

STATE OF NEW YORK
CITY OF ALBANY

BOARD OF ZONING APPEALS

In the Matter of:

614 Madison Avenue, Albany New York; Tax Map No.
65.78-1-25 and Request Pursuant to

§375-5(F)(3)(d): No nonconforming use may be converted to a different nonconforming use unless the Board of Zoning Appeals determines that the alternative use is in the same or a less intensive land use category based on Table-3-1 (Permitted Use Table)

**AFFIDAVIT OF
DR. I. ARNOLD SLOWE**

Authorizing Substitution of a Basement Apartment and First Floor Studio and One Bedroom Apartment for Basement and First Floor Medical Office Space in the R-T Townhouse Zoning District.

STATE OF NEW YORK)
) ss.:
COUNTY OF ALBANY)

Dr. I. Arnold Slowe, being duly sworn, states:

1. I have personal knowledge of the facts set forth in this affidavit which I submit in support of the application to authorize an apartment in the basement and studio apartment and a one bedroom residential unit to replace two existing medical offices at 614 Madison Avenue, Albany, New York.

2. I am a partner at Madison Associates on the Park, LP (“Madison Associates”), the owner of 614 Madison Avenue, Albany, New York. Madison Associates is in the business of acquiring, renting and maintaining historic properties located on Madison Avenue, specifically those across from Washington Park and on Dana Avenue. Currently, Madison Associates owns and/or manages fifteen properties on Madison Avenue, (including one commercial building at 756 Madison) and four on Dana Avenue.

3. I purchased 614 Madison Avenue in or about 1973 and Madison Associates acquired the property on April 28, 2000. After acquisition of this property, Madison Associates has spent tens of thousands of dollars on maintenance and upkeep of this historic property with views of the beautiful Washington Park.

BACKGROUND

4. Having resided at, owned and maintained property at 612 Madison Avenue from 1939 through present, I possess a unique personal knowledge concerning that property and all the properties owned by Madison Associates in the immediate vicinity, including 614 Madison Avenue. 612 Madison abuts 614 Madison and is in the same row of connected multifamily buildings.

5. I practiced medicine at Albany Medical Center from 1964 to 1990. I am currently retired.

6. My place of residence during the time period from 1939 through 1958, was 612 Madison Avenue, when I graduated from Albany Medical Center.

7. I practiced medicine at this property from 1969 through 1990 as well.

8. I began purchasing properties in this area of Madison Avenue and Dana Avenue in or around 1972, and am fully familiar with the internal layout of the buildings, including 614 Madison Avenue, prior to 1968.

9. I knew many of the families that resided on Madison Avenue along the block from Robin Street to Knox Street and along Dana Avenue. All of the properties owned by Madison Associates on Madison Avenue were or became multiple family residences prior to 1968.

10. I personally viewed the inside of the buildings now owned by Madison Associates on numerous occasions and became familiar with their interior layout, configuration and number of residential dwelling units prior to 1968 and thereafter.

11. Based on all this personal experience, I can personally attest to, among other things, the number of residential dwelling units in buildings now owned by Madison Associates, including 614 Madison Avenue.

HISTORY OF 614 MADISON AVENUE

12. 614 Madison Avenue was originally owned by several doctors – C. Maynard Guest, Edward Atterian and Edward Nolan.

13. Atterian and Nolan were friends of mine and I visited the properties on numerous occasions. In or about 1963-64, the building consisted of a residential dwelling unit on the second floor and one dwelling unit on the third floor with office space on the first floor and in the basement.

14. The property was conveyed to me in 1973 and it consisted of the same configuration as I remembered in 1963-64, but with two two-bedroom apartments in the basement and first floor, which were then changed back to offices shortly after I purchased the property, and made other internal changes between 612 and 616 Madison to support the office use.

15. In 2012, the Building Department determined that two dwelling units and two offices were considered the legal pre-existing non-conforming use of the property. Attached and labelled Exhibit 1 is the letter from the Division of Buildings & Regulatory Compliance, dated May 3, 2012.

**DETERMINATION THAT THE ALTERNATIVE USE IS IN THE SAME
OR A LESS INTENSIVE LAND USE CATEGORY BASED ON TABLE-3-1
(PERMITTED USE TABLE)**

16. I respectfully submit that pursuant to the Permitted Use Table in the USDO, a basement apartment and a studio and one bedroom apartment in place of two medical offices space is the same or a less intensive land use category based on Table 3-1 (Permitted Use Table). Offices are not listed on the Permitted Use Table as being a permitted use in the R-T Zoning District. Therefore, by definition, it is a more intensive use.

17. In addition, the intent and purpose of the R-T Zoning District is to promote residential use of buildings. §375-2(C)(4)(b) provides:

The purpose of the R-T district is to provide for neighborhoods containing a **blend of townhouse-style residences of varying sizes and configurations**. These areas are often coterminous with the City designated historic districts and those areas of the City predating extensive zoning regulation. A mix of uses are permitted where the existing building typologies and built fabric of the area are consistent with such uses, as shown in Table 375-3-1 (Permitted Use Table).

18. The proposed use is clearly more in keeping with the purposes of the R-T Zoning District than two medical offices.

WHEREFORE, based on the foregoing, I respectfully submit that it was previously determined by the Division of Buildings and Regulatory Compliance Department that two residential and two medical offices have been in continuous use since 1968, and are considered a legal “grandfathered use”. Changing the existing basement and the first floor medical office space in the building to a one bedroom apartment in the basement and a studio apartment and one bedroom apartment, is clearly a less intensive use of the property and consistent with the purposes of the R-T Zoning District.


Dr. I. Arnold Slowe

Sworn to before me this
26th day of July, 2017


Notary Public

THOMAS A. SHEPARDSON
Notary Public, State of New York
Qualified in Albany County
No. 4956918
Commission Expires ~~October 2, 20~~
3/10/18

those across from Washington Park and on Dana Avenue. Currently, Madison Associates owns and/or manages fifteen properties on Madison Avenue (including one commercial property at 756 Madison Avenue) and four on Dana Avenue.

3. Of these fourteen properties on Madison Avenue and four on Dana Avenue, there are 45 studio and 28 one bedroom apartments, 7 two bedroom and one three bedroom apartment. The studio and one bedroom apartments are, typically, fully rented. We have, accordingly, found that there is a high demand in the City of Albany for such quality apartments at an affordable rent from people who desire all the many amenities that the City has to offer. These apartments are typically leased to one person who desires to live in the City of Albany on, and near, a major public transportation route with bus stops in close proximity to their residence. In our years of experience, approximately 95% of the time, these studios and one bedroom units are occupied by a single individual, without a car. However, Madison Avenue also owns parking spaces on Dana Avenue which are available to rent to our tenants with cars.

**DETERMINATION THAT THE ALTERNATIVE USE IS IN THE SAME
OR A LESS INTENSIVE LAND USE CATEGORY BASED ON TABLE-3-1
(PERMITTED USE TABLE)**

A. Prior Office Use

4. I respectfully submit that the Board of Zoning Appeals should approve the substitution of an apartment in the basement and studio apartment and a one bedroom apartment for the two floors of medical office space at 614 Madison Avenue.

5. As noted in the Affidavit of Arnold Slowe, historically, pre-1968, the building contained two offices in the basement and first floor and two residential dwelling units on the second and third floors.

6. To demonstrate how intensive the office use was, the office space was previously occupied by, at one point, upon information and belief, many medical doctors, secretarial staff, plus use of laboratory space at 616 Madison with lab technicians in the basement. On average, two doctors worked on each floor in the office space at 614 Madison (and 612 and 616 Madison Avenue) and rotated through the years and had as many as seven at one point. Over the years, the number of medical doctors decreased due to availability of more efficient medical office space in the area, and, until recently, it was occupied by one doctor. However, theoretically, it is possible, though not probable, that it could again accommodate the same number of doctors as it did before.¹

7. The doctors shared the office space, and upon information and belief, all had separate practices. Some shared waiting rooms, secretaries, x-ray machines, and other medical amenities. As with any medical office use, patients for each doctor would begin arriving in the early morning and throughout the day via automobiles and park on the surrounding streets, or via other available transportation. Accordingly, competition for on-street parking with residential neighbors was exacerbated with the medical office use. At its most intense use, upon information and belief, doctors saw up to 100 patients per day, in combination with the other doctor's offices immediately adjacent to 614 Madison (612 and 616 Madison Avenue) with such patients utilizing the limited number of on-street public parking spaces. In fact, the City would cordon off on-street parking to accommodate patients traveling to the doctor's offices.

B. Comparison of Prior Office Use to Proposed Residential Use

¹ It is not Madison Associates intent to continue to rent the basement and first floor space as medical office space, retail, personal or business services or a restaurant use, because such uses would not be in keeping with the residential nature of the area and not the type of uses that meets Madison Associates objectives and capabilities. As noted, the demand for such office space has significantly decreased over time. Madison Associates desires to substitute for the office space, a studio and two one-bedroom apartments which, based on our experience, are more desirable for tenants in this area of the City and will economically provide a more reasonable rate of return on investment. One large residential unit would not provide sufficient income to feasibly support this space and provide a reasonable rate of return.

8. As described, numerous doctors operating their individual practices at 614 Madison Avenue, complete with waiting areas, patient rooms, reception area with receptionist, laboratory, technicians, and use of medical devices such as the use of X-ray machines, to be substituted by a studio and two one bedroom apartments and occupied by three or possibly four people cannot be considered rationally anything other than a less intensive use of the space and “land use category”.

9. Parking for the office use, under the current Zoning Ordinance, requires 1 space per 400 SF Net Leasable Area. The prior Zoning Ordinance required 1 space per 200 square feet of floor area. In either case, because the office use is a more intensive use than residential, more off-street parking was, or would be, required to accommodate the more intensive office use. Patients arriving and leaving all day long is clearly more disruptive to other residential neighbors, including, but not limited to, competition for the limited number of on-street parking spaces in the immediate vicinity of the property.

10. Utility services for a studio and one bedroom apartment will be clearly less, as compared to a medical office with up to seven doctors.

C. The New Zoning Law

11. Pursuant to the Permitted Use Table in the USDO, the studio apartment and two one bedroom apartments to be substituted in place of two medical offices use is the same or a less intensive land use category based on Table 3-1 (Permitted Use Table). Offices are not listed on the Permitted Use Table as being a permitted use in the R-T Zoning District. Rather, “Offices & Services” are listed under the “Commercial Uses” category.

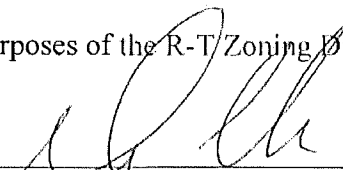
12. In addition, the intent and purpose of the R-T Zoning District is to promote residential use of buildings. §375-2(C)(4)(b) provides:

The purpose of the R-T district is to provide for neighborhoods containing a **blend of townhouse-style residences of varying sizes and configurations**. These areas are often coterminous with the City designated historic districts and those areas of the City predating extensive zoning regulation. A mix of uses are permitted where the existing building typologies and built fabric of the area are consistent with such uses, as shown in Table 375-3-1 (Permitted Use Table).

13. In fact, the proposed use is more in keeping with the purposes of the R-T Zoning District than medical offices. Therefore, by definition, the office use is a more intensive use.

14. Authorizing the substitution of the residential use for the office use will bring the use closer into conformity with the other residential uses in the neighborhood.

WHEREFORE, based on the foregoing, I respectfully submit that it was previously determined by the Building Department that two residential units and two medical offices have been in continuous use, and are considered a legal "grandfathered use". Changing the existing two floors of medical office space to a studio and two one bedroom apartments, is consistent with the historical use of the building, consistent with the character of the area and, manifestly, a less intensive use of the property consistent with the purposes of the R-T Zoning District.



NANCY SLOWE

Sworn to before me this
15 day of July, 2017



Notary Public

LAUREN MILGROM
Notary Public, State of New York
No. 31-4654052
Qualified in New York County
Commission Expires March 30, 2019