GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

MEMORANDUM

TO: Board of Zoning Adjustment

FROM: Andrew Altman, Director

DATE: September 28, 2004

SUBJECT: BZA Case #17213, Variance Request

I. OFFICE OF PLANNING RECOMMENDATION-IN-BRIEF

The Office of Planning recommends that this application for lot area, width and side yard variances be approved, as the variance tests have been adequately satisfied.

II. APPLICATION-IN-BRIEF

Location Vacant lot between 1408 and 1410 Kearny Street NE
Square 4011, Lot 816; Ward 5A

Applicant: Shanice White, agent for Faye Brinkley, owner

Zoning: R-1-B

Proposal: Construction of a new detached dwelling on a vacant lot.

Relief Sought: Variances from §401 lot area and lot width for the existing lot pursuant to §3103; Variance from §405 side yard setback for the new dwelling, pursuant to §3103.

III. AREA AND SITE DESCRIPTION – Refer to Location Plan Attachment I, Site Plan Attachment II, and Context Photos Attachment III

The property is within Square 4011, bound by 14th Street NE to the west; Lawrence Street NE to the north; 15th Street NE to the east; and Kearny (a.k.a. "*Kearney*") Street NE to the south. All of the other lots are developed with detached dwellings, other than a few duplex dwellings facing Kearny Street. The size of detached dwellings lots varies greatly, from 2,600 to 12,000 sq.ft., with an average of 5,310 sq.ft. About half of these lots do not provide the currently required area. Likewise, lot width varies considerably, from 32 to 63 feet, with an average detached dwelling lot width of 44.8 feet.

The subject site – lot 816 - is located mid-block, facing south onto Kearny Street NE. The undeveloped lot is 34.5 feet wide and 100 feet deep. Surveyor's Office records indicate that the lot was the result of a re-subdivision of the two adjacent lots to create this third new one in 1949, so it was in existence prior to the adoption of present (1958) zoning regulations. There is no lane behind this property, which backs onto the side yard of the property to the north.

IV. PROJECT DESCRIPTION

The owners wish to develop the vacant lot with a new two story plus basement detached dwelling.

Board of Zoning Adjustment
District of Columbia
CASE NO. 17213
EXHIBIT NO. 20

BZA
Case No. 17213
Exhibit No. 20

V. RELATIONSHIP TO THE COMPREHENSIVE PLAN

The property is designated "**low density**" residential (single family detached and semi-detached housing being the predominant uses) on the Comprehensive Plan Generalized Land Use Map. The proposed development is consistent with this designation.

The proposal would be consistent with the following Major Themes Of The Comprehensive Plan:

101.1 (a) Stabilizing and improving the District's neighborhoods; and

(e) Respecting and improving the physical character of the District

The proposal is not considered inconsistent with Comprehensive Plan goals and objectives, particularly ones for Ward 5 related to the provision of new housing in character with the surrounding neighborhood on undeveloped lots.

Chapter 11 Comprehensive Plan: Land Use

1102 Objectives For Residential Neighborhoods

1102.1 (a) To conserve and enhance the essentially satisfactory qualities of the District's many stable residential neighborhoods including those qualities that make them unique;

Chapter 16 Ward 5 Plan

1608 Ward 5 Objectives For Housing

1608.1 (a) Protect and preserve the ward's stable neighborhoods and its sound housing stock.

1629 Ward 5 Objectives For Land Use/Zoning

1629.1 (a) Protect and enhance the stability of residential neighborhoods.

VI. AREA ZONING – R-1-B

The property and the remainder of the square are zoned R-1-B, which permits detached dwellings.

VII. REQUESTED VARIANCE RELIEF (refer to Project Profile, Attachment IV)

The applicant has requested the following variance relief pursuant to §3103:

	Zoning Regulation:	Proposed:
1.	**Lot Area: (§401.3)** – 5,000 sq. ft. min.	3,450 sq.ft. (69% of required amount) variance of 1,550 sq.ft. required.
2.	**Lot Width: (§401.3)** – 50. ft. min.	34.5 feet (69% of required amount) variance of 15.5 ft. required.

Of potential relevance to the discussion is the following subsection of Section 401 (Minimum Lot Dimensions, Residential Districts):

§401.2 Except as provided in § 401.3, in the case of an unimproved lot in single ownership on November 1, 1957, that has a lot area or width of lot less than that specified in § 401.3 for the district in which it is located and that does not adjoin another unimproved lot in the same ownership, a structure may be erected on the lot if both the lot area and width of lot are at least eighty percent (80%) of the lot area and width of lot specified under § 401.3; provided, that the structure shall comply with all other provisions of this title.

This section deals with the construction of a new building on an undeveloped non-conforming lot, as is the case with this application. The section permits the by-right development of a non-conforming pre-1958 lot, provided its lot width and area are at least 80% of that currently required and all other zoning regulations are complied with. The subject lot was created prior to 1958, but provides less than 80% of the required area and width, so §401.2 does not exempt its development from the variance requirement. By inference, this section also requires, where possible, the creation of conforming lots from existing non-conforming ones, i.e. where there are more than one adjoining undeveloped lots under common ownership. In this case, the subject property does not adjoin another unimproved lot (both adjacent lots are currently improved with detached dwellings), and does not adjoin another lot under the same ownership. As such, this section has no applicability in this case.

Does the property exhibit specific uniqueness with respect to exceptional shape, narrowness, shallowness, topography or other extraordinary or other exceptional situations or conditions?

Yes. The lot is regularly shaped but narrower and smaller in area than currently required, and narrower and smaller than the average for detached dwelling lots on this square. There is no reasonable or logical option for a re-subdivision involving adjacent lots to increase the size of this lot to make it conforming to current standards. This creates an exceptional situation for the owner of this lot. The lot appears to be the last remaining developable lot within this square, so this is a unique circumstance.

Does the extraordinary or exceptional situation impose a practical difficulty that is unnecessarily burdensome to the applicant with regard to the lot area and width?

Yes. The lot cannot be developed for any use without variances to current lot area and width standards. There is no form of development that would be permitted, and a re-subdivision is not practically possible, a practical difficulty that is unnecessarily burdensome to the applicant.

Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?

Yes. Development of this lot with a detached dwelling is consistent with zoning regulation permitted uses, and with the Comprehensive Plan Generalized Land Use Map. The lot as it exists permits development with a house that conforms to floor area ratio, lot coverage, height, and parking requirements. The proposal would infill a vacant lot with a building that, in scale and bulk, would compliment the character of the streetscape and the development pattern of the square. The only opportunity to develop this site without variances would be to combine it with an adjacent lot, remove an existing house, and redevelop with a new, potentially larger house that would be out of scale with the streetscape and neighborhood character.

	Zoning Regulation:	Proposed:
3.	**Side Yard** (§405) – 8 ft. min. each side	5.5 ft. each side (69% of required amount) variance of 2.5 ft. required on each side.

Does the property exhibit specific uniqueness with respect to exceptional shape, narrowness, shallowness, topography or other extraordinary or other exceptional situations or conditions?

Yes. The legal, non-conforming lot is narrower than currently required. At 34.5 feet wide, providing the required 8 foot side yards on both sides would result in a house of 18.5 feet in width, which is

considered unusually narrow for a detached dwelling. Although there is a wide range of lot widths on this square, average detached dwelling lot width of 44.8 feet is considerably greater than this lot, and most lots are wider than this one.

Does the extraordinary or exceptional situation impose a practical difficulty that is unnecessarily burdensome to the applicant?

Yes. In this case, the lot width is less than currently required, so a house providing the required side yard would be unusually and unnecessarily narrow for a detached dwelling.

Can the relief be granted without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the Zoning Regulations and Map?

Yes. The side yard requirement and lot width requirements work together to form the streetscape character of the detached dwelling neighborhoods, and to provide adequate space around dwellings to allow access through the lot, and reasonable air and light penetration. In this case, the lot is narrower than current requirements, and narrower than prevailing lots widths in the area. As such, a house providing the required side yards would be out of character with other detached dwellings on the square. In order to recapture square footage, the narrower house would likely be made longer, covering more lot depth and potentially located closer to the street, impacting streetscape character and the rear yard privacy of adjacent neighbors. The house as proposed is in character with prevailing development standards on the street, in terms of bulk, front and rear yard setback and side yard setbacks. The proposed setbacks provide adequate room for access and would provide adequate light and air around the dwelling and to adjacent lots. Finally, the particular configuration of the lots in the immediate area provides for substantial open space through the center of the square, mitigating potential air and light penetration concerns.

VIII. OTHER AGENCY COMMENTS – Refer to Attachment V

The DC Water and Sewer Agency, and the District Departments of Parks and Recreation; Transportation; Housing and Community Development; and Employment Services all indicated no objections to the proposal. OP has not received comments from any other District agency.

IX. OP SUMMARY RECOMMENDATION

As the lot does not meet current width and area standards, variances to these two regulations are required for the lot to have any development potential. The narrower than permitted width also directly results in the side yard variance requests. The proposed development of a new, detached dwelling is in keeping with the character of the area, the intent of the zoning, and with District policies. The variance tests have been adequately met, and no other District agency has indicted concerns with the proposal. As such, OP recommends approval.

AA/jl

ATTACHMENTS:

I. Context Plan
II. Site Plan
III. Context Photos
IV. Project Profile
V. Agency comments



Location Plan - BZA Case # 17213
1408/10 Kearny Street NE

N

Feet

0 250 500

★ ★ ★ Government of the District of Columbia
Anthony A. Williams, Mayor

Office of Planning ~ October, 2004

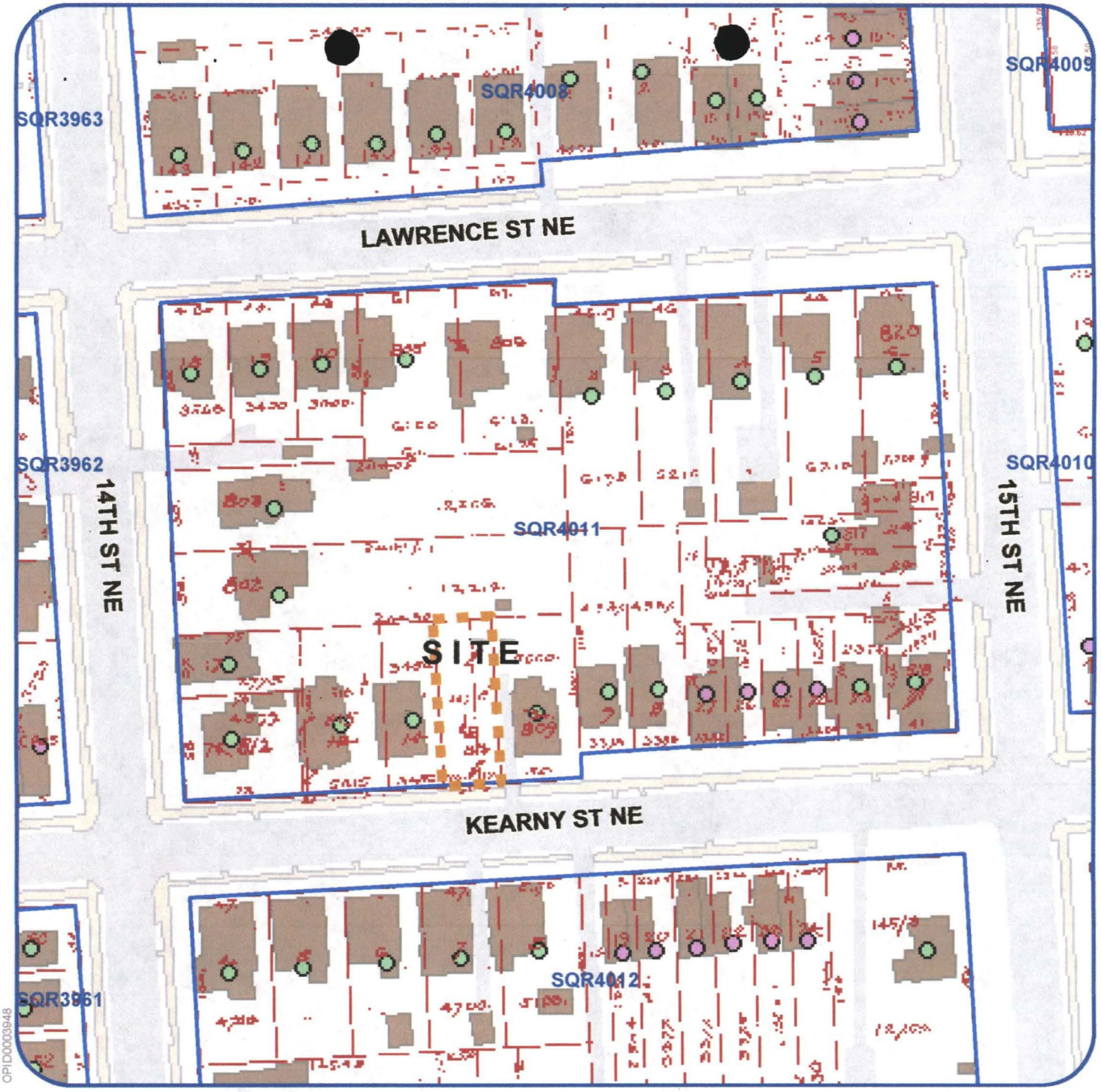
This map was created for planning purposes from a variety of sources. It is neither a survey nor a legal document. Information provided by other agencies should be verified with them where appropriate.

Legend

- Property Squares
- Zoning Districts
- Roads
- Buildings



Attachment I



Site Plan - BZA Case # 17213
1408/10 Kearny Street NE

N

Feet

0 50 100

★ ★ ★ Government of the District of Columbia
Anthony A. Williams, Mayor

Office of Planning ~ September, 2004

This map was created for planning purposes from a variety of sources. It is neither a survey nor a legal document. Information provided by other agencies should be verified with them where appropriate.

Legend

- Property Squares
- Buildings
- Sidewalks
- Single-Family Detached
- Roads
- Semi-Detached Dwelling

Attachment II


LAWRENCE ST. NE
14th ST. NE
15th ST. NE
KEARNY ST. NE
SITE
Facing North


15th ST. NE
KEARNY ST. NE
LAWRENCE ST. NE
SITE
14th ST. NE
Facing East

Standard	R-1-B Zone Regulations	Proposed[1]	Relief
Development Type:	Detached dwelling	Detached dwelling on a vacant lot	Conforming
Building Height: (§400.1)	40' max. 3 stories max.	approx. 30 ft; 2 stories + basement	Conforming
Lot Area (§401.3)	5,000 sq.ft. min. (5,310 sq.ft. avg. on this square[2])	3,450 sq.ft. (69% of required)	**Variance required**
Lot Width: (§401.3)	50 ft. min. (44.8 ft. avg. on this square[2])	34.5 ft. (69% of required)	**Variance required**
Floor Area Ratio: (§402.4)	no maximum established in zoning regs	approx. .58	n/a
Square Footage		approx. 2,000 sq.ft.	n/a
Lot Occupancy: (§403.2)	40% max. (1,380 sq.ft. max.)	33.7% (1,163 sq.ft.)	Conforming
Rear Yard: (§404.1)	25 ft. min.	32 ft.; generally consistent with area development	n/a
Front Yard:	not required	26' to house, 18' to porch; generally consistent with streetscape	Conforming
Side Yard: (§405)	8 ft. each side	5.5 ft each side (69% of required)	**Variance Required**
Parking: (§2101.1)	1 on-site min.	1	Conforming

1 Information provided by the applicant.

2 For detached dwelling lots.

Department of Parks and Recreation (via email)

DC Parks and Recreation does not have any comments on this application. Thank you for inviting us to comment.

DC Department of Transportation (DDOT) (letter attached)

DDOT indicates that the proposal would have no traffic impacts, so has no objection to the application.

Department of Housing and Community Development (letter attached)

DHCD has indicated support for the application.

DC Water and Sewer Agency (letter attached)

There will be no increase in sanitary flow, water demand, or storm water flow over anticipated levels.

Department of Employment Services (letter attached)

The Department of Employment Services has no objection to this case.

ATTACHMENT V

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DISTRICT DIVISION OF TRANSPORTATION

Office of the Director

Memorandum

TO: Joel Lawson
Development Review Planner
Office of Planning

FROM: Kenneth G. Laden
Associate Director

DATE: SEP 2 2004

SUBJECT: BZA No. 17213 Application for lot width and area variance and yard set back variance.

The District Department of Transportation (DDOT) has reviewed the application and other material submitted by the Office of Planning. The applicant seeks variances for lot width, area variance and set back requirements to allow the construction of a new house on a currently undeveloped lot in Ward 5.

The requested variances would have no traffic impact on the transportation system in the area. The project will provide one parking space to comply with the Zoning Regulations Requirements.

From a transportation standpoint, the proposal will have no adverse traffic impact on the local transportation system. Accordingly, DDOT has no objection to the proposal.

ATTACHMENT V

GOVERNMENT OF THE DISTRICT OF COLUMBIA
DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

MEMORANDUM

TO: Joel Lawson
Development Review Specialist
Office of Planning

THROUGH: Lawrence C. Cager, Jr.
Deputy Director for Development Finance

FROM: James Thackaberry
Supervisory Project Manager

DATE: September 8, 2004

SUBJECT: Department of Housing and Community Development (DHCD) Review of BZA Application No. 17213 – 1408/10 Kearney Street NE

DHCD has reviewed the above referenced BZA Application you sent by e-mail on September 1, 2004. This memorandum offers comments on the BZA application. After staff review of the application materials, DHCD supports the BZA Application No. 17213 for the following reasons:

1. The proposed project site is an undeveloped vacant lot that is too small in area and too narrow in width to be built upon without obtaining variances for lot area, width and side yard setbacks.
2. The design, scale, size and orientation of the proposed single family residence is compatible with the existing single family residential character of the street. The design form and details of the proposed single family house complement other existing single family houses in this same block.
3. The width of the proposed house is the same as three other existing houses on this same block – one of these houses being 1408 Kearney Street directly adjacent to this property on the west side. All three of these existing houses have lot widths varying between 33.98 feet and 34.50 feet with side yard setbacks of between 5 feet and 5.5 feet.
4. The side yard setback of 5.5 feet for the proposed house is very nearly the same as the existing side yard setbacks at 1408 Kearney Street NE.

DISTRICT OF COLUMBIA SEWER AND WATER AUTHORITY
5000 OVERLOOK AVE SW, WASHINGTON, DC 20032

MEMORANDUM:

September 17, 2004

To: Joel Lawson, Development Review Planner
DC Office of Planning

From: Jodye Levy Russell, Planning Supervisor
DC Water and Sewer Authority

Subject: Zoning Commission Case # BZA Case 17213-1408/10 Kearny Street NE

Thank you for the opportunity to review this project. The District of Columbia Water and Sewer Authority (DCWASA) has reviewed the information for the above referenced project. We offer the following comments:

Sewer Requirements: Since the applicant is requesting a zoning variance in lot size from 5000 square feet to 3450 square feet, lot width variance from 50 feet to 34.5 feet, and side variance from 8 feet to 5.5 feet, there will be no increase in sanitary flow over anticipated sanitary flow to the existing sanitary sewer from this house.

Water Requirements: There will be no increase in water demand over anticipated water demand to the existing water main.

Storm Sewer Requirements: There will be no increase in storm water flow because the entire area is currently impervious. No storm water management is necessary because the disturbed area of the lot is less than 5,000 square feet.

If you have any questions, please feel free to call Mr. Kamlesh Parekh on 202-787-2415 or email kparekh@dcwasa.com.

ATTACHMENT V

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Department of Employment Services

Office of Employer Services

MEMORANDUM

TO: Joel Lawson
Development Review Specialist
Office of Planning

FROM: Margaret V. Wright
Acting Associate Director
Office of Employer Services

DATE: SEP 2 0 2004

SUBJECT: Review of Zoning Commission Case 17213-1408/10 Kearny Street NE

As requested, the Department of Employment Services (DOES) has reviewed Zoning Commission Case 17213-1408/10 Kearny Street, NE.

The owner, of lot 816 located between 1408 and 1410 Kearny Street, N.E., plans to construct a house on the property. Please be advised that the Department of Employment Services has no objections regarding Zoning Commission Case 17213-1408/10.

Should you need additional information, please contact Vernell Jordan at (202) 698-5774 or vernell.jordan@dc.gov .