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October 2, 2012

VIA HAND DELIVERY

Board of Zoning Adjustment
441 4th Street, N W
Suite 210S
Washington, DC 20001

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Re: Application No. 18442 – Supplemental Statement of the Applicant

Honorable Members of the Board

The Applicant has retained our firm, Griffin & Murphy, LLP, to represent it in connection with the above stated application. We submit the enclosed supplemental statement in support of Application No. 18442 for variances pursuant to §2001.3 relating to lot occupancy (§772.1) and rear yard (§774.1) requirements to allow conversion of a church to a twelve-unit apartment building, in the C-2-A District at premises 1400 Spring Road NW (Square 2689, Lot 0859).

Thank you for your attention to this application.

Sincerely,
GRIFFIN & MURPHY, LLP

By 
Meridith H. Moldenhauer, Esq.

Enclosures

Cc Karen Thomas, Office of Planning (Via Email, with enclosure)
ANC 1A (Via U.S. Mail, with enclosure)

BOARD OF ZONING ADJUSTMENT
District of Columbia
CASE NO. 18442
EXHIBIT NO. 25

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

**APPLICATION OF
1400 SPRING ROAD, LLC**

**BZA APPLICATION NO. 18442
HEARING DATE: November 13, 2012
ANC 1A**

STATEMENT OF THE APPLICANT

I. NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of 1400 Spring Road, LLC (the “Applicant”), the owner of property located at 1400 Spring Road NW, Lot 859 in Square 2689 (the “Property”) in support of its application for an area variance from lot occupancy (§772 1) and rear yard (§774 1) requirements under §2001 3 to allow the Applicant to convert a church to a three-story, twelve-unit apartment building in the C-2-A District at the Property

II. JURISDICTION OF THE BOARD

The Board of Zoning Adjustment (the “Board” or “BZA”) has jurisdiction to grant the variance relief requested herein pursuant to §3103 2 of the Zoning Regulations

III. EXHIBITS IN SUPPORT OF THE APPLICATION

Exhibit A Portion of the Baist Atlas plats showing the Property,
Exhibit B Portion of the Zoning Map showing the Property,
Exhibit C Architectural Plans and Elevations,
Exhibit D Letters of Support from Neighbors,
Exhibit E ANC Resolution in Support,
Exhibit F Outline of Testimony, and
Exhibit G Letter of Authorization

IV. BACKGROUND

A. Background Information Regarding the Property

The Property, also known Lot 859 in Square 2689, contains approximately 4,087 square feet of land area and is located in Northwest Washington, D.C. Square 2689 is bounded by 14th Street NW on the east, Perry Place NW on the south, Spring Place NW on the west, and Spring Road on the north (see Baist Atlas plat, attached here to as Exhibit A) Square 2689 is split between an R-4 District, encompassing residential properties on the west two-thirds of the square and a C-2-A District, encompassing commercial properties on the easternmost one-third The Property is located within the C-2-A District (see Zoning Map, attached hereto as Exhibit B), and is located approximately 0.6 miles from the Colombia Heights Metrorail entrance and 0.5 miles from the Georgia Avenue Petworth Metrorail entrance The Property is presently improved with a church The existing building on Property has an FAR of 1.75 The Property has approximately 42 feet of frontage along Spring Road NW and 109 feet of frontage on a public alley on the west side of the Property The Property is not located within any historic District, and the existing building on the Property is not listed on the D.C. Inventory of Historic Sites

The Property currently provides zero parking spaces on site Based on the prior use as a church, the Property has eight parking credits The existing parking credits have been confirmed by Matthew LeGrant, Zoning Administrator Pursuant to Section 2101.1, the proposed project requires seven parking spaces Due to the existing parking credits, no variance for parking is required

B. Description of the Improvements in the Surrounding Area

The Property is located in a relatively narrow C-2-A District that includes the properties with frontage along 14th Street NW from Spring Place to the north to U Street to the south Directly to the west is an R-4 District containing primarily three-story attached residential dwellings The Districts to the east and west of this C-2-A District are R-4, R-5-B, and R-5-E Across 14th Street are commercial

properties in the same C-2-A District with a large R-4 District containing mostly three-story attached residential buildings immediately to the east

C. Description of the Traffic Conditions and Mass Transit Options in the Surrounding Area

The Property is well serviced by a number of public transportation facilities and services including MetroBus routes, Capital Bikeshare, Metro, and Zipcars. The MetroBus routes along 14th Street include routes 52, 53, 54. Bus stops are located on the northwest and southeast corners of the intersection of 14th Street NW and Spring Road NW. In addition, a Capital Bikeshare Station is located at the intersection of 14th Street and Spring Road, and a Zipcar space is located behind 1361 Parkwood Place, both of which are within walking distance of the Property. Moreover, the Property is located approximately 0.6 miles from the entrance to the Colombia Heights Metrorail station and 0.5 miles from the entrance to the Georgia Avenue Petworth Metrorail station.

D. Description of the Proposed Development

As shown on the architectural plans (see Architectural Plans and Elevations, attached hereto as Exhibit C),¹ the Applicant proposes to convert the Property from a church to a three-story apartment with a height of approximately 35.75 feet. The proposed project will revitalize and enliven the existing structure with twelve new residential units. The first floor will contain four units, two one-bedroom and two two-bedroom apartments, and a courtyard accessible to residents. The second and third floors will each contain four units with the following unit mix on each floor: one three-bedroom unit, two two-bedroom units, and a one-bedroom unit. The third floor addition is designed to contribute to the character and pattern of the area.

¹ The plans attached are identical to those submitted with the initial application.

V. NATURE OF RELIEF SOUGHT AND STANDARD OF REVIEW

Variance relief is required from §2001.3 regarding lot occupancy (§772.1) and rear yard (§774.1) requirements. 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).

Applicants for an area variance need to demonstrate that they will encounter “practical difficulties” in the development of the property if the variance is not granted. *See Palmer v. D.C. Bd. Of Zoning Adjustment*, 287 A.2d 535, 540-41 (D.C. 1972) (noting that “area variances have been allowed on proof of practical difficulties only while use variances require proof of hardship, a somewhat greater burden”). An applicant experiences practical difficulties when compliance with the Zoning Regulations would be “unnecessarily burdensome.” *See Gilmartin v. D.C. Bd. Of Zoning Adjustment*, 579 A.2d 1164, 1170 (D.C. 1990). As discussed below, and as will be further explained at the public hearing, all three prongs of the area variance test are met in this Application.

VI. THE APPLICANT MEETS THE BURDEN OF PROOF FOR VARIANCE RELIEF

A. The Property is Unusual Because of its Size, Shape or Topography and is Affected by an Exception 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 2d 291, 294 (D C 1974) Moreover, the unique or exceptional situation may arise from a confluence of factors which affect a single property *Gilmartin v D C Board of Zoning Adjustment*, 579 A 2d 1164, 1168 (D.C 1990)

The Property is characterized by several exceptional conditions The confluence of the following factors creates a unusual situation on the Property (1) the Property is the largest lot in Square 2689, (2) the Property was previously used as a church providing unique and incompatible layouts, and (3) the Property contains existing nonconformities, specifically 100% lot occupancy and no rear yard

1 Lot Size

In addition to the 100% lot occupancy described below, the size of the lot also creates an exceptional circumstance As shown on the Zone Map, Exhibit B, the lot is the largest in the square and abuts an alley

2 Layout due to Previous Use as a Church

The Property is currently encumbered by a church As shown on the attached Architectural Plans, Exhibit C, the church layout consists of two staircases The first is a large obtrusive stairwell in the front foyer of the building The second is a smaller stairwell in the rear of the building Furthermore, the building is broken into several inefficient rooms with awkwardly located bathrooms and kitchens The buildings configuration makes its adaptive reuse of the Property extremely difficult and presents unique challenges to the development of the Property

3 Existing Nonconforming Property

In addition to the Property being the largest lot in the square, the existing building occupies 100% of the lot and does not provide a rear yard. The only other lots on Square 2689 with 100% lot occupancy are lots 40, 860, 26, 27, 29, and 66. The remaining 27 lots in Square 2689 have less than 100% lot occupancy. As explained in more detail below, the combination of these factors results in an extraordinary and exceptional condition that imposes a number of significant development constraints on the Property.

B. Strict Application of Zoning Regulations Would Result in Practical Difficulty to the Owner

The strict application of the lot occupancy and rear yard requirements in this case would result in a practical difficulty to the Applicant. Section 2001.3, in reference to nonconforming structures devoted to conforming uses, permits enlargements or additions to the nonconforming structure provided (a) the structure conforms to percentage of lot occupancy requirements and (b) the addition or enlargement itself (1) conforms to use and structure requirements and (2) does not increase or extend any nonconforming aspect of the structure nor create new nonconformity.

1. Nonconforming Structure as to Lot Occupancy (§772.1)

Pursuant to §772.1 of the Zoning Regulations, the Property does not conform to the lot occupancy requirement. While the project does not increase or extend the nonconforming lot occupancy of the structure, the structure does not conform to lot occupancy requirements as required by §2001.3(a). Thus, a variance has been requested with respect to lot occupancy.

Adherence to the 60% lot occupancy requirement would require the Applicant to tear down a significant portion of the existing structure. The existing lot occupancy, currently at 100%, is being reduced to 88% by creating a courtyard on the west side of the Property. The creation of a courtyard provides sufficient light to the residential units while working within the building's development.

constraints While bringing the Property far closer to the permitted lot occupancy than the existing structure, full compliance with the 60% lot occupancy requirement would require demolishing too much additional space for the project to remain economically feasible Therefore, strict application of the lot occupancy requirement would cause a practical difficulty for the Applicant

2 Nonconforming Structure as to Rear Yard (§774 1)

Pursuant to §774 1, the minimum depth of a rear yard in a C-2-A District is 15 feet Both the existing and proposed structures have no rear yard While the project does not increase, extend, or create new nonconformance with the rear yard requirement, in an abundance of caution the Applicant has requested a variance with respect to the rear yard requirement In order to comply with the minimum rear yard depth requirement in this case, the Applicant would be required to demolish the existing rear wall However, the rear wall is a masonry party wall for both this structure and the structure on the adjacent property, and provides structural support for both buildings Creation of a rear yard would require abandoning this party wall, which raises concerns regarding the party wall's structural integrity in the absence of the lateral support of the existing structure's floor and roof framing Exposure of this wall to the elements also raises waterproofing concerns In addition, demolishing the rear wall would exacerbate the existing inefficiency of the building's core features, caused by the prior layout as a church, including the hallway, the width and depth of the units, as well as the overall layout and orientation of the existing rooms The loss of this square footage would make it practically difficult for the Applicant to develop a viable apartment building Therefore, strict application of the rear yard requirement would cause a practical difficulty for the Applicant

C. No Substantial Detriment to the Public Good Nor Substantial Impairment to the Intent, Purpose and Integrity of the Zoning 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 zoning relief. The Applicant conducted extensive outreach to the neighboring property owners. The Applicant obtained letters of support from individuals in the local area (see Letters of Support from Neighbors, attached hereto as Exhibit D). The Applicant attended the ANC 1A meeting on September 12, 2012, presented the project to the community and obtained a resolution in support of the Application (see ANC Resolution in Support, attached hereto as Exhibit E). We submit that the proposed project adequately balances the Zoning Regulations' goals of protecting neighboring properties and modernizing a property to a more desirable use.

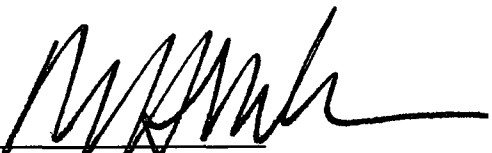
VII. WITNESSES

- 1 Ryan Samuel, on behalf of Applicant
- 2 Hugo Roell, Architect on behalf of Roell Architects PC

VIII. CONCLUSION

For the reasons stated above, the requested relief meets the applicable standards for variance relief under the Zoning Regulations. Accordingly, the Applicant respectfully requests that the Board grant the application.

Respectfully submitted
GRIFFIN & MURPHY, LLP

By. 
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