
Application of Ms. Ana B. Reyes
3613 13th St. NW
Washington, DC 20010
ANC 1A

STATEMENT OF THE APPLICANT

I. Nature of the Application:

This application is presented by Ms. Ana B. Reyes, the owner of Tax Lot 0139, Square 2829, street address 3613 13th St. NW ("Property"), which is located in the RF-1 zone.

The Applicant seeks an **area variance from the minimum lot-area requirement of 11 DCMR Subtitle U § 320.2(c)** in connection with the conversion of the existing residential building to an apartment house containing three dwelling units. Subtitle U § 320.2(c) requires a minimum of nine hundred square feet (900 sq. ft.) of land area for each existing and new dwelling unit. For three dwelling units, the regulation therefore requires a minimum lot area of 2,700 square feet.

The Property contains approximately 2,556 square feet of land area and is therefore approximately **144 square feet, or 5.3%, below the otherwise applicable lot-area requirement** for three dwelling units. The Applicant accordingly requests an area variance from Subtitle U § 320.2(c) pursuant to Subtitle X, Chapter 10.

II. Description of the Property and the Surrounding Area:

The Property has a land area of approximately 2,556 square feet and is located on the east side of 13th Street NW in the RF-1 zone. The Property is improved with an existing residential row building consisting of a basement plus two above-grade floors.

The Property is an existing developed residential lot and no enlargement of the building is proposed in connection with the requested relief.

The Property also has an unusual history relevant to the requested relief. A 1949 Certificate of Occupancy issued for the Property documents a change in occupancy from three apartments to two apartments. Although the Applicant does not rely upon that Certificate as establishing a presently vested right to three dwelling units, the Certificate constitutes contemporaneous District documentation that the Property was historically recognized as containing three apartments.

The surrounding area is characterized by attached row dwellings and other residential development. The proposed third dwelling unit would be accommodated within the existing building envelope, with no enlargement of the building proposed.

III. Description of the Relief Requested:

The Applicant requests an area variance from 11 DCMR Subtitle U § 320.2(c), which requires a minimum of 900 square feet of land area for each existing and new dwelling unit in a residential conversion.

For three dwelling units, the applicable minimum lot area is 2,700 square feet. The Property contains approximately 2,556 square feet and therefore falls short of the requirement by only **144 square feet**.

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approximately 5.3%. Stated another way, the Property contains approximately **94.7% of the lot area otherwise required for three dwelling units.**

The requested variance is therefore limited in scope. The Applicant does not seek an enlargement of the existing building in connection with the requested third dwelling unit. Rather, the requested relief concerns only the relatively modest deficiency between the Property's existing, fixed lot area and the minimum lot area required by Subtitle U § 320.2(c).

IV. Project Meets Standard for Area Variance:

As provided by 11 DCMR Subtitle X, the Board may grant an area variance where the Applicant demonstrates that: (1) the Property is affected by an extraordinary or exceptional situation or condition; (2) strict application of the Zoning Regulations would result in peculiar and exceptional practical difficulties; and (3) the relief may be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the Zone Plan.

Unlike a use variance, an area variance does not require the Applicant to demonstrate exceptional and undue hardship. Rather, the applicable standard is whether strict compliance with the area requirement would result in practical difficulties.

The Property is affected by an extraordinary or exceptional situation or condition:

The exceptional condition of the Property arises from a **confluence of property-specific circumstances**, rather than from any single characteristic considered in isolation.

Those circumstances include the Property's existing and fixed lot area of approximately 2,556 square feet; the unusually small difference of only 144 square feet between that lot area and the 2,700 square feet required for three dwelling units; the presence of an existing residential building developed on that fixed lot; and the Property's unusual documented occupancy history, including a 1949 Certificate of Occupancy recording a change in occupancy from three apartments to two apartments.

The D.C. Court of Appeals has recognized that the extraordinary or exceptional condition necessary for variance relief may result from a "confluence of factors" affecting a particular property. *Gilmartin v. District of Columbia Board of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990).

The Applicant does not contend that a 2,556-square-foot lot or the Property's historical occupancy is independently sufficient to establish an exceptional condition. Rather, these circumstances must be considered together. This is an already-developed residential property whose fixed lot area comes within approximately five percent of satisfying the dimensional requirement for three dwelling units and for which District records document a historical three-apartment condition.

Importantly, **the exceptional condition asserted by the Applicant does not depend upon alterations undertaken by the present owner or upon the present interior configuration of the building.** The circumstances giving rise to the requested variance - the fixed lot dimensions, existing building, and documented historical occupancy - exist independently of any recent alterations to the Property.

The strict application of the Zoning Regulations would result in peculiar and exceptional practical difficulties to the owner of the Property:

Strict application of Subtitle U § 320.2(c) would produce a practical difficulty disproportionate to the limited dimensional deficiency for which relief is requested.

The Property contains 2,556 square feet where 2,700 square feet is required. Strict application would therefore preclude a third dwelling unit because the Property is **144 square feet - or approximately 5.3%**

- short of the prescribed lot area.

The lot is existing and fixed, and the Applicant has no practical means of creating the additional 144 square feet of land necessary to satisfy the regulation. Consequently, notwithstanding the Property's historical three-apartment condition, the dimensional deficiency operates as an absolute impediment to the requested three-unit conversion.

The Court of Appeals has recognized that the Board may consider the weight of the burden of strict compliance, the severity of the variance requested, and the effect of the requested variance upon the Zone Plan when determining practical difficulty. *Gilmartin*, 579 A.2d at 1171.

Here, the severity of the requested dimensional variance is particularly modest. The Property provides approximately **94.7% of the required lot area**, leaving a deficiency of approximately 5.3%. The practical difficulty therefore arises from the interaction between the Property's fixed dimensions, its existing developed condition and documented historical occupancy, and the relatively minor dimensional shortfall.

The requested relief is not based upon a desire to preserve or obtain the benefit of unauthorized alterations. Rather, the practical difficulty exists **independently of those alterations** and results from characteristics and historical circumstances specific to the Property.

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:

The requested relief can be granted without substantial detriment to the public good or substantial impairment of the Zone Plan.

The variance would permit a deviation of only 144 square feet from the 2,700-square-foot lot-area requirement. No enlargement of the existing building is proposed in connection with the requested relief. Accordingly, granting the variance would not result in additional building bulk or the associated effects on neighboring light, air, privacy, or the established physical character of the block.

The requested relief is also narrowly tied to the circumstances of this particular Property. The Applicant seeks relief from approximately **5.3% of the applicable lot-area requirement** on an existing developed lot with a documented historical three-apartment condition. Granting the variance therefore would not eliminate or substantially undermine the 900-square-foot-per-unit standard applicable generally to residential conversions.

Rather, it would permit a limited dimensional adjustment based upon the particular confluence of circumstances affecting this Property while allowing the building to remain within its existing envelope and maintaining its residential use.

V. Conclusion:

For the reasons stated above, the Applicant believes that the requirements for area variance relief from 11 DCMR Subtitle U § 320.2(c) have been satisfied.

The Property is affected by an extraordinary or exceptional condition arising from the **confluence of its fixed lot dimensions, existing developed condition, documented historical occupancy, and unusually modest dimensional deficiency**. District records document that the Property contained three apartments in 1949 before its occupancy was changed to two apartments. Today, the Property's 2,556-square-foot lot falls only 144 square feet, or approximately 5.3%, below the 2,700-square-foot lot area required for three dwelling units.

Strict application of the requirement therefore creates a property-specific practical difficulty, while the limited relief requested can be granted without substantial detriment to the public good or substantial impairment of the intent, purpose, and integrity of the Zone Plan.

Accordingly, the Applicant respectfully requests that the Board grant the requested area variance.