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Tartan Management  
5100 - 23<sup>rd</sup> Road North  
Arlington, VA 22207  
Attention: Jenn Soult

RE: 3824-26 Beale Avenue/Tartan BC Ventures, LP, a request to add a third unit to a building converting a basement into an apartment on premises, 3824-26 Beale Avenue, in a suburban residential zone.

Your Petitioner appeared on its own behalf by and through Jenn Soult.

From the testimony presented at the hearing of February 8, 2017 and the Board's view of the subject premises, the Board makes the following:

#### FINDINGS OF FACT

1.

Your petitioner has an ownership interest in the subject property.

2.

Requisite notices were made and the property posted.

3.

The subject property is on a corner lot and obviously built and designed as a single family home, as are all the other properties in the block in which the subject property is located.

4.

At some point in time, from its original single family use, which is a permitted use in the zone, it had been apparently converted into a duplex.

5.

Duplexes are not permitted in the subject zone.

6.

Your petitioner now asks for permission to expand that use into a triplex.



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7.

Physically, there is nothing to prevent this property from being continued in its use as a duplex as it was once upon a time, nor as a single family residence.

8.

Testimony was presented, however, that the costs to reconvert the subject property from a duplex back into a single family resident, would be cost prohibitive, namely, that it would literally cost more to reconvert than the property would be worth.

9.

The property is already set up with two (2) different entrances for two different apartments, that is, a duplex.

10.

While presently there is only a one-car garage to accommodate parking, there is room off the alley to the rear from which entry could be made onto a paved parking facility to accommodate at least two (2) cars.

11.

Otherwise, being on a corner lot, parking could be had on-street.

12.

The subject area, at which your petitioner has requested to be a third apartment, is truly an unfinished basement.

13.

Within said basement, there are the utilities for two separate uses that are for the duplex.

14.

Separate meters for the utilities to the two separate duplexes are already and have been for sometime in existence, further demonstrating the prior use and changes to the property into a duplex.

15.

All parties admit that the duplex did exist and can exist and is the most economically feasible conversion of the said property.

16.

While more money could be generated by the use of a triplex, it is well recognized in zoning law that economic benefit is never a reason for a grant of a variance.

17.

The request is more or less a continuation of a pre-existing albeit non-conforming use, but is a use that accommodates and allows reasonable use of the property to be made without further increasing density or interfering with other permitted uses in the subject zone.

From the foregoing testimony, the Board makes the following:

### CONCLUSIONS OF LAW

1.

Your petitioner has failed to adequately prove that there exist such a unique circumstances and conditions peculiar to the property, whereby the property cannot otherwise be reasonably used and/or developed for a permitted purpose by your petitioner.

2.

Reasonable use of this property can certainly be made by your petitioner by and with the continuation of its use as a duplex.

3.

The variance to a triplex as requested would impair appropriate uses and/or development of properties adjacent thereto, and is not necessary for reasonable use of the property to be made.

4.

The permission to continue its use as a duplex represents the least modification of the regulations and/or plan at issue while allowing relief to your petitioner.

5.

The Board, therefore, concludes your petitioner has failed to satisfy the requirements for an expansion of the subject use.

### DECISION

WHEREFORE, THIS 17<sup>TH</sup> DAY OF February, A.D., 2017, THE BOARD DENIES THE REQUEST OF YOUR PETITIONER; PERMITTING IT, HOWEVER, TO CONTINUE ITS USE AS A DUPLEX AS IT HAD OBVIOUSLY BEEN DESIGNED, CHANGED TO, AND CONTINUED, TO BE USED PREVIOUSLY HERETO.

PETITIONERS MUST, OF COURSE, MEET ANY AND ALL OTHER CITY, STATE AND FEDERAL REGULATIONS AND/OR REQUIREMENTS PERTAINING TO THE SUBJECT PREMISES, WHICH ARE OUTSIDE THE JURISDICTION OF THE ALTOONA ZONING HEARING BOARD.

ANY AND ALL NECESSARY PERMITS INVOLVED MUST BE SECURED WITHIN SIX (6) MONTHS FROM THE DATE OF THIS NOTICE, OR THE AUTHORIZATION SHALL BECOME NULL AND VOID WITHOUT FURTHER ACTION OF THE BOARD.

ANY PERSON AGGRIEVED BY A DECISION OF THE ZONING HEARING BOARD MAY APPEAL THEREFROM TO THE COURT OF COMMON PLEAS WITHIN THIRTY (30) DAYS FROM THE DATE OF THIS NOTICE, IN THE MANNER SO PROVIDED BY LAW.

**THE ZONING HEARING BOARD OF THE  
CITY OF ALTOONA,**

Michael Halloran 2/13/17  
**Michael Halloran, Chairman**

Horace McAnuff 2-10-17  
**Horace McAnuff**

Richard J. Andrews 2-13-17  
**Richard Andrews**

Donna Royer 2-14-17  
**Donna Royer**

Cory Gehret 2-13-17  
**Cory Gehret**

MAILED TO YOUR PETITIONER: February 14, 2017  
Date

cc: William J. Stokan, Zoning Board Solicitor  
Lee Slusser, Director of Planning  
Marilyn Morgan, Planner II, Zoning Office