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February 22, 2015

VIA IZIS

Marnique Heath, Chairperson
Board of Zoning Adjustment
441 4th Street, N.W., Suite 210S
Washington, DC 20001

Re: BZA Application for 920-922 H Street NE
Lots 0057 and 803, Square 0933 (the "Property") – Area Variance Application

Dear Chairperson Heath & Members of the Board:

Please accept for filing the enclosed application of 920 H, LLC (the "Applicant"). The Applicant requests variance relief, pursuant to 11 DCMR §3103.2, from the requirements regarding lot occupancy (§1324.4), off-street parking (§2101.1), and parking space size (§2115.1) to allow the Applicant to construct a mixed-use building with a restaurant/public hall, nine residential units, and two compact parking spaces in the C-2-A/HS-R District at premises 920-922 H Street NE.

The application package includes the following materials:

1. Application Form;
2. Fee Calculator Form;
3. Statement of Intended Use;
4. Zoning Self-Certification Form;
5. Proposed Architectural Plans & Elevations;
6. List of Names and Mailing Addresses of Owners within 200 Feet;
7. Statement of the Applicant;
8. Authorization Letter;

Board of Zoning Adjustment
District of Columbia

9. DC Zoning Map; and
10. Surveyor's Plat.

We believe that the application is complete and acceptable for filing, and request that the Board schedule a public hearing for the application as soon as possible. If you have any questions, please do not hesitate to contact me on behalf of the Applicant.

Thank you for your attention to this application.

Sincerely,

GRIFFIN, MURPHY,
MOLDENHAUER & WIGGINS, LLP



By: Meredith H. Moldenhauer

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

**APPLICATION OF
920 H LLC**

**920-922 H STREET NE
ANC 6A**

STATEMENT OF THE APPLICANT

I. NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of 920 H, LLC, (the “Applicant”), the owner of property located at 920-922 H Street NE, Lots 57 and 803 in Square 0933 (the “Property”), in support of its application for an area variance from the requirements regarding lot occupancy (§1324.4), off-street parking (§2101.1), and parking space size (§2115.1) to allow the Applicant to construct a mixed-use building with a restaurant/public hall, nine residential units, and two compact parking spaces in the C-2-A/HS-R District¹.

II. JURISDICTION OF THE BOARD

The Board of Zoning Adjustment (the “Board” or “BZA”) has jurisdiction to grant the variance relief requested herein pursuant to §3103.2 of the Zoning Regulations.

III. BACKGROUND

A. Background Information Regarding the Property

The Property, also known as Lots 57 and 803 in Square 0933, is comprised of two narrow contiguous lots. Lot 57 is 17.50 feet wide and contains approximately 1,463 square feet of land area; Lot 803 is 14.50 feet wide and contains approximately 1,212 square feet of land area. *See*, Survey at **Tab A**.

¹ Pursuant to the current zoning regulations, the Applicant does not need to provide bicycle parking for the residential or commercial use. However, under the bicycle parking regulations in the recently approved Zoning Regulations Rewrite, the Applicant would be required to provide five bicycles spaces for the residential use and one for the commercial use.

The Property is presently improved with a one-story storefront building that covers approximately 100% of both lots. The Property is not located within any historic District and the existing building on the Property is not listed on the D.C. Inventory of Historic Sites.

B. Description of the Improvements in the Surrounding Area

Square 0933 is bounded by I Street NE to the north, 10th Street NE to the east, H Street NE to the south, and 9th Street NE to the west. The Property is located in the C-2-A/ H Street Retail District. See Zoning Map at **Tab B**. Square 0933 is split into two distinct sections; the properties that front on H Street NE are commercial or mixed-use commercial buildings, while the properties behind the commercial strip are rowhomes.

C. Description of the Traffic Conditions and Mass Transit Options in the Surrounding Area

The Property is well serviced by a number of public transportation facilities and services including Metro, D.C. Streetcar, Metrobus routes, Capital Bikeshare, and Zipcars. The Property is located 0.7 miles from Union Station, which provides access to the Metrorail Redline. Union Station also provides access to Maryland and Virginia through the MARC and the Virginia Railway Express, respectively. Eastern Market Metro Station is 1.1 miles away and provides access to the Blue, Orange and Silver Metrorail lines. Importantly, the H Street/Benning Road Street Car line, scheduled to start operating on February 27, 2016², has a stop only one block away from the Property at the intersection of 8th Street and H Street. The streetcar will streamline access to Union Station, which is only three stops from the abovementioned stop.

In addition to rail lines, the Property is very accessible by bus. There are nine Metrobus stops within 0.1 miles of the Property. Metrobus X1, X2, 90, D8, D4, X9, 92, 93 and D3 all have stops within

² *Fourth mayor's the charm? Bowser sets D.C. streetcar grand opening for Feb. 27.* Washington Post, February 18, 2016. <https://www.washingtonpost.com/news/dr-gridlock/wp/2016/02/18/fourth-mayors-the-charm-bowser-sets-d-c-streetcar-grand-opening-for-feb-27/>

two blocks of the Property. Metrobus X3 has a stop only 0.2 miles away. Also in close proximity to the Property are a number of the District's bikesharing and carsharing programs. There are nine Capital Bikeshare stations located within 0.5 miles of the Property. The closest Capital Bikeshare station is only one block away at 11th Street NE and H Street NE. There are five Zipcar facilities within 0.5 miles of the Property. The closest Zipcar facility is less than a ½ block from the Property, at 10th and H Street NE, and has a cargo van available for use. Only two blocks from the Property is another Zipcar facility behind 817 11th Street NE, at which they are two vehicles available for use. Walkscore.com labels the property as a "walker's paradise," "a biker's paradise," and as having "excellent transit."

D. Description of the Proposed Development

As shown on the architectural plans, *see* Architectural Plans at **Tab C**, the Applicant proposes to convert the existing commercial space into a restaurant/public hall on the first floor and cellar, with residential units above. The existing masonry block façade will be repaired and preserved. Moreover, the existing masonry façade will form the balcony for the second floor exterior space. Elements of the new design will pass in front of the existing façade forming a layered interaction between old and new. Above the first floor, the Applicant proposes to construct a three-story addition plus penthouse that will house nine dwelling units. The second and third floor will each contain three 1-bedroom units ranging from approximately 400-600 square feet. The fourth floor will have three larger 1-bedroom units that have access to the penthouse. Those units will range from approximately 730-980 square feet. The Property will include parking for two compact vehicles.

IV. NATURE OF RELIEF SOUGHT AND STANDARD OF REVIEW

The Applicant requests variances from the requirements regarding (i) lot occupancy (§1324.4); (ii) parking (§2101.1), and parking space sizes (§2115.1). Under D.C. Code §6-641.07(g)(3) and 11

DCMR §3103.2, the Board is authorized to grant an area variance where it finds that three conditions exist:

- (1) The property is affected by exceptional size, shape or topography or other extraordinary or exceptional situation or condition;
- (2) The owner would encounter practical difficulties if the zoning regulations were strictly applied; and
- (3) The variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

See French v. District of Columbia Bd. of Zoning Adjustment, 658 A.2d 1023, 1035 (D.C. 1995) (*quoting Roumel v. District of Columbia Bd. of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)); *see also, Capitol Hill Restoration Society, Inc. v. District of Columbia Bd. of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987).

Applicants for an area variance need to demonstrate that they will encounter “practical difficulties” in the development of the property if the variance is not granted. *See Palmer v. District of Columbia Bd. of Zoning Adjustment*, 287 A.2d 535, 540-41 (D.C. 1972)(noting that “area variances have been allowed on proof of practical difficulties only while use variances require proof of hardship, a somewhat greater burden”). An applicant experiences practical difficulties when compliance with the Zoning Regulations would be “unnecessarily burdensome.” *See Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1170 (D.C. 1990). As discussed below, and as will be further explained at the public hearing, all three prongs of the area variance test are met in this Application.

V. THE APPLICANT MEETS THE BURDEN OF PROOF FOR VARIANCE RELIEF

A. The Property is Unusual Because of its Size, Shape or Topography and is Affected by an Exception Situation or Condition

The phrase “exceptional situation or condition” in the above-quoted variance test may arise from a confluence of factors which affect a single property. *Gilmartin v. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990). The Property is unusual and affected by an exceptional situation and condition as a result of a confluence of the following factors: (1) narrow and shallow lots; (2) narrow alley; (3) the design requirements of the H Street overlay; and (4) existing structural conditions.

1. Narrow and Shallow Lots

The Property is comprised of two narrow and shallow lots. The Property is a commercial lot that fronts on a major thoroughfare. However, the Property is only 32 feet wide and 83.6 feet deep. Lot 57 is only 17.50 feet wide. Lot 803 is narrower, at only 14.50 feet wide. Many of the other commercial lots that front on H Street are much wider and deeper than the Property.

2. Narrow Alley

The Property abuts a narrow alley. The Survey, *see* **Tab A**, indicates that the alley is only 10 feet wide.

3. H Street Overlay

The Property is located in the HS-R overlay. The HS overlay was created to help implement the goals and policies of the Comprehensive Plan and H Street, N.E. Strategic Development Plan, to encourage the development of residential uses along the H Street corridor, particularly the reuse of upper floors, and to encourage a neighborhood-servicing retail-shopping district from 7th to 12th Street NE. As a result of the policies the District has implemented, the H Street corridor has experienced incredible

growth. The Atlas Theater, new restaurants, and art galleries, have revitalized the area. However, as a part of the HS overlay, the Applicant is required to provide commercial on the ground floor and comply with additional design criteria that burden the development of this lot. Furthermore, the HS Overlay encourages owners to maintain the existing structure, especially the front façade, which can present additional challenges when properties are redeveloped.

4. Existing Structural Conditions

The Property is improved with an existing commercial structure that covers approximately 100% of the lot. The existing structure is bound to the north and south by existing commercial buildings.

B. Strict Application of Zoning Regulations Would Result in Practical Difficulty to the Owner

Strict application of the Zoning Regulations with respect to lot occupancy (§1324.4); (ii) off-street parking (§2101.1), and parking space sizes (§2115.1) would result in a practical difficulty to the Applicant.

1. Lot Occupancy (§1324.4)

The proposed mixed-use building will have a lot occupancy of 78% on the commercial ground floor with a lot occupancy of 79% on floors 2-4, the residential portion of the building. Under §1324.4, the maximum permitted residential lot occupancy for the Property is 70%. The request for lot occupancy relief directly reflects the development challenges of constructing a mixed-use building with parking on a narrow and shallow lot.

As shown in the Architectural Plans at **Tab C**, the narrowness and shallowness of the lot severely restricts where the Applicant can have stairwells and an elevator. The Applicant proposes to maximize the structural and design efficiency of the building as it transitions from the commercial use to the residential use above by maintaining the location of existing stairwell. Consequently, the residential floor plate of the

proposed project effectively matches the commercial floor plate below³. A reduction of the residential lot occupancy to 70% would create a practical difficulty for the Applicant in being able to design an efficient mixed-use structure that transitioned seamlessly from the commercial use on the ground floor to the residential uses above. One of the goals of the H-Street Overlay is to have commercial uses on the ground floor with reuse of the upper floors. Due to the narrow shape and size of the Property, providing a commercial use on the ground floor with residences above would be exceptionally difficult to achieve without an efficiently designed floor plate. Moreover, reducing floors 2-4 to 70% lot occupancy would require significant structural additions to the first floor, as the weight of the residential portion of the building would not be evenly distributed across the four walls of the commercial portion of the building below.

2. Off-Street Parking (§2101.1)

Strict application of the zoning code for off-street parking would result in a practical difficulty for the Applicant. Pursuant to §2101.1, retail or service establishments are required to provide one parking space for each additional 300 square feet of gross floor and cellar floor area over 3,000 square feet; public halls are required to provide one space for every ten seats for the first 10,000 seats; and residential units in the C-2-A require one parking space for every two dwelling units. The proposed project has 1,280 square feet of service establishment floor area; therefore, no parking spaces are required for the first floor restaurant use. The proposed project has 46 seats in the public hall space in the cellar, resulting in a requirement of five off-street parking spaces. The proposed project has nine dwelling units; therefore, five parking spaces are required. In total, the proposed mixed-use building requires 10 off-street parking spaces. The proposed project provides two parking spaces.

³ As shown on page A-12 of the Architectural Plans, to provide the two compact parking spaces without affecting the location of the stairwell, the ground floor has a “L” shaped indentation. This “L” shaped indentation is provided solely to allow two compact cars to park, at an angle, on-site. That inefficient design feature is not continued on the residential floors above, and results in a 1% delta in lot occupancy from the ground floor to floors 2-4.

The narrowness and shallowness of the Property make it extremely difficult to comply with the off-street parking requirements. The Property, at 32 feet in width, is too narrow to provide 10 off-street parking spaces at ground level. The provision of an underground parking system at the Property is also impossible. The Property abuts a narrow alley that limits the turning radius vehicles would need to access a ramp. Furthermore, to provide a straight ramp that has no more than a 12% incline, the Property would need at least 100 linear feet for the ramp. The Property is only 32 feet wide and has a depth of only 83.625 feet. Consequently, an underground parking system is simply not feasible. For those reasons, strict application of the zoning requirements with respect to the off-street parking requirement would result in a practical difficulty to the Applicant.

It is important to note, that though the Applicant is required to provide 10 off-street parking spaces under the current zoning regulations, the parking requirement for the Property is greatly reduced under the Zoning Regulations Rewrite (ZRR), which will be in effect when the Property goes online. Under the ZRR, which will become effective on September 6th, the residential parking requirement is one off-street space for every three dwelling units, thus reducing the residential parking requirement to three spaces. The first floor restaurant and cellar public hall will be categorized as an eating and drinking establishment, which has a parking requirement of 1.33 for every 1,000 square feet in excess of 3,000 square feet, thus, reducing the parking requirement from five spaces to one off-street space. As the H Street/Benning Road Street Car is located directly in front of the Property, with a stop only a block away, the parking requirement will be reduced by an additional 50%. Thus, the parking requirement for the Property will be reduced from ten spaces to three spaces.

3. Parking Space Size (§2115.1)

Pursuant to §2115.1, parking spaces are to be a minimum of 9 feet in width and 19 feet in length. The proposed parking spaces are compact- 8 feet wide and 16 feet in length- and angled. The existing structure covers approximately 100% of the lot. The proposed structure will cover approximately 78% of

the lot on the ground floor and will have a 15'-11" rear yard. Due to the existing conditions of the Property, the narrowness of the lot and the narrowness of the alley, the Applicant can only provide two compact spaces at an angle. The narrowness of the lot and the narrowness of the alley severely limit the turning radius of vehicles in maneuvering the alley. This limitation is compounded by the fact that the property directly across the alley from the proposed structure is a three-story structure that abuts the property line- further limiting the maneuverable space in the alley. The provision of two compact spaces at an angle is the most efficient parking design in consideration of those limitations. Therefore, the Applicant seeks relief from §2115.1, in order to provide two compact parking spaces.

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

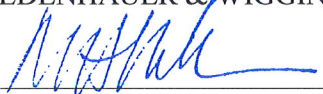
There will be no substantial detriment to the public good and no substantial impairment to the intent, purpose, and integrity of the zone plan by approving the zoning relief. The proposed project creates a project that conforms with the goals of the H-Street Overlay by providing a neighborhood servicing establishment on the ground floor and cellar, and residential units above. In addition, the proposed project adequately balances the zoning regulations' goals for providing a diverse and adequate housing stock, while revitalizing storefront properties along major thoroughfares. Multiple dwelling units and restaurants/public halls are a permitted use in the C-2-A/HS-R Zoning District; consequently, the proposed development aligns with the purpose and intent of the Zone Plan. Furthermore, the Property is very accessible by public transportation thus granting the requested variances will not have a negative impact on the community. For these reasons, approval of the zoning relief requested will not cause a detriment to the public good or Zone Plan.

VI. CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards for variance relief under the Zoning Regulations. Accordingly, the Applicant respectfully requests that the Board grant the application.

Respectfully submitted

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