

The standard by which the Board of Zoning Adjustment (BZA) should approve a variance from the area provisions of the R-4 Zoning District (11DCMR Section 401.3), is set forth in Section 3103.2 of the Zoning Regulations. The standard by which the Board of Zoning Adjustment (BZA) should approve a variance from the use provisions of the R-4 Zone (11DCMR Section 330.5, 350.4, 353.1 and Section 410), is set forth in Section 3104.2 Special Exceptions of the Zoning Regulations. Chapter 31 Board of Zoning Adjustment Rules of Practice and Procedure of the Title 11 District of Columbia Municipal Regulations indicate that:

Section 3103 Variances

3103.2 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.”

1. “Where, by reason of exceptional narrowness, shallowness or shape of a specific piece of property at the time of the original adoption of the regulations.”

A. The Lots 903, 904, 869, 868 and 867 were established before the District of Columbia zoning regulations were enacted. Title 11 District of Columbia Municipal Regulations (11DCMR) Section 401.3. requires a minimum lot area of 1, 800 sq.ft and lot width of 18'-0". Lots 903, 904, 869, 868 are each 1,520 sq.ft and 16'-0" wide. Lot 867 is 1,235 sq.ft. and 13'-0" wide.

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District of Columbia**

CASE NO.

17315

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Therefore, the existing lot configuration and lot size by reason of *exceptional narrowness, shallowness and shape* limits the size and configuration of any new structure developed on these lots. Structures built on these lots will be smaller than what current DC Zoning Regulations require. Therefore to support new housing for these lots and reinforce the Mayor's policy for increasing housing in the District of Columbia, zoning relief is essential. Relief if granted will not adversely affect the health, safety and welfare of the community. These lots were grand-fathered approximately five years ago. Therefore, the grand-fathering condition further supports the validity of the current development as configured.

2. **“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.”**

- B. Several lots within the project scope are impacted by the Area Medium Family Income Act (AMI). They include lots 888, 904 and 866. Affordable Housing covenants originated by the National Capital Revitalization Commission (NCRC) imposed the development of 1220 4th Street, Lot 888 requiring that 50% of a new building must sold to an AMI family. Therefore, in a three unit building, one to two units must be sold to an AMI family below current market value. The remaining unit can be sold at the current market value.

In addition, 1224 4th Street, Lot 904 and 1232 4th Street, Lot 866 are impacted by an affordable housing covenant imposed by the Department of Housing and Community Development. The Homestead Act guidelines requires 50% of the units built on Homestead sites to be sold to 50% AMI family and 15% of any units built must sold to 80% AMI family. Therefore, if 3 units are built, one unit goes to 50% AMI, the 2nd unit to 80% AMI and the 3rd unit can be sold at market value.

The owner of the property will complete all new construction on the lots at current construction costs. However, these regulations will impose undue economic hardship on the owner who is required to sell 8 of the 19 units below market value.

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.”**
- C. Relief can be granted because the new development would not substantial detract from the public good and without substantially impairing the intent, purpose, and integrity of the zone plan, land use and the Ward 2 Comprehensive Plan. 1220 4th St. was formerly used as a retail grocery store dating back to 1949. By 2000, 1232 4th St. was being used as a taxi cab office. (See attached documents dated 12/05/000) Current proposed uses conform to the intent of the comprehensive plan and is closely aligned with the requirements of current zoning regulations.

The proposed sites for the new development are located in the Historic Mount Vernon District. This would require each building to conform to the DC Historic Preservation Review Board standards and regulations, which requires new structures to be developed with characteristics that are compatible with and adhere to the rhythmic flow of the existing building masses, existing building scale, set backs and material usage which incorporate historic sensitive features including: replication of the original building setbacks illustrated in the proposed site plan, vehicular access provided to the rears of each building, limited projections along the front planes of each building and steps leading to each building entrance. The new building facades are created with an interplay of bays, application of decorative cornices, articulation of entrance mouldings, use of large symmetrical and brick as a primary facade building materials. The building materials are complemented by the installation of metal stairs extending from the sidewalk to each primary building entrance. The current revised architectural drawings illustrate new design features shown on the site plan and elevations. The revised elevations provide a 5 foot setback above the second floor of each of the eight buildings. (See attached elevations) The set back creates a harmonious flow of the two story building masses reflected in the row building remaining on the site.

Because of the unusual configuration of the rear of Lot 865, no parking access can be achieved, therefore a 4'-0" easement shall be created at the rear of Lot 866 to allow for ingress and egress to Lot 865 by a single car. The project was previously approved by the Historic Preservation Review Board.

- D. The proposed development eliminates previous non conforming commercial uses and is created in compatibility with the adjacent land uses. The District of Columbia Land Use Map designates this area as Moderate Density where row houses and garden apartments are the predominant uses.

Section 3104 Special Exceptions

3104.2 In the case of a use that was originally permitted and lawfully established as a matter of right and for which the Zoning Regulations now require special exception approval from the Board of Zoning Adjustment, any extension or enlargement of that use shall require special exception approval from the board.

- A. The relief for the extension of the proposed use of the apartment buildings located at 1220, 1232 and 1234 4th Street N.W. can be granted because these buildings would not substantial detract from the public good nor impair the intent, purpose, and integrity of the zone plan, land use and the Ward 2 Comprehensive Plan. In addition, the scale and size of the proposed buildings are congruent with apartment buildings in the surrounding area.

The development of The Estates @ Mount Vernon would not adversely affect the present character or future development of the surrounding area because the former and proposed use of the buildings are analogous. In addition, the surrounding neighborhood structures encompass existing land and new uses that are similar to the proposed development. Further, the proposed land use with new structures and combined esthetic qualities of the buildings will not negatively impact the health, safety and welfare of the immediate or broader community, but assist in satisfying a need for housing DC medium income residents. The proposed development also supports the Mayor's policy for creating increased housing near Metro stops. The Mt. Vernon Square Metro stop is less than four block from the 4th Street site. The project will contribute to enhancing the quality of the built environment and supply needed housing in an area that is experiencing much needed growth.

LIST OF ALL PROPERTIES WITHIN 200 FEET