

1316 Van Buren St. NW
Square: 2785 Lot: 0037
Zone: R-1B

Burden of Proof Statement

I. Brief Burden of Proof Statement (Background and Relief Requested)

This Burden of Proof Statement is submitted on behalf of Montez Miller (the "Applicant") in support of a request for Use Variance relief from the District of Columbia Zoning Regulations of 2016, as amended. The property at issue is located at 1316 Van Buren St. NW, Washington, D.C., designated as Square: 2785, Lot: 0037. The property is situated in an R-1B zoning district. The Applicant proposes to maintain two dwelling units on a single parcel that will not be owner-occupied. There is no new construction required for this proposal, as both dwelling units are already fully completed under Department of Building (DOB) permits. The Applicant seeks a Use Variance under Subtitle X § 1002, specifically requesting relief from Subtitle U Section 253.5. The relief requested allows the Applicant to utilize the already completed dwelling units without the owner-occupancy requirement, avoiding peculiar and exceptional practical difficulties and undue hardship.

II. Jurisdiction

The Board has jurisdiction to grant the use variance requested pursuant to § 8 of the Zoning Act and Subtitle X § 1000.1; 1002.1(b).

III. The Application Meets the Requirements For Use Variance Relief

A. Standard of Review

Pursuant to Subtitle X § 1000.1 of the District of Columbia Zoning Regulations, this Board is authorized to grant the requested relief where the strict application adopted under D.C. Official Code §6-641.01 to §6-651.02 would result in peculiar and exceptional practical difficulties to or exceptional and undue hardship upon the owner of the property. A variance departs from the strict application so as to relieve those difficulties or hardship.

Specifically, Subtitle X § 1002.1 (b) states, "an applicant for a use variance must prove that, as a result of the attributes of a specific piece of property described in Subtitle X § 1000.1, strict application of a zoning regulation would result in exceptional and undue hardship upon the owner of the property". The District of Columbia Courts have regularly assessed this standard under a three-prong test requiring the applicant to show that (1) there is an extraordinary or exceptional condition affecting the property; (2) practical difficulties will occur if the zoning regulations are strictly enforced

(undue hardship); 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.

The Applicant meets the requirements for relief and should be granted a use variance.

B. The Current State of the Property Presents an Exceptional Condition.

Under Subtitle X § 1002.1, the Board may grant a variance where it finds that the property is affected by an exceptional situation or condition. In this instance, the extraordinary condition affecting the property is that both dwelling units have already been fully constructed and completed under officially issued Department of Building permits. Because the physical layout and structural completion of the two units were authorized by the DOB, the property possesses unique, legally permitted physical attributes that are exceptionally hindered by the strict application of the owner-occupancy requirements of Subtitle U Section 253.5.

C. Denial of the Use Variance presents an Undue Hardship on the Applicant.

The strict application of the Zoning Regulations would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the owner of the property. Because there is no construction required and the units are already completed under DOB permits, strict enforcement of the R-1B and Subtitle U Section 253.5 regulations would compel the Applicant to either leave a permitted, habitable unit vacant or execute costly and unnecessary structural reversions. Preventing the utilization of a fully constructed, permitted second unit due to the owner-occupancy restriction imposes a severe limitation on the utility of the structure and constitutes a clear economic and practical hardship.

D. There will be No Substantial Detriment to the Public Good or Substantial Impairment to the Intent, Purpose, and Integrity of the Zone Plan.

Granting the requested variance will not result in substantial detriment to the public good and will not substantially impair the intent, purpose, and integrity of the Zoning Plan. This assertion is supported by the following factors:

- **Consistency with context:** The proposed building remains consistent with the general scale, character, and mix of uses anticipated in the R-1B zone.
- **Limited scope of relief:** The relief requested is narrowly tailored to address the property's exceptional condition and does not open the door to more intensive or inappropriate development.
- **Public benefits:** The project provides new housing, which serves the public interest.

- **No harmful impacts:** The variance will not cause undue traffic, parking, noise, light, or privacy impacts on surrounding properties beyond what is typical and expected for the zone.

Accordingly, the requested variance can be safely granted without harm to the public good or the overarching zoning framework.

E. Conclusion

For the reasons set forth above, the Applicant respectfully submits that the proposed project meets all the criteria for approval of a variance under Subtitle X § 1002. Therefore, the Applicant requests that the Board of Zoning Adjustment approve the requested relief for the property at 1316 Van Buren St. NW, Square: 2785, Lot: 0037.

Respectfully submitted,

David den Daas
Principal
UrbanLab Architecture
+1 202 286 6461