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Executive Summary

Case No. 18662

BOARD OF ZONING ADJUSTMENT
 District of Columbia

CASE NO. 18662EXHIBIT NO. 27

Site Description

Address: 800 11th Street, NESquare/Lot: Sq. 958, Lot 800ANC/SMD: 6A/6A01

Zoning:
 HS-R/C-2-A

Existing:
 Church

Historic District:
 None

Public Transportation:

- Metro: Union Station & NoMA
- Metrobus Rte: 90, X1, X2, X9, X3, D3, D4, D8
- Capital Bikeshare:
 - 11th & H St (19 docks)
 - 13th & H St (27 docks)
- Car Sharing: Zipcar & Car2Go

Cases:

- *Gilmartin v. D.C. BZA*
- *Cleris v. D.C. BZA*

Project Description

Applicant	Toddlers on the Hill
Proposal	Child Development Center
Relief Sought	Parking Relief (§2101.1)
Variance Standard	Exceptional Circumstance: Confluence of Factors • Property has a lot occupancy of 100% • Property has no rear yard or vehicular access • The lot is unusually large. Strict Application Results in Practical Difficulty: • There is no available space on the lot, which is occupied by the Douglas Memorial Methodist Church. • Compliance would require demolition of a portion of the existing church. No Substantial Detriment: • Existing church remains unchanged. • The relief decreases the number of adults present during program hours because it allows licensure as CDC and relieve parents of obligation to remain on premises. • Located in a transit rich area, with DC Streetcar available shortly. • The teacher and 2/3 of the parents walk or stroller to the program and others carpool.

Comments of District Agencies and Community:

- Unanimous support from Econ. Dev. And Zoning Committee
- No objection from DDOT
- 33 letters in support

Board of Zoning Adjustment
 District of Columbia

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LAW OFFICES
GRIFFIN, MURPHY, MOLDENHAUER & WIGGINS, LLP

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November 5, 2013

Lloyd Jordan, Chairperson
Board of Zoning Adjustment
441 4th Street, NW
Suite 210S
Washington, DC 20001

Re: Application No. 18662 – 800 11th Street NE (Square 958, Lot 800)
Prehearing Statement of the Applicant

Chairperson Jordan and Honorable Members of the Board:

On behalf of Toddlers on the Hill, please find enclosed the Prehearing Statement for the above-referenced application. The application is scheduled to be heard before the Board of Zoning Adjustment on November 19, 2013.

Thank you for your attention to this matter.

Sincerely,

GRIFFIN, MURPHY,
MOLDENHAUER & WIGGINS, LLP



By: Eric M. Daniel

Enclosures:

Cc Advisory Neighborhood Commission 6A
c/o David Holmes, Chair (via email)
Single Member District Representative 6A01, Omar Mahmud (via email)
Single Member District Representative 6A02, Gloria Nauden (via email)
Single Member District Representative 6A03, David Holmes (via email)
Single Member District Representative 6A04, Nicholas Alberti (via email)
Single Member District Representative 6A05, Jay Williams (via email)
Single Member District Representative 6A06, Andrew Hysell (via email)
Single Member District Representative 6A07, Sondra Phillips-Gilbert (via email)
Single Member District Representative 6A08, Calvin Wood (via email)
Office of Planning (via email)
Cliff Moy, Board of Zoning Adjustment (via email)

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

APPLICATION OF **BZA APPLICATION NO. 18662**
DOUGLAS MEMORIAL METHODIST CHURCH **HEARING DATE: NOVEMBER 19, 2013**

PREHEARING STATEMENT OF THE APPLICANT

I. NATURE OF RELIEF SOUGHT

This statement is submitted on behalf of Toddlers on the Hill (“ToTH”), a tenant of property located at 800 11th Street NE, Lot 800 in Square 958 (the “Property”), in support of the application for an area variance from the parking requirement (§2101.1) to allow the Applicant to use the Property as a Child Development Center (“CDC”) in the HS-R/C-2-A District.

The CDC use is permitted as a matter of right in the C-2-A District. ToTH is applying for a license as a CDC from the Office of State Superintendent of Education (“OSSE”), primarily to relieve parents of the obligation to remain on the premises at all times. Licensure requires a Certificate of Occupancy as a CDC which, in turn, requires parking relief to obtain zoning approval.

II. JURISDICTION OF THE BOARD

The Board of Zoning Adjustment (the “Board” or “BZA”) has jurisdiction to grant the variance requested herein pursuant to §3103.2 of the Zoning Regulations.

III. EXHIBITS IN SUPPORT OF THE APPLICATION

Exhibit A: Pick-up and Drop-off Plan

Exhibit B: Neighbor Letters in Support

IV. APPLICANT MEETS BURDEN OF PROOF FOR VARIANCE RELIEF

The Board is authorized to grant an area variance where it finds that the Applicant fulfills the three-prong area variance standard. As described in the Initial Submission, supplemented in this

Prehearing Statement, and as will be further explained at the public hearing, all three prongs of the area variance test are satisfied.

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 variance test applies not only to the land, but also to the property’s history and the configuration of a building on the land. *See Clerics of St. Viator, Inc. v. District of Columbia Bd. 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. District of Columbia Bd. of Zoning Adjustment*, 579 A.2d 1164, 1168 (D.C. 1990). As described in the initial submission, the Property is unusual and affected by an exceptional situation and condition as a result of a confluence of the following factors: (1) the Property currently has a lot occupancy of 100%; (2) the Property has no rear yard or curb cut to provide vehicular access; (3) the lot is unusually large; and (4) the existing religious use and proposed Child Development Center use.

B. Strict Application of the Zoning Regulations would Result in Practical Difficulty

Under §2101.1, a Child Development Center must provide 1 space for every 4 teachers and other employees. Currently, ToTH has one full-time employee and two part-time employees. To allow for flexibility with regard to staffing and size, ToTH is seeking parking relief to allow for two full-time employees and four part-time employees requiring the Applicant to provide 2 parking spaces on site. The Zoning Administrator has confirmed that the part-time volunteers count as “teachers and other employees” for purposes of the parking requirement. Strict application of the zoning regulations with respect to the parking requirement would result in a practical difficulty to the Applicant.

Toddlers on the Hill conducted an extensive search for locations. Finding a space that meets the requirements for obtaining a CDC was extremely challenging. Requirements include a location on the ground floor, exclusive access to bathrooms, proper fire exits, and others. Despite beginning with a list of over 40 potential locations, ToTH chose the Douglas Memorial Methodist Church because it was the only

location that met the CDC requirements, was within close proximity to ToTH parents, and allowed the program to remain affordable.

However, given the 100% lot occupancy and lack of rear yard of the existing nonconforming Douglass Memorial United Methodist Church, no space is available on the lot for the two parking spaces required. Partially demolishing the existing structure to provide parking on-site would be impractical and wasteful, particularly because the area is so well served by existing and future transportation options. Furthermore, for a small CDC tenant, it would be practically difficult and economically infeasible to construct a below-grade garage to accommodate only two parking spaces. Thus, strict application of the zoning regulations, which would prevent the CDC from operating at the Douglass Memorial Methodist Church or in the nearby area at all, constitutes a practical difficulty for the Applicant.

Furthermore, while not located within any historic District, and not listed on the DC Inventory of Historic Sites, the Property has been recommended for listing in both the DC Inventory of Historic Sites and for NRHP status. *See H Street/Benning Road Streetcar Project: Historic Architectural Survey, April, 2013.* The Property is presently improved with the Douglas Memorial Methodist Church. Built in 1898 for \$18,000, the Romanesque Revival church was constructed by J. C. Yost, following the designs of architect Joseph C. Johnson. Pursuant to §2120.3, a historic resource and any addition to a historic resource are exempt from the requirements of §2100.4 to provide additional parking as a result of a change of use and §2100.6 to provide additional parking as a result of an increase of intensity of use, except that parking is required for any addition where the gross floor area of the historic resource is being increased by 50% or more, and the parking requirement attributable to the increase in gross floor area is at least four spaces. Thus, if the Property were listed, rather than merely being recommended for listing, the use would be permitted as a matter of right pursuant to §2120.3.

For the reasons stated, strict application of the zoning regulations with respect to the parking requirement would result in a practical difficulty to the Applicant.

C. No Substantial Detriment to Public Good or Inconsistency with 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 zoning relief. The existing church will remain unchanged. The zoning relief allows for efficient use of existing, underutilized church space in a manner that provides a much needed service to the community. ToTH is an asset to the nearby community and is greatly appreciated by local residents. ToTH parents have taken an active role in improving the appearance of the Douglas Memorial Methodist Church and, through ToTH activities such as teaching the children gardening, have beautified the area around the church.

The parking relief will not create a substantial detriment to the public good. In fact, granting the parking relief requested will actually *reduce* the demand for parking generated by ToTH. Until ToTH is licensed as a CDC, each child must be accompanied by a parent or guardian for the duration of the program. Most parents work remotely onsite. Once licensed as a CDC, parents will be relieved of the obligation to remain on the premises. Thus while becoming a licensed CDC requires relief from the 2-space parking requirement, because parents are no longer required to remain on the premises the number of adults, and thus the potential need to park cars on the street, will actually be decreasing.

The H Street Corridor is a transit-rich neighborhood and is accessible by a number of alternative modes of transportation. The H Street NE Strategic Development Plan indicates that “H Street is proposed to be primarily a transit and pedestrian corridor with retail parking.” *See H Street NE Strategic Development Plan*, p iii. The Metrorail, Metrobus, Capital Bikeshare, Zipcar, Car2Go and forthcoming DC Streetcar all promote car-free travel in the area.

Moreover, the location selected by ToTH allows for the majority of the parents, employees, and volunteers to walk or stroller to the program. A poll taken by the Executive Director of ToTH confirmed that of the 24 participating families, 16 families and the teacher walk or stroller and 4 families carpool.

Thus only 1-2 cars are parked nearby for the duration of the program. Once the CDC license is obtained, the 1-2 cars will only be parked temporarily at the beginning and end of the program for purposes of dropping off and picking up the children from the program. Those who do park all have Zone 6 stickers and thus park legally in the area.

On September 18, the Applicant received unanimous support from the Economic Development and Zoning (“EDZ”) Committee. In response to comments voiced at the EDZ meeting, the Applicant prepared a Pick-up and Drop-off Plan, to address traffic and parking issues, and posted the Plan on the Toddlers on the Hill website. *See* Pick-up and Drop-off Plan at Exhibit A. On October 10, the Applicant attended and presented at an ANC 6A meeting but no action was taken. DDOT supports the application based on the location on the H Street corridor and the need for CDC providers in the area, citing the closure of a nearby CDC serving over 100 children. The Applicant has received 33 letters in support of the application, including 16 from residents on the 800 block of 11th Street NE. *See* Neighbor Letters of Support attached at Exhibit B.

For these reasons, approval of the parking relief requested will not cause a substantial detriment to the public good or zone plan.

V. WITNESSES

The following witnesses will appear on behalf of the Applicant:

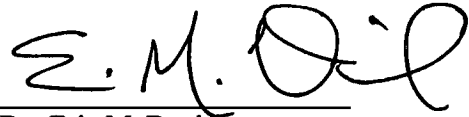
1. Anya French, Executive Director of Toddlers on the Hill
2. Jackie Davidson, Certified Montessori School Teacher at Toddlers on the Hill
3. David Shove-Brown, Architect on behalf of Studio 3877

VI. CONCLUSION

For the reasons stated above, and for the reasons enumerated in the Applicant’s prior filings in this case, we hereby submit that the application meets the requirements for area variance relief. We look forward to presenting our case to the Board on September 24, 2013.

Sincerely,

GRIFFIN, MURPHY,
MOLDENHAUER & WIGGINS, LLP

A handwritten signature in black ink, appearing to read "E.M. Daniel". The signature is written in a cursive, flowing style. The "E" is large and loops around the "M". The "Daniel" part is also cursive, with a large "D" and a trailing flourish.

By: Eric M. Daniel