INTRODUCTION

This is a Statement of Explanation and Reasons supporting Application of Safe Haven, Inc., (hereinafter "Applicant") for an area variance from Sections 2002.3 and 2101.1 of the Zoning Regulations to permit renovation of two multifamily structures comprising 48 units. Applicant seeks to increase the number of units from 36 to 48. The Zoning Administrator has taken the preliminary position that a variance is required to change the number of units from 36 to 48, notwithstanding that this is being accomplished solely by reconfiguring existing units. We take issue with this conclusion below. The parking variance is needed because the R-3 zone does not have a calculation for multifamily structures. The R-4 zone requires one parking space for three units which can be met by the proposed project.

We firmly believe that a variance should not be needed from the provisions of Section 2002.3 which provides as follows:

> A nonconforming use shall not be extended to portions of a structure not devoted to that nonconforming use at the time of enactment or amendment of this title, or to another structure.

Since we are not expanding any of the living space but merely dividing it up differently, this construction work may be considered simply a structural alteration under Sections 2001.2 and 2002.4 rather than an expansion of a non-conforming use under 2002.3. Moreover, since the use is residential, any expansion found would be of a conforming use rather than a non-conforming use. Finally, we believe that the last part of 2002.4 is applicable here:

> structural alterations shall be permitted to a lawfully existing non-conforming flat or apartment house located within a Residence District.

DESCRIPTION OF THE APPLICANTS

Safe Haven, Inc. has provided new and rehabilitated housing for several years. It has an enviable record of producing units which have served numerous mature adult singles and couples. Working with DHCD it has now taken on this project to provide low-rent housing to mature adult singles and couples.

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THE SUBJECT PROPERTY

A. Location and Description of the Property

The property is located at 2352-56-60 High Street, S.E. It is a cluster of two multifamily buildings now empty and in disrepair. (Square 5799, Lot 976) The lot has 34,934 square feet. The Applicant wishes to convert the 32 2-bedroom units and 4 one-bedroom units into 12 efficiency units, 33 one-bedroom units and 3 two-bedroom units. The renovated property will have more units but fewer people since the maximum permitted under the existing configuration would be 136, while the maximum population under the proposed configuration would be 90.

B. Area Surrounding the Property

High Street, S.E. is characterized by low-moderate density dwellings, mostly single-family detached.

BZA
CASE No. 17358
EXHIBIT No. 10

Board of Zoning Adjustment
District of Columbia
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C. Zoning History and Use History

The area was zoned R-5-A when the buildings were built in 1964-6. Presumably, at that time, it was a matter of right development. In 1978, the Zoning Commission, by Order No. 227 in Case No. 77-30, changed the zoning from R-5-A to R-3. The developers did seek relief from the parking requirements in a 1964 BZA Appeal. Appeal No. 8020 of December, 1964, granted the applicants the right to park in the front yard. (attached)

REASONS IN SUPPORT OF THE APPLICATION FOR A VARIANCE

A. Compliance with D.C. Zoning Regulations

Uniqueness

This project is different from the single family homes that surround it. Moreover, it was excluded from the Anacostia Historic District which controls the lots on both sides. In addition, the property is built into a hill which drops from elevation 152 at High Street to elevation 129 at the alley at the rear of the buildings.

Extraordinary or exceptional physical conditions creating a practical difficulty

Exceptional practical difficulty can be found in the fact that the buildings are substantial and their removal and replacement would be cost-prohibitive, particularly on a slope. Moreover, the square has been rezoned since the original construction and a variance would be needed to rebuild them.

Parking

The buildings occupy 30% of the lot but because of the slope of the lot, there is little room for parking. 19 spaces will be provided through the use of retaining walls. Moreover, three spaces can be added in front behind the building line. While there is no specified requirement in R-3 for parking for multifamily dwellings, it being a non-conforming use, it is perhaps appropriate to look at the R-4 district requirement of one space for each three units. It is proposed to provide 19 to 22 spaces, which would be more than one for three. In addition, these low-income residents are less likely to own cars, preferring public transit. The Metrobus stop is on Good Hope Road two blocks away from the site. It connects with Metro a few blocks further.

B. No Adverse Effects

The three buildings were used for multifamily residential use from 1966 to ____. When they were emptied and allowed to deteriorate, it became a blighting influence on the neighborhood. Renovating the structures and putting them back into use will remove that blighting influence. Moreover, while there are more units contemplated, the result of converting 2 bedroom units into efficiencies and one-bedrooms should lower the population significantly. While up to 136 people would have been able to live in the buildings when they were fully occupied, there will only be room for 90 people when renovated. Security will be enhanced by the addition of an attractive gated fence. Movement in and out will be by pass keys controlled by the residents.

COMPLIANCE WITH THE COMPREHENSIVE PLAN

A. Appropriate Residential Use

The Comprehensive Plan for the Nation's Capital recommends that steps be taken to provide more affordable housing in Ward 8 and renovate blighted structures.

1908.1(e) calls on the District to

> [p]romote new and rehabilitated housing to meet all levels of need and demand, and provide incentives to construct the types of housing needed at desired locations.

And 1908.1(f) to

> [p]rovide housing opportunities for low- and moderate-income households by promoting the construction and renovation of a range of housing types.

1909.1(b)(1) states that

> ... a number of blighted and abandoned apartment structures remain at scattered sites throughout the ward. These structures are not only eyesores within their surroundings, but are potential harbors for criminal activity as well.

CONCLUSION

The Applicant should be granted expansion and parking variances to allow it to bring these deteriorated buildings back into productive use. Moreover, such a use will be in harmony with the purpose and intent of the Zoning Regulations.

Respectfully submitted,



Stephen N. Gell, Esq.