

**GOVERNMENT OF THE DISTRICT OF COLUMBIA**  
**Board of Zoning Adjustment**



**Application No. 17524 of Andrew and Suk Yang Johnson**, pursuant to 11 DCMR § 3103.2, for a variance from the floor area ratio requirements of § 771.2, to establish a dry cleaners (drop-off and pick-up only) in the C-1 District at premise 1425 27<sup>th</sup> Street, N.W. (Square 1262, Lot 76).

**HEARING DATE:** October 17, 2006  
**DECISION DATE:** November 14, 2006

**DECISION AND ORDER**

This application was filed on May 17, 2006 by Andrew and Suk Yang Johnson (collectively, “Applicant”), the owners of the property which is the subject of the application (“subject property”). The self-certified application requested variance relief from the maximum permitted floor area ratio (“FAR”) of 1.0 for any use, in order to allow the whole of the subject property, with a nonconforming FAR of 2.1, to be used as a dry cleaning establishment.

The Board of Zoning Adjustment (“Board”) held a hearing on the application on October 17, 2006 and set a decision date of November 14, 2006. The Board kept the record open for further submissions from both the Applicant and the opposition, which were received prior to the decision date. On November 14, 2006, the Board denied the application by a vote of 4-1-0.

**PRELIMINARY MATTERS**

Notice of Application and Notice of Hearing. By memorandum dated May 22, 2006, the Office of Zoning (“OZ”) gave notice of the filing of the application to the D.C. Office of Planning (“OP”), the D.C. Department of Transportation (“DDOT”), Advisory Neighborhood Commission (“ANC”) 2E, the ANC within which the subject property is located, the Single Member District member for 2E06, and the Councilmember for Ward 2. Pursuant to 11 DCMR § 3113.13, OZ published notice of the hearing in the *District of Columbia Register* and on August 1, 2006, mailed such notice to the Applicant, ANC 2E, and all owners of property within 200 feet of the subject property.

Requests for Party Status. There were 5 requests for opposition party status from nearby neighbors, 2 of which were granted. Opposition party status was granted to Ms. Courtney

Hagner and Mr. Thomas Alexander, who decided to consolidate into a single opposition party. There were also other letters in opposition, as well as a petition.

Government Reports. The Office of Planning submitted a report to the Board dated October 3, 2006 recommending denial of the variance relief requested by the Applicant. OP opined that granting the variance request would substantially impair the intent, purpose, and integrity of the zone plan, but suggested that it “could support” the application if the Applicant reduced the amount of square footage put to the dry cleaning use and put some of the property to a more neighborhood-compatible residential use.

Although the subject property is located within the Georgetown Historic District, the Applicant had not presented his proposal to the Historic Preservation Office therefore, there was no report in the record from that office.

ANC Report. ANC 2E, in a report dated October 6, 2006, indicated that, at a regularly-scheduled, properly-noticed meeting, with a quorum present, it voted unanimously, 7-0, to oppose the application. In its report, the ANC expressed particular concern with the potential parking and traffic impacts from the Applicant’s proposed use.

## **FINDINGS OF FACT**

### **The Subject Property and the Surrounding Area**

1. The subject property is located in Square 1262, Lot 76, at 1425 27<sup>th</sup> Street, N.W., in a C-1 zone district, and within the Georgetown Historic District.
2. The subject property is improved with a 2-story plus basement row dwelling constructed in 1914, which has always been used as a residence except for a period between 1985 and 1994, when it housed a commercial real estate office.
3. There is no rear alley behind the property; therefore, the only access to the property is from 27<sup>th</sup> Street, N.W.
4. The property is within a small pocket of commercial zoning surrounded on 3 sides by R-5-B and R-3 residential zoning, and on the fourth side by Rose Park, which is government-owned property and unzoned.
5. All of Square 1262 is designated for moderate density residential uses on the Generalized Land Use Map of the District of Columbia Comprehensive Plan, resulting in a conflict between this designation and the C-1 zoning of the northern portion of the Square, where the subject property is located.
6. All the current non-residential uses within this small pocket of C-1 zoning front on P Street, N.W. At the corner of P and 27<sup>th</sup> Streets, immediately adjacent to the north of the subject property, is a commercial use. Attached to the subject

row dwelling on its south runs a row of 7 attached row dwellings, all fronting on 27th Street and all currently used as residences.

7. The area of the subject lot is 685 square feet and the footprint of the row dwelling is 480 square feet, resulting in a FAR of approximately 0.7 square feet of gross floor area per floor and a total FAR of approximately 2.1.
8. The subject row dwelling is nonconforming for FAR because in a C-1 zone, the maximum permitted FAR for any use is 1.0. 11 DCMR § 771.2.

**The Applicant's Proposal**

9. The Applicant proposes to use the first floor and the basement, specifically the bathroom located in the basement, for a dry cleaning drop-off and pick-up business.<sup>1</sup>
10. Use of only the first floor and basement would result in a use of approximately 1.4 FAR, assuming the whole of the basement is included in the FAR calculation.
11. The Applicant proposes to seal off the second floor of the row dwelling and the rear egress from the basement, and not allow any access to either.
12. No actual dry cleaning would occur on the premises, only drop-off and pick-up therefore, on the first floor, there would be a customer service counter and a large, elliptically-shaped, rotating dry-cleaning conveyor belt rack.
13. The delivery and pick-up of the dry-cleaning would be done by a step-van, with pick-up likely occurring between 7:30 and 8:00 a.m., and delivery likely occurring around 4:30 to 5:00 p.m.
14. Such delivery and pick-up would require the delivery van to stop and/or park in front of, or near, the subject property for approximately thirty minutes each time.
15. The business would operate from approximately 7:00 a.m. to 7:00 p.m. Monday through Saturday.
16. It was unclear in the record whether there would be any change to the exterior of the property with lighting, signage, or other accoutrements of a commercial establishment.
17. Customers would be expected to walk or drive to the business.

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<sup>1</sup>The Applicant originally proposed to use all three floors of the subject row dwelling for the dry cleaning establishment, with the same configuration on the first floor as described here, but with offices and storage space on the second floor, and a bathroom and more storage space in the basement. During the proceedings on the application, this original proposal was modified to the final proposal set forth in these Findings of Fact.

18. Although the building is a nonconforming structure and the use proposed is conforming, the proposal to increase the non-residential use from 1.0 FAR to 1.4 FAR requires area variance relief.

**The Variance Test**

19. The lot is a regularly-shaped rectangle and is approximately the same size as the other lots in the neighborhood.
20. The subject row dwelling, although nonconforming for FAR, appears to be of a similar FAR to other row dwellings in the neighborhood.
21. The row dwelling is currently being used as a residence and can continue to be so used.
22. Use of the row dwelling as a dry cleaning establishment would likely increase noise coming from the dwelling, due to increased foot traffic and associated commercial activity.
23. Use of the row dwelling as a dry cleaning establishment would likely increase the amount of vehicular traffic coming to the address.
24. The subject property has no off-street parking space, garage, or driveway associated with it.
25. Because a maximum of 1.0 FAR for any use is permitted in this C-1 zone, the Applicant may, as a matter-of-right, use up to 1.0 FAR within the row dwelling for a commercial use.

**CONCLUSIONS OF LAW**

The Board is authorized to grant variances from the strict application of the Zoning Regulations to relieve difficulties or hardship where “by reason of exceptional narrowness, shallowness, or shape of a specific piece of property ... or by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition” of the property, the strict application of the Zoning Regulations would “result in particular and exceptional practical difficulties to or exceptional or undue hardship upon the owner of such property.” D.C. Official Code § 6-641.07(g)(3) (2001), 11 DCMR § 3103.2. The “exceptional situation or condition” of a property can arise out of structures existing on the property itself. *See, e.g., Clerics of St. Viator v. D.C. Board of Zoning Adjustment*, 320 A.2d 291, 293-294 (D.C. 1974). Relief can only 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.” D.C. Official Code § 6-641.07(g)(3) (2001), 11 DCMR § 3103.2.

An applicant for area variances must make the lesser showing of “practical difficulties,” as opposed to the more difficult showing of “undue hardship,” which applies in use variance cases. *Palmer v. D.C. Board of Zoning Adjustment*, 287 A.2d 535, 541 (D.C. 1972). The Applicant in this case, therefore, had to make three showings: exceptional condition of the property, that such exceptional condition results in “practical difficulties” to the Applicant, and that the granting of the variance will not impair the public good or the intent or integrity of the Zone Plan and Regulations.

The subject property has no extraordinary or exceptional situation or condition. It is a regularly-shaped rectangle improved with an ordinary-type row dwelling, which is currently being used as a residence. The FAR of the row dwelling is nonconforming, but does not appear to be out of character for the neighborhood. Although there is no rear alley access to the property, this actually militates against granting the variance because it would result in all traffic, including delivery van drop-offs and pick-ups, occurring on 27<sup>th</sup> Street.

Because the subject property is in a C-1 zone, the Applicant can use up to 1.0 FAR of the property for a commercial use, and has not demonstrated an inability to do so. The Board concludes that granting a variance to allow an even greater density of commercial use would be a substantial detriment to the public good, and would substantially impair the intent, purpose, and integrity of the zone plan. The row dwelling fronts on a residential street and is flanked by a row of 7 similar row dwellings to its south, all of which are currently being used as residences. The subject property is located in a small pocket of commercial zoning, which includes both sides of P Street, N.W., a more major street than 27<sup>th</sup> Street. This strip of commercial zoning extends off P Street to the north approximately the length of a row dwelling, but extends off P Street to the South much further, thereby capturing within it the subject property and several other row dwellings fronting not on P Street, but on the narrower and more residential 27<sup>th</sup> Street.

The use of extra FAR to permit a dry-cleaning establishment would harm the public good by negatively altering the residential character of 27<sup>th</sup> Street and increasing the amount of traffic in the neighborhood. As there is no off-street parking associated with the property and on-street parking is already quite tight, the delivery van, and perhaps customers, might well end up double-parking on 27<sup>th</sup> Street. This would be dangerous and detrimental to the public good.

The C-1 zone where the subject property is located is inconsistent with the designation of moderate density residential use slated for this property on the Generalized Land Use Map. The Board concludes that granting the variance to permit an extra-dense commercial use on the subject property would run afoul of the clear public policy enunciated in the Plan.



GOVERNMENT OF THE DISTRICT OF COLUMBIA  
Board of Zoning Adjustment



**BZA APPLICATION NO. 17524**

As Director of the Office of Zoning, I hereby certify and attest that on **FEBRUARY 2, 2007**, a copy of the order entered on that date in this matter was mailed first class, postage prepaid or delivered via inter-agency mail, to each party and public agency who appeared and participated in the public hearing concerning the matter, and who is listed below:

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**ATTESTED BY:**

  
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**JERRILY R. KRESS, FAIA**  
Director, Office of Zoning

TWR