

**BEFORE THE BOARD OF ZONING ADJUSTMENT
FOR THE DISTRICT OF COLUMBIA**

**VARIANCE APPLICATION
OF Park View Condominium Ventures LLC**

**525 Park Road NW
BZA APPLICATION NO. 19148**

PREHEARING STATEMENT

I. Background

This Statement is submitted on behalf of Park View Condominium Ventures LLC (“Owner”), owner of the property located at 525 Park Road, NW (Square 3037, Lot 55) (the “Property”). As discussed more fully below, the Property’s unique features and conditions justify the granting of area variance relief from lot occupancy requirements of Section 403.2, as strict compliance with the Zoning Regulations would result in a practical difficulty to the Applicant.

The Applicant purchased the property in September of 2015. Previous to purchase, the Applicant and the Architect completed their own due diligence, including review of the 1958 and 1968 Baist Maps which shows an residential structure on the property at the time the Zoning Regulations came into effect and the year that the existing 12-Unit Apartment Building was permitted and constructed. As a result of this due diligence the Applicant concluded that this property had been a “conversion” when constructed in 1968, which would hold the property to the 60% lot occupancy rule and therefore conforming at a proposed 49%. However, the Zoning Administrator ruled the building to be a “purpose built”, twelve (12) unit apartment building. This conclusion was made, due to the original Certificate of Occupancy application from 1968 stating; the previous use of the property had been “vacant lot” (See exhibit). Previous to this ruling, the Applicant requested Special Exception Relief under Section 330.7 [more aptly 336.13, which was published after the time of filing], due to the belief, that relief for lot occupancy, was not required,

but relief for the structural expansion of an existing apartment house was required. On January 4, 2016, the Zoning Administrator ruled that the relief necessary to build this project, was relief from the lot occupancy requirements. Due to the Zoning Administrator's ruling, the Applicant has amended the application, and is now requesting area variance relief under Section 403.2.

II. Burden of Proof.

The burden of proof for an area variance is well established. The Applicant must demonstrate three elements: (1) unique physical aspect or other extraordinary or exceptional situation or condition of the property; (2) resulting in practical difficulty in complying with a strict application of the Zoning Regulations; and (3) no harm to the public good or the zone plan. *Gilmartin v. D.C. Board of Zoning Adjustment*, 579 A.2d 1164, 1167 (D.C. 1990). As set forth below, the Applicant meets the three-part test for the requested area variance.

A. Unique Physical Aspect or Other Extraordinary or Exceptional Situation or Condition of the Property that Results in a Practical Difficulty.

Exceptional shape or contour of particular piece of property may be ground for granting area variance if strict application of zoning regulations would result in peculiar and exceptional practical difficulties to landowner. D.C.C.E. § 5-420(3). *A.L.W., Inc. v. District of Columbia Bd. of Zoning Adjustment*, 338 A.2d 428 (D.C. 1975). Furthermore, the Court of Appeals held in *Gilmartin v. D.C. Board of Zoning Adjustment*, 579 A.2d 1164, 1167 (D.C. 1990), that it is not necessary that the exceptional situation or condition arise from a single situation or condition of the property. Rather, it may arise from a "confluence of factors."

The Property is afflicted by a confluence of factors, including but not limited to: (1) an irregularly-shaped lot; (2) an unusually large lot, measuring 9006 square feet; and (3) it is one of the only purpose-built apartment buildings and is an anomaly at only 33% existing lot

occupancy. The confluence of the above mentioned factors creates a unique situation in which the Applicant would be unnecessarily burdened by strict application of the lot occupancy requirement, as discussed below.

B. Strict Application of the Zoning Regulations would Result in a Practical Difficulty

Generally, to warrant granting area variance, it must be shown that strict compliance with area restrictions would be unnecessarily burdensome. *Palmer v. District of Columbia Board of Zoning Adjustment*, 287 A.2d 535 (D.C. 1972). The Court of Appeals has found that financial infeasibility rises to the level of a practical difficulty and satisfies the second prong of the area variance test. *See Downtown Cluster of Congregations v. District of Columbia Bd. Of Zoning Adjustment*, 675 A.2d 484 (D.C. 1996)(finding that an undue hardship existed because a tenant could not be located that offered a “reasonable rate of return to the owner”). In *Downtown Cluster*, the court heard testimony and upheld variance relief based on financial infeasibility, concluding that the 6% return the applicant could achieve as a matter of right was insufficient and the higher return that would be achieved had the applicant been granted relief, was a reasonable return. *Id.* At 487–89.

Additionally, the Court of Appeals affirmed the Board’s approval of 100% parking relief for construction of a YMCA on a vacant lot based on a finding of practical difficulty due to the need to reduce the size of the swimming pool by half to provide parking at grade and the exorbitant cost of providing underground parking in comparison to such costs under ordinary circumstances. *See 1700 Block of N Street, N.W., et. al. v. District of Columbia Bd. of Zoning Adjustment*, 384 A.2d 674, 676 (D.C. 1978); *see also Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1170-71 (D.C. 1990)(“...1700 Block indicates that at some

point economic harm becomes sufficient, at least when coupled with a significant limitation on the utility of the structure.”).

Because of the unique conditions associated with the Property, redevelopment will not be financially feasible without the requested relief. The additional relief provides the Applicant with enough space to build twelve marketable two-bedroom apartment units.

One alternative would be to build twelve one-bedroom apartment units. This alternative presents significant practical difficulties. First, the construction costs of developing one-bedroom apartment units and two-bedroom apartment units are relatively similar; however, the fair market value of a two-bedroom unit significantly exceeds that of a one-bedroom unit. As shown on the attached financial projections, without the additional relief to provide two-bedroom units, the Applicant would likely not be able to break even and would realize a negative cash return on equity.

Additionally, this area is made up of mostly townhomes and other two-bedroom apartments and condominiums. From a marketing standpoint, the one-bedroom units would be hard to sell, as buyers looking to purchase a home in this area are likely to be interested in two-bedroom apartment units. Furthermore, if the Applicant were to attempt to recoup the costs of construction from the sale of the one-bedroom units, the units would necessarily be priced above fair market value. As shown on the attached financial projections and comps, there are reasonably priced two-bedroom units in the area. A potential buyer looking in this area is much more likely to be interested in purchasing a two-bedroom unit, and one-bedroom units priced above fair market value are highly unlikely to sell.

Another alternative would be to create fewer two-bedroom units. Not only will this alternative be financially infeasible, it is also impractical given the boxy, rectangular shape of the

building and the structural wall. The additional 9% lot occupancy, provides enough additional space over the three floors, which when subtracted, results in the loss of more than two (2) marketable apartments. The loss of the two apartments aside, the Applicant is maintaining a large portion of the existing structure. In order preserve the structure, the Applicant must build around the structural wall bisecting the building, and continue that wall in the new additions. Without the additional 9% lot occupancy, the layout of the building and the wall makes it impractical to provide two-bedroom apartment units. Even if this layout is technically possible, from a financial standpoint, building two-bedroom units around this wall, without additional land area, will increase construction costs, and create a practical difficulty for the Applicant.

C. No Substantial Detriment to the Public Good, nor Substantial Impairment of the Intent, Purpose, and Integrity of the Zone Plan

Granting relief will have no substantial detriment to the public good. As this area is made up of mostly two-bedroom apartments, granting relief will allow the redevelopment of an underutilized site, and will provide high-quality housing that will be harmonious with the neighborhood.

Granting an area variance from the strict requirements of 403.2 would result in no substantial impairment of the intent, purpose and integrity of the Zone Plan. The condition of this Property, with its location, shape, and other conditions, is extremely unique and will not lead to any unwanted precedents regarding lot occupancy relief.

III. Conclusion.

For the reasons outlined in this Prehearing Statement, the Applicant respectfully requests the relief as detailed above.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Alexa', written over a horizontal line.

Alexandra Garcia, JD
*Bar License Pending
Sullivan & Barros, LLP

R. Michael Cross
Principal Architect
R. Michael Cross Design Group

February 19, 2016

BZA Case # 19148

Park View Condominium Ventures LLC

Profit & Loss Analysis
525 Park RD NW

40% Lot Occupancy Scenario (12) 1 Bedroom / 1 Bath Units		
Acquisition Cost	\$	(2,300,000.00)
Construction Cost*	\$	(1,576,950.00)
Debt Service	\$	(348,925.50)
Lender Profit Share	\$	(109,125.00)
Outsale	\$	4,800,000.00
Condo Tax	\$	(240,000.00)
Sales & Marketing	\$	(288,000.00)
Attorney, Surveyor, & Insurance	\$	(100,000.00)
Closing & Transfer Fee	\$	(76,800.00)
Project Profitability	\$	218,250.00
Developer Profit After Debt Service and Lender Profit Share	\$	(239,800.50)

49% Lot Occupancy Scenario (12) 2 Bedroom / 2 Bath Units		
Acquisition Cost	\$	(2,300,000.00)
Construction Cost*	\$	(1,941,310.00)
Debt Service	\$	(381,717.90)
Lender Profit Share	\$	(634,885.00)
Outsale	\$	6,420,000.00
Condo Tax	\$	(321,000.00)
Sales & Marketing	\$	(385,200.00)
Attorney, Surveyor, & Insurance	\$	(100,000.00)
Closing & Transfer Fee	\$	(102,720.00)
Project Profitability	\$	1,269,770.00
Developer Profit After Debt Service and Lender Profit Share	\$	253,167.10

*Complete Construction Budgets for both scenarios are attached.

Description of Work	Unit Price	Quantity	Preliminary Budget
Soft Cost:			
Building Permit	5000	4	20,000.00
Architect/Engineer	25000	3	75,000.00
Inspections	3000	1.5	4,500.00
Total:			\$ 99,500.00
Hard Cost:			
Demolition	7000	13	91,000.00
Roll Off Container	7000	2	14,000.00
Water Service	14,000	1.5	21,000.00
Sewer Service	4,500	1.5	6,750.00
Electric Service	3000	4	12,000.00
Plumbing Rough	7000	10	70,000.00
Excavation Footings and Foundations & Underpinning	40000	1.5	60,000.00
Framing	3000	30	90,000.00
HVAC Rough	5500	11	60,500.00
HVAC Equipment	2200	11	24,200.00
Roofing Materials	100	43	4,300.00
Roofing Labor	130	43	5,590.00
Scuppers	400	4	1,600.00
Coping	5	240	1,200.00
Masonry			10,000.00
Insulation	4000	6	24,000.00
Roof Insulation	1200	8	9,600.00
Drywall - Materials	0.4	45000	18,000.00
Drywall Finishes	0.5	45000	22,500.00
Interior Painting	1700	12	20,400.00
Wood Flooring Materials	5.5	9000	49,500.00
Wood Flooring Install	2.1	9000	18,900.00
Stairs	700	7	4,900.00
Stair Finishing	500	4	2,000.00
Electric Rough	9000	10	90,000.00
Electric Finish	2000	4	8,000.00
Fire Alarm	2200	6	13,200.00
Sprinkler	4400	6	26,400.00
Low Voltage	2000	4	8,000.00
Site Work	10000	4	40,000.00
Interior Trim & Interior Unit Doors labor install	3000	15	45,000.00
Handles and other misc hardware install	1000	12	12,000.00
Miscellaneous	4000	1	4,000.00
Common Area Finishes	5000	4	20,000.00
Master Bathroom Install Labor	600	11	6,600.00
Master Bathroom Install Tile	1200	11	13,200.00
Master Bathroom	4200	11	46,200.00
Water Heaters	1200	12	14,400.00
Countertops	3200	11	35,200.00
Cabinetry	3000	10	30,000.00
Cabinetry Install	2000	10	20,000.00
Appliances	7000	11	77,000.00
Appliance Install	400	11	4,400.00
Exterior siding and trim install	3	5000	15,000.00
Exterior Paint	0.5	9000	4,500.00
Exterior Painting	2	9000	18,000.00
Roof Deck Materials	4000	2	8,000.00
Roof Deck Install	3000	2	6,000.00
Misc Fixtures Build.com Per Unit	1500	6	9,000.00
Closet Fixture	150	20	2,910.00
Landscaping	8000	2	16,000.00
Metal Work	8000	4	32,000.00
Home Depot	5000	1	5,000.00
Siding	3	5000	15,000.00
Windows	4000	6	24,000.00
Framing Lumber	9	8000	72,000.00
Exterior Doors	2000	12	24,000.00
Interior Doors & Trim	6000	10	60,000.00
Paint	1500	7	10,500.00
Subtotal:			\$ 1,477,450.00
Grand Total			\$ 1,576,950.00

Description of Work	Unit Price	Quantity	Preliminary Budget
Soft Cost:			
Building Permit	5000	5	25,000.00
Architect/Engineer	25000	3	75,000.00
Inspections	3000	1.5	4,500.00
Total:			\$ 104,500.00
Hard Cost:			
Demolition	7000	13	91,000.00
Roll Off Container	7000	2	14,000.00
Water Service	14,000	2	28,000.00
Sewer Service	4,500	2	9,000.00
Electric Service	3000	5	15,000.00
Plumbing Rough	7000	10	70,000.00
Excavation Footings and Foundations & Underpinning	40000	2.4	96,000.00
Framing	3000	40	120,000.00
HVAC Rough	5500	12	66,000.00
HVAC Equipment	2200	12	26,400.00
Roofing Materials	100	60	6,000.00
Roofing Labor	130	60	7,800.00
Gutters LF	30		0.00
Scuppers	400	6	2,400.00
Coping	5	400	2,000.00
Masonry			10,000.00
Insulation	4000	8	32,000.00
Roof Insulation	1200	10	12,000.00
Drywall - Materials	0.4	60000	24,000.00
Drywall Finishes	0.5	60000	30,000.00
Interior Painting	1700	14	23,800.00
Wood Flooring Materials	5.5	11000	60,500.00
Wood Flooring Install	2.1	11000	23,100.00
Stairs	700	7	4,900.00
Stair Finishing	500	4	2,000.00
Electric Rough	9000	12	108,000.00
Electric Finish	2000	4	8,000.00
Fire Alarm	2200	6	13,200.00
Sprinkler	4400	6	26,400.00
Low Voltage	2000	4	8,000.00
Site Work	10000	4	40,000.00
Interior Trim & Interior Unit Doors labor install	3000	17	51,000.00
Handles and other misc hardware install	1000	14	14,000.00
Miscellaneous	4000	1	4,000.00
Common Area Finishes	5000	4	20,000.00
Master Bathroom Install Labor	600	13	7,800.00
Master Bathroom Install Tile	1200	13	15,600.00
Master Bathroom	4200	13	54,600.00
Second Bathroom Install Labor	300	13	3,900.00
Second Bathroom Install Tile	1000	13	13,000.00
Second Bathroom	2700	13	35,100.00
Water Heaters	1200	12	14,400.00
Countertops	3200	13	41,600.00
Cabinetry	3000	12	36,000.00
Cabinetry Install	2000	12	24,000.00
Appliances	7000	11	77,000.00
Appliance Install	400	11	4,400.00
Exterior siding and trim install	3	7000	21,000.00
Exterior Paint	0.5	12000	6,000.00
Exterior Painting	2	12000	24,000.00
Roof Deck Materials	4000	2	8,000.00
Roof Deck Install	3000	2	6,000.00
Misc Fixtures Build.com Per Unit	1500	6	9,000.00
Closet Fixture	150	20	2,910.00
Landscaping	8000	2	16,000.00
Metal Work	8000	5	40,000.00
Home Depot	5000	2	10,000.00
Siding	3	10000	30,000.00
Windows	4000	10	40,000.00
Framing Lumber	9	13000	117,000.00
Exterior Doors	2000	12	24,000.00
Interior Doors & Trim	6000	12	72,000.00
Paint	1500	10	15,000.00
Subtotal:			\$ 1,836,810.00
Grand Total			\$ 1,941,310.00

This report prepared for you by Roby Thompson, 2022552986

Map

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Previous · Next · 1-3 of 3 at 25 per page

☐	Rating	 Sent	PH	VT	OH	Type	Stat	Transaction Type	ML#	Address	List Price	BR	FB	HB	Lvl	Fpl	
☐		Never		 10		Res	Act	Standard	DC9553169	3540 Rock Creek Church Rd NW #103B	\$299,000	1	1	0	1	0	
☐		Never		 7		Res	Cont	Standard	DC9525035	735 Quebec Pl NW #1	\$419,000	1	1	0	1	1	
☐		Never		 10		Res	Cont	Standard	DC9525124	735 Quebec Pl NW #2	\$449,000	1	1	0	1	1	

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This report prepared for you by Roby Thompson, 2022552986

Map

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Previous · Next · 1-11 of 11 at 25 per page

☐	Rating	 Sent	PH	VT	OH	Type	Stat	Transaction Type	ML#	Address	List Price	BR	FB	HB	Lvl	Fpl	C
☐		Never		 12			Res	Act	Standard	DC9572251	732 Lamont St NW #203	\$535,000	2	2	0	1	0
☐		Never		 17			Res	Act	Standard	DC9559599	728 Park Rd NW #1	\$675,000	3	2	0	1	0
☐		Never		 23			Res	Act	Standard	DC9559600	728 Park Rd NW #6	\$745,000	3	2	0	2	0
☐		Never		 24			Res	Act	Standard	DC9560761	3114 Warder St NW #1	\$599,900	2	2	1	2	0
☐		Never		 24			Res	Cnko	Standard	DC9561450	3114 Warder St NW #2	\$629,900	2	2	0	2	0
☐		Never		 25			Res	Cnko	Standard	DC9519705	836 Lamont St Nw	\$659,000	2	2	1	3	0
☐		Never		 26			Res	Cont	Standard	DC9523667	747 Morton St NW #1	\$549,900	2	2	1	2	0
☐		Never		 22	 2		Res	Sold	Standard	DC8739173	834 Lamont St NW #B	\$659,000	2	2	1	3	0
☐		Never		 28			Res	Sold	Standard	DC8750915	703 Newton Pl NW #8	\$649,900	2	2	0	2	0
☐		Never		 7			Res	Sold	Standard	DC8697026	703 Newton Pl NW #1	\$549,900	2	2	1	2	0
☐		Never		 25			Res	Sold	Standard	DC8644273	3612 Park Pl NW #3	\$599,900	2	2	0	1	0

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 Formerly 102 A-CPB
 Rev 9/4/57

 GOVERNMENT OF THE DISTRICT OF COLUMBIA
 DEPARTMENT OF LICENSES AND INSPECTIONS
 LICENSE AND PERMIT DIVISION
 PERMIT BRANCH

 1968 12 5
 PERMIT BRANCH

NOTICE TO PROSPECTIVE PURCHASER

Your application will not be approved and Certificate issued until all inspections have been made and inspection report has been received and approved.

APPLICATION FOR CERTIFICATE OF OCCUPANCY—RESIDENTIAL

(WRITE WITH TYPEWRITER OR INK)

USE this form if Certificate is to be issued for Hotel, Flat or Apartment, Rooming, Boarding or Tenement House, Day Nursery, Private Club, Convalescent Home, or Other Residential Use.

To THE DIRECTOR OF INSPECTIONS

Date December 5, 1968

The applicant(s) requests the issuance of a Certificate of Occupancy for the use of the premises described below, and agrees to comply with all applicable laws and regulations of the District of Columbia, and any terms and conditions appearing on BOTH sides of this application and on any Certificate of Occupancy issued on the basis of this application.

Full Name of Owner(s) of Business Anthony Izzo

(See instruction on reverse side)

(PRINT)

(FIRST)

(MIDDLE)

(LAST)

Description of Premises for which Certificate is Requested

Address 525 Park Road, N. W. Lot 555 Square 3037

(of building to be occupied)

Name and address of owner of building Anthony Izzo; 1730 K St., N. W. - Suite 1301

To the best of your knowledge is the building now being condemned? No

Material of building Brick No. of Stories High 3 Basement? Yes

Proposed use Apartment Building

Which Floor(s) will be occupied for above use 3 floors

Previous use New Building - was vacant lot Will applicant reside on the premises? No

READ INSTRUCTIONS AND INFORMATION ON REVERSE SIDE OF THIS APPLICATION

PENALTIES ARE PROVIDED FOR MISREPRESENTATION

To Be Filled in by Clerk

Use District R-4

Height District 12-10-60

Area District 77

Transcript of No

E. D. No

B. Z. A. No

Bldg. Permit No. 12-106-003

Previous use Vac. lot

More or Less Units

Name of Clerk

IF OWNER OF BUSINESS SIGNS:

Signature of Owner
(in ink)

Home Address

IF AUTHORIZED AGENT FOR OWNER OF BUSINESS SIGNS:

Name of Agent Thomas H. Ryan Management Co.

Address of Agent 224 M.Y. Ave., N.W. Tel. No. 737-7705

Name of Owner(s)
of Business Anthony IzzoSignature of Agent
(in ink)

APPROVED:

P.S. P. Lewis

Bldg. Director

Plbg. J. M. Jones

Elec. W. White

12-11-68 J. Jones

RESERVED FOR APPROVALS

Date 7-2-69

Date 12-10-68

Date 6-17-69

Date 12-11-68

1-21-69

APPROVED FOR ISSUANCE OF PERMIT

Date 7-8-69

P-001

SECRETARY Joan O'Donnell

TREASURER

VICE PRESIDENT T. J. O'Donnell

PRESIDENT Thomas H. Ryan

Form 11-P-601

CERTIFICATE OF OCCUPANCYNo. **B 68481**Washington, D.C., **JULY 10TH**, 19 **69**Permission is hereby granted to **ANTHONY IZZO**to use the **1ST, 2ND & 3RD** floor(s) of the building located on Lot **65** Square **3037**known as premises **625 PARK ROAD, N.W.** for the followingpurpose(s): **APARTMENT HOUSE**

THIS CERTIFICATE SHALL BE POSTED CONSPICUOUSLY ON THE ABOVE PREMISES AT ALL TIMES. IT IS VALID INDEFINITELY, unless an expiration date is stated, ONLY for the premises, or part thereof, and for the purpose(s) indicated above, and IS NOT TRANSFERABLE to another person or premises under ANY conditions. ANY CHANGE in the type of business, ownership of business, or part of premises used therefor, will render this Certificate VOID and a NEW Certificate must be obtained.

DEPT. OF LICENSING & INSPECTIONS, GOVT. OF DIST. OF COL.

OFFICE COPY

ZONE **R-4**FEE \$ **12.00**

Chief, Permit Branch

By Mary D. Savage
Permit Clerk