

**Statement in Support of Area Variance Relief**

**From the Strict Requirement of Section 2507.3 – Conversion of Non-Residential Structures  
on Alley Lots -  
1018 Irving Street N.W.; Square 2851, Lot 219, 220 and 221**

I.

Nature of Relief Sought

This Statement is submitted on behalf of Alleyoop LLC (the “Applicant”), the owner of the property located at 1018 Irving Street (Square 2851, Lot 219, 220 and 221) (the “Property”) and located in the R-4 zone (see the Zoning map attached with this Application). The Applicant proposes to convert an automotive garage (the “Building”) into a 2-unit apartment house with an office space (the “Proposed Addition”). Therefore, the Applicant is seeking area variance relief from Section 2507.3, the prohibition against conversion of non-residential structures located on alley lots. This Application is effectively a request for a revision of BZA Order No. 18511.

II.

Description of Subject Property and BZA History

A. The Subject Property and Surrounding Area.

The Property is a large alley lot, approximately 5,901 square feet of land area and a width of roughly 52.7 feet. Pursuant to BZA Order No. 18511 (discussed below), the lot has been subdivided into three lots (Lots 219, 220, and 221). The Property is located in the Columbia Heights neighborhood of Northwest D.C., and is zoned R-4. The Property is currently improved by an automotive garage that is no longer in use. It is bounded to the east, west, and south, by public alleys. The north side of the Property was historically abutted by a public alley as well.

However, that segment of the public alley was subsequently deeded to the properties abutting Irving Street.

The square is mostly characterized by two to 2.5-story row dwellings, as well as a few three-story row dwellings. A three-story multi-family apartment building fronts on Sherman Avenue on the Square's east side. The neighborhood is comprised of row dwellings, low density commercial uses, and some garden apartment houses.

The Property is improved with a one-story, 18.5 foot tall, automotive repair shop that has been in use since at least 1928 and remained in use until September 2012. The automotive repair shop is considered a nonconforming structure and use. The Applicant was granted relief from the nonconforming structure requirements, and from the height limitations on alley lots in BZA Case No. 18511, as discussed below.

#### B. BZA History

The Property was previously the subject of BZA Case No. 18511. In that case, the Board granted approval for a subdivision of the alley lot into three separate lots and the conversion of the existing automotive garage to an office use and two artist studios. The Applicant originally requested area variance relief from limitations on height for buildings on alley lots, nonconforming structure requirements, and a use variance to convert the garage into office and two residential units. On May 7, 2013, the Applicant filed an Amended and Restated Application, which among other things called for elimination of the residential use and a reduction in height. The Board approved the Application on July 23, 2013, granting relief from the alley height requirements, the use requirements, nonconforming structure requirements, lot area and width requirements, and side yard requirements, to allow the applicant to subdivide the alley and convert the garage.

The Order took effect on January 23, 2014. On January 6, 2016, the Applicant filed a request to extend the BZA Order No. 18511, as the Applicant has been unable to find tenants for the artist studio space.

C. Description of Project

Pursuant to BZA Order No. 18511, the Applicant has subdivided the lot into lots 219, 220, and 221. Each subdivided lot is occupied by a portion of the existing structure. The portion of the structure on lot 221 will be occupied by an office use as approved by Order No. 18511. The portions of the structure on lots 219 and 220 will each be devoted to residential use. Accordingly, the Applicant is requesting relief from the prohibition against conversion of non-residential structures located on alley lots of Section 2507.3, so that it may now use the space previously approved for artist studio use as residential use.

III.

Burden of Proof

The burden of proof for variance relief is well established. The Applicant must demonstrate that the Property is affected by an exceptional or extraordinary situation or condition, that the strict application of the Zoning Regulations will result in a practical difficulty to the Applicant, and that the granting of the variance will not cause substantial detriment to the public good nor substantially impair the intent, purpose or integrity of the zone plan. *Palmer v. BZA* 287 A.2d 535, 541 (D.C. 1972). As summarized below, the application meets the three-part test for area variance relief.

A. The Property is Affected by an Exceptional Situation or Condition.

The Property meets the “exceptional condition” element of the variance test due to a confluence of factors. The lot is the largest on the Square, roughly three times larger than some of the biggest lots and 8.5 times larger than the lots in the southeast corner. The lot is also an irregular octagonal shape and the existing structure follows this awkward shape of the lot, creating a bay and many angular walls. The Property is contaminated by oils, solvents, and chemicals due to its extended use as an automotive repair shop. Environmental remediation may be required, including excavation and removal of contaminated soil, as well as hauling and dumping fees. At the time of purchase, the applicant neither knew, nor had reason to know, the extent of environmental contamination. The existing structure is in poor condition due to a damaged roof structure, deteriorating exterior walls, water damage, and fire damage. The roof structure on the Property suffers from substantial fire and water damage. The roof structure will need to be removed and replaced. The existing masonry walls have been compromised due to the damaged roof structure and the structure is exceptionally tall considering it is only one story. These factors create an exceptional condition and because of this condition, a strict application of the Zoning Regulations would result in a practical difficulty.

**B. Strict Application of the Zoning Regulations Would Result in a Practical Difficulty**

To satisfy the second element for an area variance standard, the Applicant must demonstrate “practical difficulty.” In this case, a strict application of the zoning regulations would result in a practical difficulty because despite the Applicant’s efforts, there is little demand for artist studio space. Section 2507.3 states that non-residential structures located on alley lots shall not be converted, altered, remodeled, restored, or repaired for human habitation. The Applicant is requesting relief from this strict prohibition because the costs associated with

the environmental remediation and substantial structural repairs make it so that the only way the Applicant can do a viable project is through a conversion of the garage to residential/office use.<sup>1</sup>

C. Relief can be Granted Without Substantial Detriment to the Public Good and Without Impairing the Intent, Purpose and Integrity of the Zone Plan.

Finally, the applicant must demonstrate that “granting the variance will do no harm to the public good or to the zone plan.” *Gilmartin*, 579 A,2d at 1167. The granting of a variance from the non-residential alley lot requirements can be granted without substantial detriment to the public good and without impairing the intent, purpose and integrity of the Zone Plan.

IV.

Conclusion

For the aforementioned reasons, the Applicant requests that the Board approve this application as submitted.

Respectfully,



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<sup>1</sup> At the time of consideration of Application No. 18511, relief from Section 2507.3 was considered use variance relief. Subsequent to that decision, the Zoning Commission adopted Section 3103.5(d), which specifically identifies relief from Section 2507.3 as area variance relief.