

DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT

Prehearing Statement of Rasool Ahmed and Jamal Ahmed
1631 A Street, SE (Square 1086, Record Lot 14, A&T Lot 804)

I. INTRODUCTION AND SUMMARY OF RELIEF.

This Statement is submitted on behalf of Rasool Ahmed and Jamal Ahmed (collectively known as the “**Applicant**”), the owners of the property located at 1631 A Street, SE (Square 1086, Lot 14, A&T Lot 804) (the “**Property**”). The Property is currently improved with an existing two-story + basement, four-unit apartment building (the “**Building**”). The basement is currently unused and vacant, and the Applicant seeks to add two units to the existing four-unit building, for a total of six units. No expansion or physical additions are proposed.

The Building is a purpose-built apartment building. Subtitle U § 301.5 permits, as a matter of right, the expansion of purpose-built apartment buildings, so long as the Property has 900 square feet of land area per unit. The Property has 2,000 square feet of land area, less than 900 square feet of land area per unit currently, and as proposed with six total units. Accordingly, the Applicant must seek area variance relief¹ from U § 301.5(b).

There are currently no parking spaces on the property, and the addition of two new units will trigger a requirement for one parking space. As there is no physical way to provide parking on site, the Applicant also seeks parking relief pursuant to C § 703.2.

II. JURISDICTION OF THE BOARD.

The Board has jurisdiction to grant the area variance from U § 301.5(b) pursuant to 11-DCMR Subtitle X § 1002.1(a) and the special exception relief pursuant to X § 901.2 and C § 703.2.

III. BACKGROUND.

A. History of the Property and Use

The Property is located in the RF-1 Zone District and has 2,000 square feet of land area. It is a corner lot improved with an existing two-story + basement row building constructed c. 1941

¹ 900-foot rule relief is listed as an example of an area variance in X § 1002.1(a).

in its current envelope, with four units, according to History Quest. The existing Building has had four rental apartment units which were recently renovated. The renovation included upgrades to appliances and the addition of in-unit washers and dryers. The basement level is currently unoccupied and was most recently used to hold construction materials during the renovation. Prior to that, the residents used the laundry facilities. But as the Building was recently modernized, and the laundry facilities became obsolete, the basement space sits idle.

B. Description of the Surrounding Area.

The Property is located in the Hill East area and is approximately two and a half blocks from the Stadium Armory Metro Station. The square in which the Property sits is bounded by A Street to the north, Independence Avenue to the south, 16th Street to the west, and 17th Street to the east. The Property fronts A Street to the north, where the entrance of the Building is located. Abutting the Property to the south is a semi-detached building used as a single-family home. Abutting the Property to the west is a row building used as a single-family home. Further west, the row buildings facing A Street are all used as single-family dwellings, as are the majority of the homes on this block. The area is made up of a mix of residential and commercial uses, given its location near three major thoroughfares, public transit, and near commercial zones along Massachusetts Avenue to the south and East Capitol to the north.

IV. THE APPLICATION MEETS THE STANDARDS FOR AREA VARIANCE APPROVAL

The Applicant is requesting variance relief from the 900 square foot rule (U-301.5(b)). The burden of proof for an area variance is well established. The Board of Zoning Adjustment may grant an area variance if it finds that “(1) there is an extraordinary or exceptional condition affecting the property; (2) practical difficulties will occur if the zoning regulations are strictly enforced; and (3) the requested relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan.” *Dupont Circle Citizens Ass'n v. D.C. Bd. of Zoning Adjustment*, No. 16-AA-932, 2018 WL 1748313, at *2 (D.C. Apr. 12, 2018); *Ait-Ghezala v. District of Columbia Bd. of Zoning Adjustment*, 148 A.3d 1211, 1216 (D.C. 2016) (quoting *Washington Canoe Club v. District of Columbia Zoning Comm'n*, 889 A.2d 995, 1000 (D.C. 2005)) (internal quotation marks omitted). As set forth below, the Applicant meets the three-part test for the requested variance relief.

A. Extraordinary or Exceptional Condition Affecting the Subject Property Resulting in a Practical Difficulty if the Zoning Regulations were Strictly Enforced

1. Confluence of Factors

To prove an extraordinary or exceptional condition, or uniqueness, the Applicant must show that the property has a peculiar physical aspect or other extraordinary situation or condition. *Monaco v. D.C. Board of Zoning Adjustment*, 407 A.2d 1091, 1096 (D.C. 1979). Moreover, the unique or exceptional situation or condition may arise from a confluence of factors which affect a single property. *Gilmartin v. D.C. Board of Zoning Adjustment*, 579A.2d 1164, 1168 (D.C. 1990).

While individually these factors may not be unique, for example there are other purpose-built apartments in the area, the factors below combine to create a confluence of factors affecting this single property, leading to the unique practical difficulty faced by the Applicant if the Zoning Regulations are strictly enforced:

Existing Structure and Age

The Building was constructed in 1941 as a purpose-built apartment house, designed to accommodate four large units (two per floor). It has not been converted from a rowhouse or other use. Upon adoption of the 1958 Zoning Regulations, the Building became legally nonconforming. As is typical of mid-century multi-family buildings, the structure was designed for contained single-floor units and was not built to support vertical reconfiguration. Given the Building's age — now over 80 years old — any effort to combine floors to eliminate nonconformity would require invasive and structurally significant alterations.

Modernization and Functional Obsolescence of Accessory Space

Each of the existing four units is approximately 1,000 square feet and has been upgraded with in-unit laundry. As a result, the basement-level space — once used for shared laundry— is now functionally obsolete. It cannot serve any meaningful accessory function and remains vacant and conditioned. There was also work done on the HVAC system, upgrades to the electrical system, and improvements to the utility area during the renovation.

Corner Lot, Adjacency to Major Thoroughfares, Exposure and Security Challenges

The Property occupies a prominent corner lot, with an open rear yard facing a major pedestrian corridor. The lowest level is at-grade, and its visibility and accessibility from the public realm — near Massachusetts Avenue, East Capitol Street, and Independence Avenue, and within walking distance of Metro — creates both opportunity and vulnerability. Unfortunately, the current vacancy of the basement space has created significant security concerns. The Applicant has experienced multiple incidents of loitering and attempted entry. These challenges are not speculative, and they stem directly from the property’s unique visibility, vacancy, and corner-lot exposure — conditions not shared by mid-block neighbors.

Fixed Lot and Inability to Acquire Additional Land

The Applicant is constrained by a fixed lot size that falls short of the 900-square-foot per unit requirement — a shortfall that cannot be cured by lot expansion. The adjacent properties are both improved with existing buildings, and any lot line adjustment would either be physically infeasible or create new zoning nonconformities.

2. Unique Relative to Other Purpose-Built Apartment Buildings on Corner Lots:

While there are other purpose-built apartment buildings in the square, none face the same circumstances with a vacant floor. This is a corner lot, with more visibility. While there are other purpose built apartment buildings on the respective corners of the square, those apartment buildings are distinct from the subject Property in meaningful ways. The apartment building on the northwest corner at 1601 A Street, for example, does not have a basement level. If there is a lowest level, which there does not appear to be, it is fully below grade. That property would need significant excavation to house two additional units. Contrast that with the subject Property, whose lowest level is above grade and able to house two additional units without any substantial modifications to the Building. There is no digging or underpinning required to make the lowest level suitable for legal units. The work scope involves construction of kitchens and bedrooms within the existing conditioned space. Egress windows are already present, and there is an existing entrance.

Similarly, the apartment building on the southeast corner at 131 17th Street, does not have a basement level, if there is a lowest level, which there does not appear to be, it is fully below

grade. That property would need significant excavation to house two additional units. The apartment building on the southwest corner, at 1600-1606 Independence Avenue, already has 12 units spread across the basement and first through second floors according to issued certificates of occupancy and applications for the respective apartment buildings (two separate addresses) but one building occupying the lot.

3. Practical Difficulties

The second prong of the variance test is whether a strict application of the Zoning Regulations would result in a practical difficulty. It is well settled that the BZA may consider “a wide range of factors in determining whether there is an ‘unnecessary burden’ or ‘practical difficulty’... Increased expense and inconvenience to an applicant for a variance are among the factors for the BZA’s consideration.” Gilmartin, 579 A.2d at 1711. Other factors to be considered by the BZA include: “the severity of the variance(s) requested;” “the weight of the burden of strict compliance;” and “the effect the proposed variance(s) would have on the overall zone plan.” Thus, to demonstrate practical difficulty, an applicant must show that strict compliance with the regulations is burdensome; not impossible.

As noted above, the severity of the request can be taken into consideration. In this case the impact of the request would be negligible, as the request is for two units in existing vacant space in an existing purpose-built apartment, in an area with many similar apartment buildings, with no disruption to the exterior appearance. And the result would be two new high-quality apartment units near transit at a time where investment into the city and new housing, especially near transit where vehicles are not needed, is being prioritized and encouraged.

Further, there are unique practical difficulties directly tied to the confluence of factors above, meeting these two prongs of the test:

Persistent Vacancy of Habitable, Conditioned Space

The basement level of the Building is fully conditioned, legally habitable, and physically integrated into the structure. Previously used for shared laundry, it is no longer needed due to modernization of the four existing units, each of which now has in-unit laundry. Accordingly, the space no longer serves any essential utility function. Despite being vacant, the basement is still

subject to ongoing maintenance and conditioning costs, including HVAC control, cleaning, pest management, and security oversight. This imposes a perpetual financial burden on the Property owner for a space that serves no purpose under current zoning — a clear practical difficulty. Furthermore, because the cellar level is at-grade and exposed to the street on a prominent corner lot, the vacancy has led to ongoing safety and nuisance issues, as described above.

Infeasibility of Combining Basement Space with Existing Units

A theoretically suggested alternative might be to combine the basement with the units above, thereby avoiding the creation of additional dwelling units. But in practice, this option is neither structurally nor financially viable and would itself create a host of new problems. There would be structural and architectural challenges. The building was constructed in 1941 using methods consistent with multi-unit apartment construction of that era. Combining floors would likely require demolition of significant portions of load-bearing floor slabs, structural reinforcement, new HVAC routing, electrical re-wiring, and plumbing realignment and potential excavation or underpinning if ceiling heights are insufficient for habitable standards. This is completely impractical and prohibitively expensive.

In addition to being impractical and expensive, these renovations would require full displacement of current tenants and a gut renovation of multiple occupied units, which would be highly disruptive. Even if feasible, combining the basement with upstairs units would create oversized units (~2,000 square feet each), which are impractical and misaligned with neighborhood housing needs and affordability objectives. Larger units would likely remain underutilized, especially in a submarket where 1-BR and 2-BR configurations are in higher demand. The end result would be inefficient use of both physical and economic resources.

No Viable Use as Accessory Space

Any attempt to repurpose the basement for accessory functions (gym, laundry) would be redundant, nonfunctional, and economically irrational. In essence, the Applicant would be relegated to maintaining and securing a large, conditioned space purely for code compliance, even though the use itself — additional residential units — is permitted by right, and the only constraint is one of land area.

B. Relief Can be Granted without Substantial Detriment to the Public Good and without Impairing the Intent, Purpose, and Integrity of the Zone Plan.

The use itself is permitted in the RF-1 zone as a matter-of-right, this was purpose built as an apartment building, and the lowest level was an idle, vacant space. Maintaining conditioned vacant, unused space in an existing apartment building is a practical difficulty as described above. As will be described in more detail in a supplemental filing with similar BZA Cases and rationale behind the 900-square foot rule, the rule was not meant to prevent density where appropriate, but to prevent over concentration of density in traditional row house neighborhoods.

In this case, the location so close to public transit and major thoroughfares facilitates this density without creating additional congestion or traffic. It is an appropriate location for multiple units of housing. It is unique relative even to other purpose-built corner lots on this same square. Accordingly, granting relief shall not be a substantial detriment to the public good, nor impair the intent, purpose, and integrity of the zone plan.

C. 900 Foot Rule Cases and Standard

While the Board does not apply precedent in the judicial sense and considers each application on its own merits, when multiple cases present materially identical fact patterns, the variance standard should be applied consistently. Cases involving purpose-built apartment buildings in the RF-1 zone that became nonconforming due to later-adopted land area requirements are relatively rare. However, in the instances where such cases have arisen, the Board has consistently granted area variance relief under U § 301.5(b) to allow for the internal conversion of vacant space into additional dwelling units.

Several prior BZA decisions reflect this pattern. In BZA Case No. 19959, for example, the applicant sought area variance relief under the 900 foot rule to convert an existing utility and storage area in the basement of a purpose-built, five-unit apartment building at 2801 R Street SE into a sixth residential unit. The building, also constructed in 1941, became legally nonconforming following the adoption of the 1958 Zoning Regulations. As part of a broader modernization effort, the applicant in that case proposed relocating building systems — including common laundry — into individual units and moving HVAC compressors to the roof. This would free up the remaining basement space for productive use. The Office of Planning found that the building's original configuration, its legally nonconforming status, and the fixed lot size together with the

modernization effort and subsequent vacant space, created an exceptional condition. OP further agreed that strict compliance would result in a practical difficulty, as leaving the basement space vacant would create a security risk, and incorporating it into the unit above would require extensive alterations and loss of usable space for minimal gain. OP noted that the internal layout made it impractical to combine the basement space with either the existing basement unit or the ground-floor unit above. Finally, OP concluded that granting the variance would not cause substantial detriment to the public good or impair the intent of the zone plan, since the proposal involved no exterior changes and would complete the building's modernization in a code-consistent manner. The Board granted the requested relief.

This decision, and the others cited, do not bind the Board as precedent, of course, but they demonstrate a clear and consistent application of the variance standard when confronted with this specific combination of factors: a lawful but nonconforming structure, vacant lower level, sometimes a corner lot, a fixed lot size, a modest increase in density, and a proposal fully contained within the existing building. The Applicant in this case asks only that the same standard be applied to a nearly identical set of facts, albeit in another area of the District.² Denying relief here would reflect a departure from a defensible and well-established pattern in how similar cases have been handled.

A. Special Exception Requirements of Subtitle C-703.2.

As described below, the Applicant is unable to provide parking due to the lack of alley access, physical constraints of the property, and inability to obtain a curb cut. Accordingly, the Applicant is requesting special exception relief for one parking space pursuant to C § 703.2.

Section 703.2 “The Board of Zoning Adjustment may grant a full or partial reduction in number of required parking spaces, subject to the general special exception requirements of Subtitle X, and the applicant’s demonstration of at least one (1) of the following:

The Applicant is only required to satisfy one of the considerations under C § 703.2. The information below includes the section that most safely applies to this subject Property and Application.

² BZA Case that is ‘unique not for all of DC, but the neighborhood/area/square.’”

(a) Due to the physical constraints of the property, the required parking spaces cannot be provided either on the lot or within six hundred feet (600 ft.) of the lot in accordance with Subtitle C § 701.8;

The Property does not have access to any alley. The only way cars could access the Property is if curb cuts were created via 17th Street or A Street. DDOT does not permit curb cuts to one single space. Even if DDOT permitted that, there would be no room for parking on the site given the existing improvements, which have existed in their current configuration since 1941. The majority of the properties in the area are similarly situated with respect to access. Any nearby parking spaces within 600 feet are dedicated to the principal use on that respective lot. Accordingly, Applicant is unable to physically provide parking on the lot or within 600 feet of the lot.

(b) The use or structure is particularly well served by mass transit, shared vehicle, or bicycle facilities; (c) Land use or transportation characteristics of the neighborhood minimize the need for required parking spaces;

The Property is well served by mass transit. The Property is located two and a half blocks from the Stadium Armory Metro line (approximately 0.2 miles), for example. According to WalkScore.com, it has “excellent transit.” Additionally, the Property has a Walk Score of 81 and is considered a “Very Walkable”, as well as a BikeScore of 95—a “Biker’s Paradise.” This means that most errands can be accomplished on foot, and daily errands can be accomplished on a bike. This is further enforced by the Property’s location relative to coffee shops, bars/restaurants, parks, RFK Stadium, dog parks and other recreation. Accordingly, the characteristics of the neighborhood minimize the need for the required parking spaces.

Section C-703.3 Any reduction in the required number of parking spaces shall be only for the amount that the applicant is physically unable to provide, and shall be proportionate to the reduction in parking demand demonstrated by the applicant.

The reduction in the required number of parking spaces (one space) is only for the amount the Applicant is physically unable to provide. Regarding demand for parking, as discussed above, the Applicant anticipates that the transportation characteristics, size of the units, and amenities in the neighborhood will attract residents without cars.

V. **CONCLUSION.**

For the reasons outlined in this statement, the Applicant respectfully requests the variance relief as detailed above.

Respectfully Submitted,

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