

**BEFORE THE DISTRICT OF COLUMBIA
BOARD OF ZONING ADJUSTMENT**

PRELIMINARY STATEMENT OF COMPLIANCE WITH BURDEN OF PROOF

This statement is submitted by Bozzuto Homes, Inc., on behalf of Meridian Hill Baptist Church, the owner of property located at 3146 16th Street, N.W. (Square 2595, Lot 831) (the "Site"), in support of its application pursuant to 11 DCMR Section 3103.2 for a variance from the rear yard requirements of Section 404.1 and a variance from the court width requirements of Section 406.1 to allow an addition to, and renovation of, an existing building for residential use in the R-5-D District at the Site.

Pursuant to Section 3113.8 of the Zoning Regulations, the Applicant will file its prehearing statement with the Board no fewer than 14 days prior to the public hearing date. In that statement, and at the public hearing, the Applicant will provide testimony and evidence to meet its burden of proof to obtain the Board's approval of the requested relief.

I. Background Information Regarding the Site

The Site is located at 3146 16th Street, N.W. and includes Lot 831 in Square 2595. Square 2595 is located in the northwest quadrant of the District and is bounded by Lamont Street on the north, a public driveway and 16th Street on the east, Irving Street on the south, and Mt. Pleasant Street on the west. The Site includes 14,714 square feet of land area. The Site is located within the R-5-D District and the Mount Pleasant Historic District, and is currently improved with a vacant building last used as the Meridian Hill Baptist Church.

II. Description of Proposal and Zoning Relief

As shown on the plans included with the application, the project contemplates demolishing a portion of the existing church building on the Site, which was severely damaged

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in a fire several years ago. The project will include the construction of two new residential wings of the building, one at the rear of the church and one to the south of the church. The building will include a total of approximately 61,799 square feet of gross floor area, which will be comprised of 55 residential units. The project also includes 32 off-street parking spaces located in a below-grade parking garage. The project has been reviewed by the staff of the State Historic Preservation Office ("HPO"), and the Applicant is continuing to work with HPO to refine certain elements of the building's design. The proposed residential use of the Site is consistent with the Site's R-5-D zoning designation. However, due to a number of site and design constraints, including the Applicant's restoration and conversion of an existing historic structure, the Applicant is seeking area variance from the rear yard and court width requirements of the Zoning Regulations.

III. **Burden of Proof for Area Variances**

Under D.C. Code §6-641.07(g)(3) and 11 DCMR §3103.2, the Board is authorized to grant an area variance where it finds that three conditions exist:

- (1) the property is affected by exceptional size, shape or topography or other extraordinary or exceptional situation or condition;
- (2) the owner would encounter practical difficulties if the zoning regulations were strictly applied; and
- (3) the variance would not cause substantial detriment to the public good and would not substantially impair the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map.

See French v. District of Columbia Board of Zoning Adjustment, 658 A.2d 1023, 1035 (D.C. 1995) (quoting *Roumel v. District of Columbia Board of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)); *see also*, *Capitol Hill Restoration Society, Inc. v. District of Columbia Board of Zoning Adjustment*, 534 A.2d 939 (D.C. 1987). As discussed below, and as will be

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further explained at the public hearing, all three prongs of the area variance test are met in this Application.

A. **The Property Is Unusual Because of its Size, Shape or Topography and is Affected by an Exceptional Situation or Condition.**

The phrase "exceptional situation or condition" in the above-quoted variance test applies not only to the land, but also to the existence and configuration of a building on the land. See Clerics of St. Viator, Inc. v. D.C. Board of Zoning Adjustment, 320 A.2nd 291, 294 (D.C. 1974). Moreover, the unique or exceptional situation or condition may arise from a confluence of factors which affect a single property. Gilmartin v. D.C. Board of Zoning Adjustment, 579 A.2^d 1164, 1168 (D.C. 1990).

In this case, the condition, size and dimensions of the existing building on the Site, and the HPO mandates for redeveloping the Site, combine to create an exceptional situation or condition. As noted above, the Site is improved with a church that was constructed in 1916, with an addition constructed in 1927. The building was continuously used as a church until it was abandoned in 2008 because of severe damage from a fire, which has a direct impact on the Applicant's ability to reuse portions of the existing building. Moreover, the development proposal involves the retention and restoration of a significant portion of the existing historic structure, which will ultimately comprise the eastern portion of the proposed building. Developing the project around, and incorporating portions of the existing historic structure on the Site, combined with incorporating the requirements imposed by HPO, creates several design constraints. For example, as noted in the HPO staff report, one of the major recommendations from HPO is to limit the visibility of any additions so as to not impact the views of the Church's façade from 16th Street. Thus, the Applicant is not building to the height permitted in the R-5-D District. HPO also had a number of comments regarding the location and design of windows,

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which impacts where and how the proposed units can be located in order to have light, air and ventilation. Overall, these recommendations, combined with the condition, size and dimensions of the existing building on the Site, impact the overall footprint and layout of the proposed interior spaces and generate the need for zoning relief.

B. Strict Application Would Result in a Practical Difficulty to the Owner

(a) Rear Yard Requirements of Section 404.1

The strict application of the rear yard requirements in this case would result in a practical difficulty to the Applicant. Pursuant to Section 404.1 of the Zoning Regulations, all structures in the R-5-D District are required to provide a rear yard with a minimum depth of 4 inches per foot of vertical distance from the mean finished grade at the middle of the rear of the structure to the highest point of the main roof or parapet wall, but not less than 15 feet. Thus, a 26.3 foot rear yard is required in this case. As shown on the plans, the existing building provides a 5 foot rear yard, and the Applicant proposes to increase that rear yard to 6 feet at the ground floor, and 15 feet from the first through seventh floors. In order to comply with the minimum rear yard depth requirement in this case, the Applicant would be required to set the building back an additional 20.3 feet at the ground floor, and 11.3 feet at the first through seventh floors, which would result in the loss of a significant amount of gross floor area that cannot be relocated due to the location of the portions of the historic structure to be incorporated into the project. The loss of this area would make it practically difficult to renovate and convert the existing building into residential use, while also providing a reasonable layout for the proposed units, and would have an adverse impact on the location and function of the building's core features, such as the location of the required elevator and egress stair towers.

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(b) Court Width Requirement of Section 406.1

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The strict application of the court width requirements in this case would result in a practical difficulty. Although not required for zoning purposes, the project includes 3 open courts: one along the northern property line, one along the southern property line, and one above the existing historic structure. Pursuant to Section 406.1 of the Zoning Regulations, open courts in the R-5-D District are required to have a minimum width of 3 inches per foot of height of court, but not less than 10 feet. Relief is required in this case since the open court located along the northern property line has a width of 4.5 feet, but is required to have a width of 10.7 feet, and the court located along the southern property line has a width of 6 feet but is also required to have a width of 10.7 feet.

The Applicant cannot increase the width of the open court located along the northern property line because that court is bounded to the south by the existing historic structure, which cannot be demolished in order to increase the court width. The Applicant cannot increase the width of the open court located along the southern property line because that court is bounded to the north by the existing historic structure, and increasing the width of the court on the south would result in a significant number of design changes to the interior configuration of the building, including the configuration of units along the southern property line, and the location of the required egress stairs, which have to be located at the end of corridors. Thus, it would be practically difficult for the Applicant to comply with the open court width requirements in this case.

C. No Substantial Detriment to the Public Good Nor Substantial Impairment to the Intent, Purpose and Integrity of the Zone Plan

There will be no substantial detriment to the public good and no substantial impairment to the intent, purpose and integrity of the zone plan by approving the project as proposed. The

rear yard relief will not create any adverse impacts since the project will be set back 15 beginning at the third floor, which greatly exceeds the existing rear yard depth. With respect to the court width relief, the courts requiring relief are internal and thus will not impact the adjacent properties to the north or south of the Site. In addition, the court areas are provided so that a number of units can have light, air and ventilation, which, given the configuration of the existing building on the Site, could not otherwise be provided.

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