

D. Application for Special Exception Relief 2013 JUL 26 AM 11:20

Israel Baptist Church (the "Church"), the fee owner of 1251 Saratoga Avenue, N.E. (Lot 0036, Square 3939) and Israel Manor, Inc. ("IMI"), the fee owner of adjacent property at 2407, 2409 and 2411 12th Street, N.E. (Lots 0033, 0034, 0035, Square 3939 (collectively, the "Applicant") hereby make application to the District of Columbia Board of Zoning Adjustment (the "Board") for a variance pursuant to § 3103.2 of the District of Columbia Zoning Regulations, 11 DCMR (February 2003) (the "Zoning Regulations") to reduce the off-street parking requirements of § 2101.1 to permit the construction of an addition to the existing church building and a special exception pursuant to § 2116.3 to permit the location of a portion of the required on-site parking spaces elsewhere than on the lot in which the church building and proposed addition are to be located in the R-5-A Zoning District.

1. Statement of Existing and Proposed Use

Israel Baptist Church and its nonprofit subsidiary, Israel Manor, Inc. intend to collaborate in the development of a three-story addition to the existing church building which will house a community health clinic on the ground and first floors (approximately 23,669 sq.ft.) and much needed social and recreational space of the church on the upper floor (approximately 12,000 sq. ft.). The Applicant intends to lease the clinic space to Unity Health Care, Inc. for a twenty (20) year term.

The portion of the subject property owned by the Church (Lot 36) is improved by the existing church building and a surface parking lot along Saratoga Avenue, N.E. Israel Manor, Inc. owns the three (3) residential lots along 12th Street, N.E. (Lots 33, 34 and 35). The

Applicant will, subject to approval of the instant application, subdivide the subject property in order to permit the proposed construction. The Church also has an arrangement with the District of Columbia that permits the Church to use the land lying within the closed portion of Bryant Street, N.E. To the south of the church building to be used for parking by members and visitors of the Church.

2. Site Description

The subject property, comprising almost the entirety of Square 3939, is bounded by 12th Street, N.E., Saratoga Avenue, N.E., Brentwood Road, N.E. and the closed portion of Bryant Street, N.E. The subject property consists of an irregular shaped lot formed by the consolidation of the three (3) single family house lots facing 12th Street, N.E. comprising 12,593 sq. ft. of land with the existing record lot owned by the Church comprising an area of 82,186 sq. ft. for a total of 94,779 sq. ft. Topographically, the subject property slopes downward from the highest elevation in the eastern corner (164.95 feet) to a low point along 12th Street, N.E. (131.13 feet) on the western edge. There is a sharp 12-foot grade change in the middle of the site along a line separating the rear of the residential lots from the property owned by the Church. This grade change makes it a design challenge to integrate the two sections of the subject property from a number of perspectives, which will be discussed more fully herein. The subject property is located in the R-5-A Zoning District, but Square 3939 adjoins the C-M-1 and C-2-B Zoning District along its short southern and western boundaries. There is one single family residence (Lot 32) and one vacant parcel (Lot 30) within Square 3939 that are not owned by the Church or IMI.

3. Surrounding Area Description

The subject property is located within the Brentwood neighborhood and located in the middle of an R-5-A cluster running along the south side of Rhode Island Avenue between 10th Street, N.E. and 14th Street, N.E. The residential area is typical for the R-5-A Zoning District having a mix of detached single family houses, row dwellings, garden apartments and other multifamily apartments. To the southwest of the subject property about 800 feet distant is the Rhode Island Avenue/Brentwood Metrorail Station. Across Bryant Street, N.E. is the rear of the Home Depot Store, part of the Brentwood Shopping Center. South of the subject property across the closed portion of Bryant Street, N.E. is land zoned for industrial use zoned C-M-1. Isle of Patmos Baptist Church is located across Saratoga Avenue, N.E. from the subject property. Exhibit ____ appended hereto provides an aerial view of the surrounding area with the subject property in the middle identified at the blue dot.

4. Rationale for Zoning Relief

The Applicant met with the Zoning Administrator for a Preliminary Design Review Meeting in January 2012 to discuss the proposed construction and the application of the parking requirements of §2101.1 to the situation of the project. The Zoning Administrator concluded that the existing church building required fifty-three (53) parking spaces. Currently, the Church has thirty-five (35) off-street parking spaces along Saratoga Avenue, N.E. and based upon an informal agreement with the District of Columbia Government the Church has the use of the closed part of Bryant Street, N.E. where it has an additional forty-seven (47) parking spaces.

Based upon the square footage of the proposed clinic use, the Zoning Administrator further calculated that the addition would require eighty-three (83) parking spaces. Crediting the Applicant with the spaces provided off-site in the closed part of Bryant Street, N.E., the Zoning Administrator concluded that a net of fifty-four (54) additional parking spaces were required to conform to § 2101.1.

Based upon this parking analysis, the applicant requires two elements of zoning relief: first, to reduce the overall parking requirement for all improvements on the subject property by fifty-four (54) parking spaces; and second, to permit the applicant to meet its parking requirements by locating the parking off-site. The Applicant has pending before the Public Space Committee a request to utilize the closed part of Bryant Street, N.E. for parking spaces, which will be heard at the August 31, 2012 meeting of that body. The outcome of that meeting will result in a formal lease of public space on a long-term basis in order to satisfy the proposed parking requirements for the subject property.

5. Application of Facts to Variance Standards

The nature of the variance requested --- the reduction of the off-street parking requirements --- is an area variance.¹ In pertinent part, § 3103.2 of the Zoning Regulations states that the Board has the power:

Where, by reason of . . . [an] exceptional situation or condition on a specific piece of property, the strict application of any regulation adopted under D.C. Code sections 5-413 to 5-432 would result in peculiar and exceptional practical difficulties to . . . the owner of the property, to authorize . . . a variance from the

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Ass'n for Preservation of 1700 Block of N Street v. D.C. Board of Zoning Adjustment, 384 A.2d 674, 676 (D.C. 1978).

strict application so as to relieve the . . . hardship; Provided, that the relief can 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. (emphasis added)

The test for an area variance then is threefold: (1) whether some condition of the subject property is exceptional or unique; (2) creating a practical difficulty under the Zoning Regulations; and (3) relief from which would not occasion substantial detriment to the public good or impair the intent, purpose, and integrity of the zone plan. Roumel v. D.C. Board of Zoning Adjustment, 417 A.2d 405, 408 (1980); Capitol Hill Restoration Society, Inc. v. D.C. Board of Zoning Adjustment, 398 A.2d 13, 15 (1979). The manner in which the Applicant's circumstances and the circumstances of the subject property satisfy these three distinct elements for area variance relief are discussed below.

a. Exceptional Situation or Condition

The unique condition inherent in the subject property which necessitates the variance portion of this application derives from the fact that the subject property has a varied topography that limits the extent of the land area that can be used for parking purposes. In addition, the subject property is irregular in shape, especially given the fact that two of the lots within the Square 3939 are not owned by the Applicant which further complicates the potential for interior circulation and efficient layout of parking spaces.

b. Practical Difficulty

Under the Zoning Administrator's determination the Applicant needs a total of one hundred thirty-six (136) parking spaces. The Applicant has the opportunity to obtain forty-seven (47) off-site parking spaces in the closed portion of Bryant Street, N.E. There is just enough

vacant space on the subject property to accommodate more parking than is proposed on the attached site plan (Exhibit 5). The Church and the proposed clinic have operating hours that will permit an efficient dual use of the parking spaces. The clinic's hours of operation will be from 8:00 am to 9:00 pm, Monday through Saturday. At those times the Church has minimal need for parking spaces, primarily for church staff and visitors. The primary need of the Church for parking spaces arises on Sunday and on those infrequent occasions when there are funerals held during the weekdays. The Applicant would also request that the Board take notice of the proximity of the Metrorail Station and the abundant Metrobus routes which service Rhode Island Avenue, N.E., only one block from the subject property. It is the Applicant's belief that the special exception application is consistent with the city's planning strategy of limiting the amount of off-street parking spaces to below what is currently required in the Zoning Regulations. The Church and the clinic can efficiently manage the reduced number of parking spaces to serve their staff and visitors.

As a public service organization, the Applicant (both the Church and the clinic) has a lessened burden when it comes to establishing the second element of the variance test. Draude, 527 A.2d, at 1256. There is a line of decisions confirming that the Board should apply a more flexible standard for determining hardship and difficulty when a "public service" or nonprofit entity is the applicant. Monaco v. District of Columbia Board of Zoning Adjustment, 407 A.2d 1091 (D.C. 1979); National Black Child Development Institute, Inc. v. District of Columbia Board of Zoning Adjustment, 483 A.S.2d 687, 690 (D.C. 1984).

c. Compatibility with the Zoning Scheme

The final prerequisite for variance relief is to demonstrate that the requested relief can be granted without adverse impact on the intent, purpose and integrity of the zone plan. The new addition to the church building is a use consistent with the character and purposes of the R-5-A Zoning District which permits churches and clinics for humans as matters-of-right. The District of Columbia Comprehensive Plan (2006) - Future Land Use Map designates the subject property as moderate residential. In Chapter 24 of the comprehensive Plan - Upper Northeast Planning Area – it is noted that the Brentwood area contains a larger proportion of seniors relative to other areas of the District and that this population has special health care needs. The Community Services and Facilities Element of the Comprehensive Plan encourages “co-location of multiple community services in the same facility” and the addition accomplishes this purpose by bringing together the church, the clinic and social and recreational space. Chapter 11, Policy CSF-1.1.8. At page 11-8 of the Community Services and Facilities Element the District advocates the enhancement of the current network of community health centers.

6. Basis for Special Exception Relief

a. Compliance with §§ 2116.3-2116.8

Under Section 2116.3, a church may locate up to fifty percent (50%) of its required parking spaces elsewhere than on the lot on which the church is sited. In this instance, the Church is seeks an agreement with the District of Columbia to use public space (in the form of the closed portion of Bryant Street, N.E. to provide forty -seven (47) of the required 136 parking

spaces. The portion of Bryant Street, N.E. proposed for this use is immediately south of Lot 36 which is owned by the Church.

Section 2116.5 reads as follows:

Except as provided in § 2117.9, if approved by the Board of Zoning Adjustment pursuant to § 3104 for special exceptions, open parking spaces accessory to any building or structure may be located anywhere upon the lot upon which the building or structure is located, or elsewhere, except in the case of a one-family dwelling, in accordance with §§ 2116.6 through 2116.9 (emphasis added).

The subsections referenced above instruct the Board to consider, *inter alia*, “the lack of an alley or the lack of appropriate ingress or egress through existing or proposed alley and streets.” § 2116.6(b). The Board should also acknowledge when “the location of required parking spaces . . . on another lot would result in more efficient use of land . . . and less adverse impact on neighboring properties.” § 2116.6(d).

b. Special Exception Standards of § 3104.1.

In addition to the specific requirements of § 2116.5 pertaining to accessory parking spaces, any special exception application must also satisfy the general standard for this type of zoning relief: (i) that such relief will be in harmony with the general purpose and intent of the Zoning Regulations and (ii) that such relief will not adversely affect the use of neighboring property. The Applicant believes that the preceding discussion regarding the variance’s compatibility with the zoning scheme is equally applicable to assessing the intent and purpose of the zoning regulatory scheme.

E. Community Contacts

The Applicant has acted to ensure that the local community is informed of the construction of the new church building and the need for parking relief. The Applicant and its architect will meet with Advisory Neighborhood Commission 5B at its regular monthly meeting in September 2012.

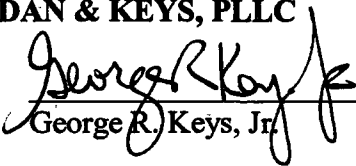
F. Conclusion

Based upon the foregoing discussion, the Applicant requests that the Board grant: (i) a variance from the parking requirements by reducing the number of required parking spaces to a total of eighty-two (82) in connection with the construction and operation of the new church addition and clinic and (ii) a special exception under § 2116.5 permitting the Applicant to satisfy the balance of the parking requirements of §2101.1 by providing forty-seven (47) parking spaces in the closed portion of Bryant Street, N.E. in accordance with an agreement with the District of Columbia Government.

Respectfully submitted,

JORDAN & KEYS, PLLC

By:


George R. Keys, Jr.