

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

**APPLICATION OF
DOUGLAS MEMORIAL METHODIST CHURCH**

**800 11TH STREET, NE
ANC 6A**

STATEMENT OF THE APPLICANT

I. NATURE OF RELIEF SOUGHT

This statement is submitted by Toddlers on the Hill, a tenant of property located at 800 11th Street NE, Lot 800 in Square 958 (the "Property"), on behalf of the owner of the property Douglas Memorial Methodist Church (the "Applicant"), 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.

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. BACKGROUND

A. Background Information Regarding the Property

The Property, also known as Lot 800 in Square 958, contains approximately 5,850 square feet of land area and is located in Northeast Washington, D.C. Square 958 is bounded by H Street NE to the south, 10th Street NE to the west, I Street NE to the north, and 11th Street NE to the east. See Baist Atlas Map at Tab 8. The Property is located along the H Street NE Corridor within 1 mile of the Union Station and NoMa Metrorail entrances. The Property has approximately 65 feet of frontage along H Street NE and 90 feet of frontage along 11th Street NE. 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. While not located within any historic

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Board of Zoning Adjustment
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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 National Register of Historic Properties status (“NRHP”).

B. Description of the Improvements in the Surrounding Area

The Property is located in Square 958 along the H Street Corridor. Square 958 is split zoned, with the southern portion along H Street NE in the HS-R/C-2-A District and the northern portion in the 4 District. See Zoning Map at Tab 9. On the 1000 block of H Street are a number of commercial and retail establishments. Also on this block, across the street, is the Atlas Room. Taylor Gourmet is one block to the east. The remainder of the Square, along 10th Street, 11th Street, and I Street NE, is occupied primarily by rowhouses and flats.

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 Metro, Metrobus routes, Capital Bikeshare, Zipcar, and Car2Go. The Property is located approximately 1 mile from both the Union Station and NoMA Metrorail. Moreover, Metrobus routes 90, X1, X2, and X9 stop at the intersection of H Street & 8th Street NE. In addition, the X3 picks up at Florida Avenue & 11th St NE and the D3, D4 and D8 pick up at K Street and 10th Street NE. The Property is also within close proximity to a number of the District’s bikesharing and carsharing programs. A Capital Bikeshare station is located next to the Property at H Street & 11th Street NE (19 docks). Several Zipcar spaces are located within walking distance including two spaces behind 817 11th Street NE. Another local car-sharing program, Car2Go, reported in July 2013 that the use of the company’s car-sharing service in the District had reached over 25,000 and that the fleet was expanded from 300 vehicles to 400 vehicles to accommodate increasing demand. Walkscore.com gives the Property a walkscore of 92 and classifies the property as a “walker’s paradise,” “very bikeable,” and as having “excellent transit.”

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The DC Streetcar, which is expected to be carrying passengers by the end of 2013, will greatly enhance the walkability, bikeability, and public transportation available at the Property. 2013 SEP -3 AM 11: 18

D. Description of the Proposed Use

Toddlers on the Hill (“ToTH”) is a group of Capitol Hill parents committed to introducing young children to a Montessori learning environment. With the guidance of a certified Montessori teacher, ToTH cultivates intrinsic motivation, self-direction, and discovery. The purpose is to provide a community environment that promotes human development, provides exposure to beneficial, interactive activities, and allows the children to act independently. The ToTH program currently enrolls children aged 15 months to 33 months for one to five days a week, from 9:00 am to 12:00 pm. There are no more than nine children in the classroom at any time, guided and cared for by one full-time teacher and two classroom duty volunteers. Because ToTH is not currently licensed by the Office of the State Superintendent of Education (“OSSE”), and is run more like a playgroup, parents are required to remain on the premises at all times.

ToTH is currently seeking a license to operate as a Child Development Center in a portion of the Property from the OSSE. A CDC license will allow ToTH to relieve parents from the obligation to remain onsite. Staff and Directors have taken part in training courses and tutorials by OSSE in order to complete the required procedure. Another prerequisite for obtaining a license is issuance of a certificate of occupancy which requires zoning approval for the parking relief requested. The physical structure of the existing church will remain unchanged.

IV. NATURE OF RELIEF SOUGHT AND STANDARD OF REVIEW

Variance relief is required from the parking requirement under §2101.1. Under D.C. Code §6-641.07(g)(3) and 11 DCMR §3103.2, the Board is authorized to grant a variance where it finds that three conditions exist:

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- (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 Bd. of Zoning Adjustment, 658 A.2d 1023, 1035 (D.C. 1995) (quoting *Roumel v. District of Columbia Bd. of Zoning Adjustment*, 417 A.2d 405, 408 (D.C. 1980)); *see also*, *Capitol Hill Restoration Society, Inc. v. District of Columbia Bd. 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. District of Columbia 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. District of Columbia 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.

V. 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. 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).

The Property is characterized 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 lot is unusually large; (3) the existing religious use and proposed Child Development Center use.

The existing Douglas Memorial Baptist Church, built in 1898, has a lot occupancy of 100% and has no rear yard. This Property is the only one on Square 958 with 100% lot occupancy and the only Property on the Square with no rear yard. The adjacent squares, Squares 933 and 981, also have no lots with 100% lot occupancy and no lots with no rear yard. Furthermore, the Property, at 5,850 square feet, is by far the largest on the Square and is roughly twice as large as the average lot on the Square. Finally, the Property is occupied by a church, the only one Square 958. While H Street NE is also served by the Loving Day Care Nursery, the CDC use is rare on the H Street Corridor and is a much needed service considering the current and predicted future population growth in the area. Use of the Property as a Montessori Child Development Center would be the first on the H Street Corridor.

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

Strict application of the zoning regulations with respect to the parking requirement would result in a practical difficulty to the Applicant. Under §2101.1, a Child Development Center must provide space for every 4 teachers and other employees. Currently, ToTH has one full-time employee and two part-time employees. In addition, until ToTH is licensed as a CDC, each child must be accompanied by a parent or guardian. Most parents work remotely onsite. Once licensed as a CDC, Toddlers on the Hill will be required to have 6 employees in the classroom based on the anticipated number of children that

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will be cared for.¹ While only two employees will work full-time, four volunteers will also work part time. Parents, however, will be relieved of the obligation to remain on the premises. The Zoning Administrator has confirmed that the part-time volunteers count as “teachers and other employees” for purposes of the parking requirement. Thus, without a variance, the Applicant would be obligated to provide 2 spaces.

Given the 100% lot occupancy and lack of rear yard of the existing nonconforming Douglass Memorial 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. In light of the existing nonconformities, it would be practically difficult and economically infeasible to construct a below-grade garage to accommodate the additional parking. Thus, strict application of the zoning regulations, which would prevent the CDC from operating at all at the Douglass Memorial Methodist Church, 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.* 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, the

¹ Toddlers on the Hill is seeking a license to provide child care from the Office of the State Superintendent of Education as a CDC. The minimum number of staff a CDC must provide to obtain a license is based on a specific adult-to-child ratio prescribed in 11 DCMR §343.

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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 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 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. While becoming a licensed CDC requires providing 2 parking spaces, because parents are no longer required to remain on the premises, the number of parked cars will actually be decreasing. In addition, the majority of the parents, employees, and volunteers live within walking distance of the Property. The Metrorail, Metrobus, Capital Bikeshare, Zipcar, Car2Go and forthcoming DC Streetcar promote further increases in car-free travel in the area. Therefore, the parking relief requested will have no adverse impact on the area. Furthermore, 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. For these reasons, approval of the zoning relief requested will not cause a detriment to the public good or zone plan.

VI. 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.

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Respectfully submitted

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