The minimum width of a lot for the proposed use is 40 feet and a lot size of 4,000 square feet. The minimum width of a lot for a use by right is 18 feet and a lot size of 1,800 square feet. The normal lot width is approximately 22 feet and consists of 2,200 square feet of land. The Property width and size are not even equal to the required minimum which makes the unique and affected by an exceptional situation or condition.

The uniqueness of the Property imposes a practical difficulty for the Applicant.

2. **Strict Application of the Zoning Regulations would impose a Peculiar and Exceptionally Practical Difficulty on the Applicant.**

The Applicant would suffer a practical difficulty if the use variance requirement is not granted because the uniqueness of the Property:

(1) The lot is 14 feet wide and consists of 1,372 square feet which clearly makes it unique. If the Applicant was not granted a use variance the Applicant would suffer a practical difficulty and undue economic hardship because the uniqueness of the lot can not be developed without the use variance. The uniqueness of the lot requires the Applicant to construct a structure using a substantial amount of costume made materials to adapt to the uniqueness of the structure. Standard size building materials can not be used on a structure this size because most are already pre cut and fabricated and the size has been determined. The cost of customizing the building materials for this structure is high and can

not be done economically to build a row dwelling or flat. Second the cost of constructing the structure is almost the same for a row dwelling, flat or multi unit row dwelling because the main cost of constructing any of the structures is in the foundation, underpinning, framing, masonry, roof, windows, electrical, plumbing and mechanical and on a narrow small lot were a substantial portion of the building materials have to be customized there is hardly no cost savings for constructing a row dwelling or flat verse a multi unit dwelling which makes it economically unfeasible to build a row dwelling or flat which makes a use by right economically unfeasible. Third the Applicant has to request a variance to build any structure on the Property because of the uniqueness and a use by right is economically unfeasible. A reasonable expectation is to build a structure that blends in with the fabric of the community and is also economically viable. The cost of constructing a structure that is conforming to the zoning regulations is prohibitive and the Applicant would not receive any return not mention a reasonable return which he is entitled to. The uniqueness of the Property which causes the practical difficulties leads to the determination that the Applicant could not build anything that is feasible for the Property under the Zoning Regulations.

The Uniqueness and Practical Difficulties of the Property means the Applicant cannot put the Property to any use without the area variances because the Applicant cannot construct any structure and any conforming use would be economically unfeasible. **The Board has granted variance relief after a showing of an economic burden where no matter of right zoning whatsoever was economically feasible. Proof of economic burden is relevant to a decision of whether to grant a variance where applicant is not merely seeking the most favored zoning for its land but faces difficulty financing any improvement of property under current zoning designation, *Tyler v. D.C. Board of Zoning Adjustment*, 606 A.2d 1362 at 1366 (D.C. 1992). The Applicant should be granted a variance once he has shown that there are no alternatives for the site that would conform to Zoning Regulations and are feasible as a matter of right. *Myrick v. District of Columbia Board of Zoning***

***Adjustment*, 577 A.2d 757 (D.C. 1990). A area variance shall be granted when there are no feasible alternatives that would comply with the Zoning Regulations. *Association for Preservation of 1700 Block of N St., N.W., & Vicinity v. District of Columbia Bd. of Zoning Adjustment*, 384 A2d. 674 (D.C. 1978). The 900 square feet of land required for each residential unit creates practical difficulties for the Property because it is not economically feasible to abide by the Zoning Regulations and there are no feasible alternatives that would comply with the Zoning Regulations.**

3. **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 granting of the use variance would not be of substantial detriment to the public good or substantially impair the intent and purpose and integrity of the Zoning Regulations and Map. A granting of the variance would actually be a substantial benefit to the public good because a vacant lot that is used for drug activity, vagrancy and dumping will be put to an economical use which will add to the neighborhood character and quality of life. The well-being of the neighboring properties is likely to be improved with the construction of a new building. The proposed multiple unit residential dwelling does not adversely affect the use or enjoyment of any abutting or adjacent dwelling or property. The light and air available to neighboring properties are not unduly affected, and the privacy of use and enjoyment of neighboring properties are not unduly compromised. In fact the neighbors abutting or adjacent to the Property are very much in favor of the proposed multiple unit dwelling for the Property. The multiple units dwelling is consistent with the Zoning Map and Plans because an R-4 District is primarily low to medium density which this project is definitely in accordance with. An R-4 District is zoned primarily residential which the project will be residential homeownership of condominiums. The project will be consistent with the neighborhood, the Zoning Map and Zoning Regulations

because the neighborhood has apartment buildings, condominiums, cooperatives and commercial.

C. Variance Relief Under Sections 401.3, 403.2 & 404.1 (Area)

The Applicant is seeking a variance from the requirements of Sections 401.3, 403.2 and 404.1 of the Zoning Regulations in an R-4 District. 401.3 require a multiple unit residential dwelling have a minimum lot area of 4000 square feet and 40 feet minimum lot width. The Property has approximately 1,372 square feet of land and the lot width is only 14 feet. The Applicant is proposing four residential dwelling units for the Property. The Property is unique because (1) the width is only 14 feet and (2) the Property is a small narrow lot consisting of 1,372 square feet, these facts presents practical difficulties that make it impossible for the Applicant to construct a new dwelling which is a row dwelling or flat that is economically feasible and even to construct a row dwelling or flat the Applicant would need a area variance because for a row dwelling or flat the Applicant needs 1,800 square feet of land and a minimum lot width of 18 feet.

403.2 require a multiple unit residential dwelling occupy only 40% of the lot. The Applicant is proposing 75% lot occupancy. The Applicant is proposing four residential dwelling units for the Property. The Property is unique because (1) the width is only 14 feet and (2) the Property is a small narrow lot consisting of 1,372 square feet, these facts presents practical difficulties that make it impossible for the Applicant to construct a new dwelling on only 40% of the lot because the cost would be prohibitive, the units would be non marketable and the structure would be valueless.

404.1 require a multiple unit residential dwelling provide a 20 feet rear yard. The Applicant is proposing a [ ] feet rear yard. The Applicant is proposing four residential dwelling units for the Property. The Property is unique because (1) the width is only 14 feet and (2) the Property is a small narrow lot consisting of 1,372 square feet, these facts presents practical difficulties that make it impossible for the Applicant to construct a new dwelling on the Property and provide a 20 feet rear yard because the cost would be prohibitive, the units would be non marketable and the structure would be valueless.

If the Applicant was not granted an area variance the Applicant would suffer a practical difficulty because the Applicant could not build anything that is economically feasible for the Property

1. **The Property is Unique and Affected by an Exceptional Situation or Condition.**

The Property is unique in regards to 401.3 for the facts the lot is 14 feet wide and consists of 1,372 square feet which is a small size lot. The minimum width of a lot for the proposed use is 40 feet and a lot size of 4,000 square feet. The minimum width of a lot for a use by right is 18 feet and a lot size of 1,800 thus the Applicant needs an area variance from 401.3 for any use. The normal lot width is approximately 22 feet and consists of 2,200 square feet of land. The Property width and size are not even equal to the required minimum which makes the unique and affected by an exceptional situation or condition.

The Property is unique in regards to 403.2 for the facts the lot is 14 feet wide and consists of 1,372 square feet which is a small size lot. The minimum width of a lot is 18 feet and consists of 1,800 square feet of land. The normal lot width is approximately 22 feet and consists of 2,200 square feet of land. The Property width and size are not even equal to the required minimum which makes the unique and affected by an exceptional situation or condition.

The Property is unique in regards to 404.1 for the facts the lot is 14 feet wide and consists of 1,372 square feet which is a small size lot. The minimum width of a lot is 18 feet and consists of 1,800 square feet of land. The normal lot width is approximately 22 feet and consists of 2,200 square feet of land. The Property width and size are not even equal to the required minimum which makes the unique and affected by an exceptional situation or condition.

The uniqueness of the Property imposes a practical difficulty for the Applicant.

2. **Strict Application of the Zoning Regulations would impose a Peculiar and Exceptionally Practical Difficulty on the Applicant.**

The Applicant would suffer a practical difficulty if the area variances requirement is not granted because the uniqueness of the Property:

(1) The lot is 14 feet wide and consists of 1,372 square feet which clearly makes it unique. If the Applicant was not granted area variances the Applicant would suffer a practical difficulty and undue economic hardship because the uniqueness of the lot can not be developed without the area variances. The uniqueness of the lot requires the Applicant to construct a structure using a substantial amount of costume made materials to adapt to the uniqueness of the structure. Standard size building materials can not be used on a structure this size because most are already pre cut and fabricated and the size has been determined. The cost of customizing the building materials for this structure is high and can not be done economically to build a row dwelling or flat. Second the cost of constructing the structure is almost the same for a row dwelling, flat or multi unit row dwelling because the main cost of constructing any of the structures is in the foundation, underpinning, framing, masonry, roof, windows, electrical, plumbing and mechanical and on a narrow small lot were a substantial portion of the building materials have to be customized there is hardly no cost savings for constructing a row dwelling or flat verse a multi unit dwelling which makes it economically unfeasible to build a row dwelling or flat. Third the Applicant has to request a variance to build any structure on the Property because of the uniqueness and a use by right is economically unfeasible and the uniqueness poses this practical difficulty a reasonable expectation is to build a structure that blends in with the fabric of the community and is also economically viable. Fourth the uniqueness of the Property requires the Applicant to build a structure on more than 40% of the lot because constructing a building on 40% of the lot is not marketable for the reasons the units are too small in square footage and would

only allow for one bedroom and a kitchen. The uniqueness of the Property which causes the practical difficulties leads to the determination that the Applicant could not build anything that is feasible for the Property under the Zoning Regulations.

The Uniqueness and Practical Difficulties of the Property means the Applicant cannot put the Property to any use without the area variances because the Applicant cannot construct any structure and any conforming use would be economically unfeasible. **The Board has granted variance relief after a showing of an economic burden where no matter of right zoning whatsoever was economically feasible. Proof of economic burden is relevant to a decision of whether to grant a variance where applicant is not merely seeking the most favored zoning for its land but faces difficulty financing any improvement of property under current zoning designation, *Tyler v. D.C. Board of Zoning Adjustment*, 606 A.2d 1362 at 1366 (D.C. 1992). The Applicant should be granted a variance once he has shown that there are no alternatives for the site that would conform to Zoning Regulations and are feasible as a matter of right. *Myrick v. District of Columbia Board of Zoning Adjustment*, 577 A.2d 757 (D.C. 1990). A area variance shall be granted when there are no feasible alternatives that would comply with the Zoning Regulations. *Association for Preservation of 1700 Block of N St., N.W., & Vicinity v. District of Columbia Bd. of Zoning Adjustment*, 384 A2d. 674 (D.C. 1978). The 900 square feet of land required for each residential unit creates practical difficulties for the Property because it is not economically feasible to abide by the Zoning Regulations and there are no feasible alternatives that would comply with the Zoning Regulations.**

3. <u>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.</u>

The granting of the area variances would not be of substantial detriment to the public good or substantially impair the intent and purpose and integrity of the

Zoning Regulations and Map. A granting of the variance would actually be a substantial benefit to the public good because a vacant lot that is used for drug activity, vagrancy and dumping will be put to an economical use which will add to the neighborhood character and quality of life. The well-being of the neighboring properties is likely to be improved with the construction of a new building. The proposed multiple unit residential dwelling does not adversely affect the use or enjoyment of any abutting or adjacent dwelling or property. The light and air available to neighboring properties are not unduly affected, and the privacy of use and enjoyment of neighboring properties are not unduly compromised. In fact the neighbors abutting or adjacent to the Property are very much in favor of the proposed multiple unit dwelling for the Property. The multiple units dwelling is consistent with the Zoning Map and Plans because an R-4 District is primarily low to medium density which this project is definitely in accordance with. An R-4 District is zoned primarily residential which the project will be residential homeownership of condominiums. The project will be consistent with the neighborhood, the Zoning Map and Zoning Regulations because the neighborhood has apartment buildings, condominiums, cooperatives and commercial.

D. Variance Relief Under Section 2101.1 (Parking)

The Applicant is also seeking relief from the requirements of Section 2101.1 of the Zoning Regulations. Section 2101.1 requires a multiple unit residential dwelling in the R-4 District to provide one space for each three dwelling units. The Applicant is proposing four dwelling units for lot 835 and thus would be required under the Zoning Regulations to provide two spaces. The Applicant will provide one on site parking space. Lot 835 is 14 feet wide which makes it a uniquely narrow and small lot. Due to the location of the Property in very close proximity to a metro station (Union Station), several major bus lines, several parking lots and the Applicant is providing one space parking will not be a problem for the future residents of the Property or the residents of the neighborhood.

A area variance shall be granted when there are no feasible alternatives that would comply with the Zoning Regulations. *Association for Preservation of 1700 Block of N St., N.W., & Vicinity v. District of Columbia Bd. of Zoning Adjustment*, 384 A2d. 674 (D.C. 1978).

1. **The Property is Unique and Affected by an Exceptional Situation or Condition.**

As mentioned herein, the Property is unique because it is only 14 feet wide and 1,372 square feet. The uniqueness of the Property gives the Applicant no real options to provide on site parking for residents to meet the requirements of the Zoning Regulations. The Property is affected by an exceptional situation and condition because the Property is only 14 feet wide which makes it impossible to provide two 9 feet wide by 19 feet long parking spaces as required by *11 DCMR 2115.1* on the Property.

2. **Strict Application of the Zoning Regulations would impose a Peculiar and Exceptionally Practical Difficulty on the Applicant.**

The Applicant would suffer a practical difficulty if the variance from the parking requirement is not granted because the Applicant could not develop the site and thus putting a undue financial hardship on the Applicant or seek easements from neighboring property owners on the side with the side yard in order to use there widen rear yard to allow for one more parking space. The practicalities of these options are not practical at all because they would cause an undue hardship on the Applicant for the following reasons: (1) not developing the Property and leaving it vacant would not be economically viable and would not be beneficial to the community and (2) getting easements from neighboring property owners is not economically viable and impractical because they all have small rear yards.

3. **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.**

A variance from the parking space requirement would not be of substantial detriment to the public good or substantially impair the intent and purpose and integrity of the Zoning Regulations and Map. As mentioned herein, the Property is located within several blocks of the Union Station Metro Station and several major bus routes on Massachusetts Avenue, Maryland Avenue, H Street, North Capital and Union Station. The surrounding properties consist of a several apartment and office buildings with parking, Union Station has a large parking facility, the new headquarters of the Security and Exchange Commission will have ample parking and on street parking. The Applicant estimates that two of the four condominium owners will have cars and the rest will use mass transit or other means other than individual automobiles to get to and from work or anyplace else. Since the Applicant is providing one parking space it is reasonable to assume that one parking space or even three parking spaces will not severely impact the community. The proposed multiple unit residential dwelling does not adversely affect the use or enjoyment of any abutting or adjacent dwelling or property. The light and air available to neighboring properties are not unduly affected, and the privacy of use and enjoyment of neighboring properties are not unduly compromised. The multiple units dwelling is consistent with the Zoning Map and Plans because an R-4 District is primarily low to medium density which this project is definitely in accordance with. An R-4 District is zoned primarily residential which the project will be residential homeownership of condominiums and consistent with the Zoning Map and will not impair or be inconsistent with the Zoning Regulations.

VI.

COMMUNITY SUPPORT

The Applicant is actively seeking the support of ANC 6C08 and will submit support letters by the scheduled hearing date before the BZA.

VII.

CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards for a variance under the Zoning Regulations. Accordingly, the Applicant respectfully requests the Board to Grant the Application.

Respectfully submitted,

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