

APPLICATION OF SAMUEL
MEDEIROS AND JESSICA
ELLIS
BZA 20389

1915 SHEPHERD STREET NE

NATURE OF RELIEF SOUGHT

- AREA VARIANCE : PURSUANT TO 11 DCMR SUBTITLE X CHAPTER 10 § 1001.1 UNDER SUBTITLE D §§ 302.1 AND 206.2 FROM THE MINIMUM LOT WIDTH AND MINIMUM SIDE YARD RESPECTIVELY

COMPLIANCE WITH BURDEN OF PROOF

A. EXTRAORDINARY CONDITION OR EXCEPTIONAL SITUATION OR CONDITION OF PROPERTY.

- *THE PAST ZONING HISTORY OF A PARCEL CAN BE TAKEN INTO ACCOUNT IN THE UNIQUENESS FACET OF THE VARIANCE TEST (MONACO V. DISTRICT OF COLUMBIA Bd OF ZONING ADJUSTMENT; APP: D. C. 407 A 2D 1091 (1979))*
- *TO SUPPORT A VARIANCE, IT IS FUNDAMENTAL THAT THE DIFFICULTIES OR HARDSHIPS BE DUE TO UNIQUE CIRCUMSTANCES PECULIAR TO THE APPLICANT'S PROPERTY AND NOT TO GENERAL CONDITIONS IN THE NEIGHBORHOOD" (GILMARTIN V. DISTRICT OF COLUMBIA BOARD OF ZONING ADJUSTMENT, 579 A..2D 1164 ("PALMER"))*
- *THE PHRASE "EXCEPTIONAL SITUATION OR CONDITION" IN THE VARIANCE TEST APPLIES NOT ONLY TO THE LAND BUT ALSO TO A PROPERTY'S HISTORY (CLERICS OF ST VIATOR, INC. V. DISTRICT OF COLUMBIA Bd OF ZONING ADJUSTMENT. 320 A.2D 291, 294 (D.C. 1974))*

COMPLIANCE WITH BURDEN OF PROOF

APPLICANT SUBMITS THAT SUBJECT PROPERTY COMPLIES WITH THIS VARIANCE TEST BY VIRTUE OF PLAT OF COMPUTATION HISTORY (TAX LOT HISTORY)

IN 1907 SURVEY LAYOUT SHOWS RECORD LOTS 1 THRU 11 IN RESPECTIVE ORIGINAL CONFIGURATION.

THE BAIST'S MAP ATTESTS THAT WHEREAS LOTS 1 THRU 8 HAD UNDERGONE LOT RECONFIGURATION BY WAY OF A&T LOT COMPUTATION AS OF MAY 12, 1958, NOT SO LOTS 9, 10 & 11.

THE TAX MAP OF RECORD LOTS, AND ITS CORRECTED VERSION ATTESTS THAT A&T LOT COMPUTATION TO RECONFIGURE OWNERSHIP STRUCTURE OF LOTS OF RECORD 9, 10 & 11 DID NOT OCCUR UNTIL 1968 AND 1971 RESPECTIVELY

A&T PLAT OF COMPUTATION FOR TAX LOT #S 0829 THRU 0833 WHICH DIVIDED RECORD LOTS 9, 10, & 11 FOR TAX AND ASSESSMENT PURPOSES ONLY, WAS CREATED IN 1971 AND IS "RECORDED" OR REGISTERED IN THE RECORDS OF THE DC SURVEYOR

A&T PLAT OF COMPUTATION FOR TAX LOT 0841 COULD THEREFORE ONLY HAVE BEEN CREATED AFTER 1971 AND DID NOT EXIST IN THE RECORDS OF THE DC SURVEYOR UNTIL SUBMITTED TO THE DC SURVEYOR ON 9/4/2020 AND "RECORDED" BY THE DC SURVEYOR ON 10/2/2020

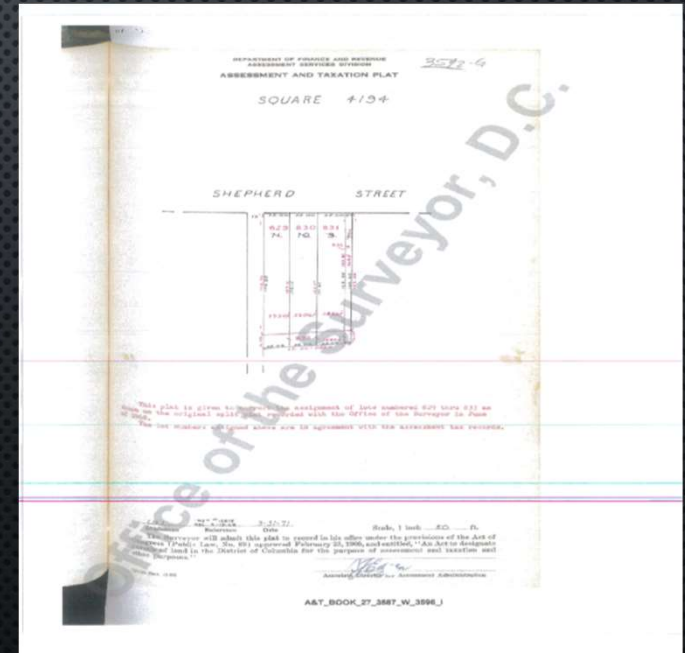
THE BUILDER'S PLAT ISSUED BY THE DC SURVEYOR AS DEPICTING A&T LOT 0841 CONTAINS ERRORS OF DIMENSIONS AND ITS VALIDITY IS QUESTIONABLE BECAUSE IT IS PREDICATED ON AN A&T PLAT OF COMPUTATION DRAWN AND SUBMITTED TO THE DC SURVEYOR BY A PRIVATE LICENSED SURVEYOR AND NOT FORMALLY THRU THE OFFICE OF TAXATION AND ASSESSMENT (OTR), AS PRESCRIBED BY APPLICABLE LAW OR REGULATION

A&T LOT OF COMPUTATION # 0833 CREATED IN 1971 IS NOW PART OF A&T LOT # 0836; WHICH INCLUDES LOTS OF RECORD #S 39 AND 40.

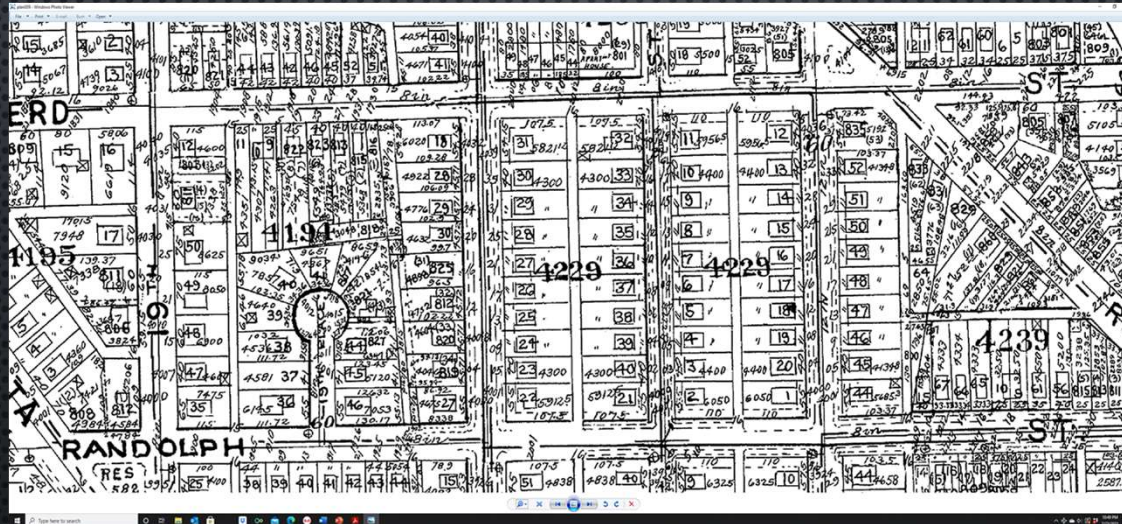
A&T LOT 0836 IS NOT RECORDED AND DOES NOT EXIST IN THE RECORDS OF THE DC SURVEYOR, HAVING NEVER BEEN TRANSMITTED BY OTR AS PRESCRIBED BY LAW/REGULATION. EVEN THEN RECORD LOTS 39 AND 40 REMAIN VALID RECORD LOTS UNTIL THE OWNER EFFECTS A TRUE SUBDIVISION TO CONSOLIDATE LOTS 39, 40 AND A&T LOT 0833 INTO A SINGLE LOT OF RECORD

ALL LOTS WITHIN THE SQUARE HAD UNDERTAKEN TAX LOT RECONFIGURATION PRIOR TO MAY 12, 1958 OR EXISTED AS RECORD LOTS, THE UNIQUE EXCEPTION BEING LOTS 9, 10 AND 11; THE SUBJECT OF THIS APPLICATION

1907 SURVEYOR RECORD VERSUS 1971 PLAT OF COMPUTATION



BAIST'S MAP PROPERTY CONFIGURATION ON MAY 12, 1958



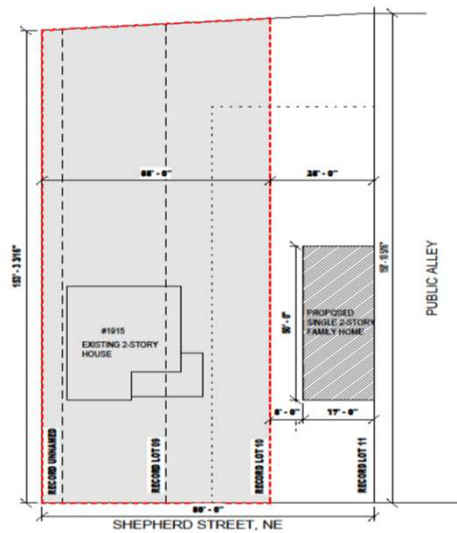
COMPLIANCE OF BURDEN OF PROOF CONTINUED

B. PECULIAR AND PRACTICAL DIFFICULTIES UPON THE OWNER OF PROPERTY

THE A&T LOTS EFFECTED BY A PLAT OF COMPUTATION IN 1971 WHILE NOT PROHIBITED, EFFECTIVELY MADE MORE NONCONFORMING WITH RESPECT TO LOT AREA RECORD LOTS 9, 10 & 11 BY TRANSFERRING OWNERSHIP OF PARTS OF THOSE LOTS TO ANOTHER ENTITY (SEE EXHIBIT # 10)

THE EXISTING BUILDING STRADDLES PROPERTY LOT LINE BETWEEN LOTS 9 AND 10 AND A TRUE RECORD LOT SUBDIVISION TO COMBINE THESE TWO LOTS CREATES AN ANOMALOUS OUTCOME FOR PURPOSES OF THE ZONING REGULATIONS RECORD LOT 11 REMAINS A VALID LOT

OUTCOME OF DEVELOPMENT OF RECORD LOT 11. COMPARATIVE PURPOSES ONLY



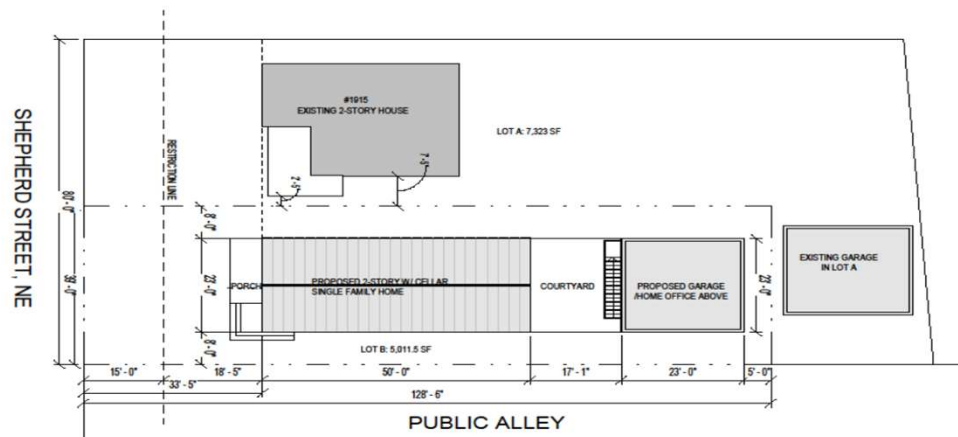
PROPOSED SINGLE FAMILY HOME - RECORD LOT 11



BASE LOT MAP



PROPOSED SITE LAYOUT



MAIN HOUSE GROSS:
2,258 SF
MAIN HOUSE NET:
2,000 SF +/-

STUDIO ABOVE GARAGE GROSS:
529 SF
STUDIO ABOVE GARAGE NET:
500 SF +/-

GARAGE GROSS:
529 SF

1915 Shepherd Street NE
14 Sept 2020 | Schematic Design

Site
1/16" = 1'-0" | P-02

 inscapestudio
© 2019

COMPLIANCE OF PROOF OF BURDEN CONTINUED

C. SUBSTANTIAL DETRIMENT TO PUBLIC GOOD AND SUBSTANTIAL IMPAIRMENT OF INTENT, PURPOSE AND INTEGRITY OF THE ZONE PLAN

- THE PROPOSED SUBDIVISION IS IN FACT A RECONFIGURATION OF THE BOUNDARIES OF FOUR RECORD LOTS WHICH ARE SUBSTANDARD BUT WILL RESULT IN LOT CONFIGURATION CONSISTENT WITH THE AVERAGE WIDTH AND AREA OF LOTS WITHIN ITS SQUARE OR LOCATION
- THE PROPOSED LOTS COMPLY WITH THE MINIMUM LOT AREA REQUIREMENT FOR ITS R-1-B ZONE DISTRICT OF LOCATION
- THE PROPOSED SUBDIVISION ELIMINATES LOT LINES WHICH STRADDLE EXISTING STRUCTURES
- THE PROPOSED SUBDIVISION RESULTS IN AN ADDITIONAL SINGLE-FAMILY DETACHED DWELLING AND FURTHERS THE MAYOR'S POLICY GOAL TO INCREASE THE RESIDENTS IN THE DISTRICT OF COLUMBIA
- THAT PORTION OF SIDE YARD CLOSEST THE NEW SUBDIVIDED SIDE LOT LINE (2.4 FT. VERSUS 7.45 FT.) IS ONLY 38% OF THE DEPTH OF THE SIDE YARD AND AS WILL BE GRAPHICALLY REPRESENTED, IS WHOLLY AN OPEN PORCH PART OF THE EXISTING BUILDING.
- THE DISTANCE BETWEEN THE TWO ADJOINING WALLS (THAT IS 62%) OF THE DEPTH OF THE EXISTING BUILDING AND THE WALL OF THE NEW BUILDING IS APPROXIMATELY 15.45 FEET APART; AMPLE DISTANCE FOR LIGHT AND AIR IN COMPLIANCE WITH ALL APPLICABLE MUNICIPAL REGULATIONS
- THE PROPOSED SUBDIVISION CORRECTS THE ANOMALY OF OWNERSHIP STRUCTURE CREATED BY THE PLAT OF COMPUTATION ESTABLISHING A&T OR TAX LOTS

OFFICE OF PLANNING REPORT (OP)

- IN ACCORDANCE WITH THE 1977 CORPORATION COUNSEL OPINION A&T OR TAX LOTS ARE NOT AN INSTRUMENTALITY OF THE ZONING REGULATIONS HENCE THE RECORD LOTS REMAIN VALID
- APPLICANT CONTENDS THAT THE SUBJECT PROPERTY SHOULD BE VIEWED FROM THE CONTEXT OF THE EXISTING RECORD LOT CONFIGURATION – THAT IS AS THREE RECORD LOTS EACH WITH NONCONFORMING LOT WIDTHS OF 25 FEET AND LOT AREA FAR LESS THAN PRESCRIBED
- HENCE THE PROPOSED SUBDIVISION IS AKIN TO REALIGNMENT LOT CONFIGURATION TO ELIMINATE THE ANOMALY OF LOT LINE STRADDLING THE EXISTING STRUCTURE AND LOT WIDTH AND AREA BETTER CONSISTENT WITH THE PREVAILING AVERAGE IN THE SQUARE
- OP'S REPORT DID NOT WEIGH RELEVANT CASE LAW, THE UNIQUE HISTORY OF THE POST-1958 A&T LOT PLAT OF COMPUTATION AND THE CONTEXT OF THE 1977 CORPORATION COUNSEL OPINION
- THE LOT OP REFERS TO AS BEING 13,000 SQUARE FEET PLUS IN AREA IS BASED ON ITS OWNERSHIP STRUCTURE AND NOT ON THE RECORDS OF THE DC SURVEYOR

CONCLUSION

- APPLICANT SUBMITS THAT APPLICANT HAS MET THE BURDEN OF PROOF FOR THE GRANTING OF THE RELIEF AND RESPECTFULLY REQUEST THAT THE REQUESTED RELIEF(S) BE GRANTED FOR THE FOLLOWING REASONS:
- CONSISTENT WITH CASE LAWS CITED SUBJECT PROPERTY'S EXTRAORDINARY SITUATION OR CONDITION OF PROPERTY IS THE RESULT OF A ITS ZONING HISTORY OF A&T PLAT COMPUTATION WHICH EFFECTIVELY ALTERED THE OWNERSHIP STRUCTURE OF OTHERWISE STILL VALID RECORD LOTS
- THE SUBDIVISION EFFECTIVELY IMPROVES UPON THE NONCONFORMING CONFIGURATION OF THE EXISTING RECORD LOTS AND ALIGNS WITH THE PREVAILING AVERAGE LOT WIDTH IN ITS SQUARE OF LOCATION
- THE ADDITIONAL HOUSING PRODUCED IS CONSISTENT WITH THE GENERAL GOAL OF INCREASING THE NUMBER OF RESIDENTS IN THE DISTRICT