

RECEIVED
C. OFFICE OF ZONING

2014 FEB 18 PM 3:32

February 13, 2014

Mr. Lloyd Jordan, Chair
Board of Zoning Adjustment
c/o Office of Zoning
441 4th Street NW, Suite 210S
Washington, DC 20001

Re BZA Case No. 18723· The Logic· 10th and V Streets, NW

Dear Chairman Jordan and Members of the Board,

The Applicant for the above-referenced case respectfully requests to amend our application to include one additional area of variance relief. After meeting with the Zoning Administrator, it was discovered that additional relief was needed in order to construct the project. Therefore, the applicant would like to include a request for relief from Subsection 2116.12, governing the location of required parking spaces on a property, as follows:

Location of Parking Spaces (2116.12) - Parking spaces provided within a structure shall be located at least 20 feet from all lot lines that abut public streets, unless the ceilings of all parking levels are at or below the grade of adjacent public sidewalks. Here, given extremely poor soil conditions and precarious, shallow foundations of two attached buildings, including an historic landmark structure, combined with a constrained site, the Applicant proposes to construct one level of parking at the property line, which extends above grade by 4 feet

Please find enclosed payment for the fee for the additional variance relief, revised form 135, and the Applicant's pre-hearing statement, which revises the burden of proof statement in this matter to address the additional variance relief

Thank you very much for your consideration.

Sincerely,

Suman Sorg, owner

2101 Morning Bright, LLC

BOARD OF ZONING ADJUSTMENT
District of Columbia

CASE NO. 18723

EXHIBIT NO. 28



BEFORE THE BOARD OF ZONING ADJUSTMENT
DISTRICT OF COLUMBIA



FORM 135 – ZONING SELF-CERTIFICATION

Project Address(es)	Square	Lot(s)	Zone District(s)
2105 10th St. NW	358	5, 6, 802	C-2-B/Arts

Single-Member Advisory Neighborhood Commission District(s) 1B 02

CERTIFICATION

The undersigned agent hereby certifies that the following zoning relief is requested from the Board of Zoning Adjustment in this matter pursuant to

Relief Sought	☐ §3103 2 - Use Variance	☐ §3103 2 - Area Variance	☐ §3104 1-Special Exception
Pursuant to Subsections	772 1, 774 1, 2116.12	772 1, 774 1, 2116.12	

Pursuant to 11 DCMR §3113 2, the undersigned agent certifies that

- (1) the agent is duly licensed to practice law or architecture in the District of Columbia,
- (2) the agent is currently in good standing and otherwise entitled to practice law or architecture in the District of Columbia, and
- (3) the applicant is entitled to apply for the variance or special exception sought for the reasons stated in the application

The undersigned agent and owner acknowledge that they are assuming the risk that the owner may require additional or different zoning relief from that which is self certified in order to obtain, for the above referenced project, any building permit, certificate of occupancy, or other administrative determination based upon the Zoning Regulations and Map. Any approval of the application by the Board of Zoning Adjustment (BZA) does not constitute a Board finding that the relief sought is the relief required to obtain such permit, certification, or determination.

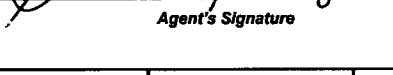
The undersigned agent and owner further acknowledge that any person aggrieved by the issuance of any permit, certificate, or determination for which the requested zoning relief is a prerequisite may appeal that permit, certificate, or determination on the grounds that additional or different zoning relief is required.

The undersigned agent and owner hereby hold the District of Columbia Office of Zoning and Department of Consumer and Regulatory Affairs harmless from any liability for failure of the undersigned to seek complete and proper zoning relief from the BZA.

The undersigned owner hereby authorizes the undersigned agent to act on the owner's behalf in this matter.

I/We certify that the above information is true and correct to the best of my/our knowledge, information and belief. Any person(s) using a fictitious name or address and/or knowingly making any false statement on this form is in violation of D.C. Law and subject to a fine of not more than \$1,000 or 180 days imprisonment or both.

(D.C. Official Code § 22 2405)

 Owner's Signature		2101 Morning Bright LLC Owner's Name (Please Print)	
 Agent's Signature		Suman Sorg Agent's Name (Please Print)	
Date	2/13/2013	D C Bar No.	
		or	Architect Registration No
			DC 706003210

FOR OFFICIAL USE ONLY

Based upon review of the application and self-certification, the Office of Zoning determines, pursuant to 11 DCMR §3113 2, this application is

☐	Accepted for filing
☐	Referred to the Office of the Zoning Administrator within DCRA, for determination of proper zoning relief required
☐	Rejected for failure to comply with the provisions of ☐ 11 DCMR §3113 2, or ☐ 11 DCMR - Zoning Regulations
	Explanation _____

Signature		Date	
-----------	--	------	--

ANY APPLICATION THAT IS NOT COMPLETED IN ACCORDANCE WITH THE INSTRUCTIONS ON THE BACK OF THIS FORM WILL NOT BE ACCEPTED.

Case No. _____

INSTRUCTIONS

Any request for self-certification that is not completed in accordance with the following instructions shall not be accepted

- 1 All self-certification applications shall be made on this form. All certification forms must be completely filled out (front and back) and be typewritten or printed legibly. All information shall be furnished by the applicant. If additional space is necessary, use separate sheets of 8½" x 11" paper to complete the form.
- 2 Complete one self-certification form for each application filed. Present this form with the Form 120 - Application for Variance/Special - Exception to the Office of Zoning, 441 4th Street, N.W., Suite 200-S, Washington, D.C. 20001. (All applications must be submitted before 3:00 p.m.)

ITEM	EXISTING CONDITIONS	MINIMUM REQUIRED	MAXIMUM ALLOWED	PROVIDED BY PROPOSED CONSTRUCTION	VARIANCE Deviation/Percent
Lot Area (sq. ft.)	9,563sf	n/a	n/a	n/a	n/a
Lot Width (ft. to the tenth)	95'	n/a	n/a	n/a	n/a
Lot Occupancy (building area/lot area)	18%	n/a	80%	90%	10%
Floor Area Ratio (FAR) (floor area/lot area)	0.58	n/a	5.0	5.0	n/a
Parking Spaces (number)	0	n/a	n/a	19	n/a
Loading Berths (number and size in ft.)	n/a	n/a	n/a	n/a	n/a
Front Yard (ft. to the tenth)	0'	n/a	n/a	n/a	n/a
Rear Yard (ft. to the tenth)	n/a	15'	n/a	0'	100%
Side Yard (ft. to the tenth)	n/a	n/a	n/a	n/a	n/a
Court, Open (width by depth in ft.)	n/a	n/a	n/a	n/a	n/a
Court, Closed (width by depth in ft.)	n/a	n/a	n/a	n/a	n/a
Height (ft. to the tenth)	53.73'	n/a	70'	70'	n/a

RECEIVED
OFFICE OF ZONING
2014 FEB 18 PM 3:40

If you need a reasonable accommodation for a disability under the Americans with Disabilities Act (ADA) or Fair Housing Act, please complete Form 155 - Request for Reasonable Accommodation



Form 135 Continued

Item	Existing Conditions	Minimum Required	Maximum Allowed	Provided by Proposed Construction	VARIANCE deviation/percentage
PARKING location of spaces	n/a	n/a	n/a	No setback, 4 ft above grade	No setback, 4 ft above grade

RECEIVED
CITY OFFICE OF PLANNING
2014 FEB 18 PM 3:40

**Before the District of Columbia
Board of Zoning Adjustment**

Application of 2101 Morning Bright LLC
2105 10th Street, NW
(Square 358, Lots 5, 6, 802)

Pre-Hearing Statement

I. Nature of Relief Sought

This is an application by 2101 Morning Bright LLC (the “Applicant”) for variance relief pursuant to Section 3101 of the Zoning Regulations to allow the construction of a mixed-use residential project at 2105 10th Street, NW (Square 358, Lots 5, 6, and 802) (the “Property”). The project will consist of one level of underground parking, with 6 floors of residential units above, including a retail space on the ground floor. The specific requests are for a variance from the lot occupancy requirements, for a variance from the rear yard requirements, and from the location of required parking spaces set forth in the Zoning Regulations at 11 DCMR §772.1, §774.1 and §2116.12 respectively. The property is zoned Arts/C-2-B and has 9,553 square feet of land area.

1. Lot Occupancy (772.1) – The residential portion of the property may not occupy more than 80% of the lot. Here, due to the location of an existing building that must be retained, the Applicant proposes a residential project that occupies 90% of the lot.

2. Rear Yard (774.1) – Structures must include a rear yard of not less than 15 feet. Here, given the existing conditions of zero rear yard, due to the location of an existing building that must be retained, the Applicant proposes a residential project that maintains the nonconformity and provides zero feet in the rear yard.

3. Location of Parking Spaces (2116.12) – Parking spaces provided within a structure shall be located at least 20 feet from all lot lines that abut public streets, unless the ceilings of all parking levels are at or below grade. Here, given extremely poor soil conditions and precarious foundations of two

RECEIVED
J.C. OFFICE OF ZONING
2014 FEB 18 PM 3:40

attached buildings, including an historic landmark structure, combined with a constrained site, the Applicant proposes to construct one level of parking at the property lines that extends above the grade of adjacent sidewalks by 4 feet

II. Jurisdiction of the Board of Zoning Adjustment

The Board of Zoning Adjustment has jurisdiction to grant the relief requested pursuant to §3103 of the Zoning Regulations

III. Site, Surrounding Area and Existing Conditions

The site is a nearly square property located at the northeast corner of the intersection of 10th Street and V Street NW, in the U Street Corridor Lot 802 is occupied by the First African New Church (the “Church”), an individually listed historic landmark structure with the address 2105 10th Street, NW The remainder of the property is vacant

The property is towards the eastern end of the U Street corridor, which has experienced significant new development and renovation of both commercial and residential buildings in the past 10 years The immediate neighborhood is characterized by a mix of uses, including individual townhomes and flats, larger new condominium and rental apartment buildings, small-scale office uses, booming retail and restaurant uses, and public facilities, across a mix of zone districts The Arts/C-2-B zone district runs generally along U Street and includes blocks to the north and south of the main thoroughfare in some areas

Within the immediate context of the project, the southern and eastern portions of the subject square are within the Arts/C-2-B zone classification Within the square and to the east of the proposed project on V Street are an office use, a popular neighborhood restaurant and bar, an automobile repair shop, and row dwellings The recently closed Garnett Patterson Middle School structure is located directly across V Street to the south of the property and occupies its entire city block To the north of the

project site on 10th street are a 16 unit condominium completed in 2007 and various row dwellings and flats. Across the alley that bisects the subject square are large apartment and condominium buildings that front on Vermont Avenue. Within one block of the proposed project are several recently completed multi-family buildings of similar or greater bulk and density, including the Lima (11th and V), the Beauregard (11th and V), the Rhapsody (Vermont Ave and V), and the Floridian (Vermont Ave and V).

The project is located in close proximity to multiple means of transportation. The U-Street/African American Civil War Memorial/Cardozo Metro station is located one block to the south, multiple bus lines run along U Street and Florida Avenue, car sharing spaces are abundant, and bike share stations are located within one block of the property.

The property is zoned Arts/C-2B. C-2-B is a medium-density, mixed-use zone that allows residential and mixed uses to a maximum height of 70 feet and has a base density of 3.5 FAR, of which commercial uses are limited to 1.5 FAR. The "Arts" designation, found in 11 DCMR Ch. 19, refers to the Mixed Use Uptown Arts overlay district, which modifies the base zoning to provide incentives for retail, arts, entertainment and residential uses along and in proximity to 14th Street, U Street and 7th Street, NW. With the addition of density incentives adopted under the Inclusionary Zoning requirements, the maximum FAR allowable on the subject property is 5.0.

Since purchase of the property, the current owners have undertaken the stabilization and restoration of the historic Church. At the time of purchase, the building was in severe disrepair, with all windows broken or missing, crumbling brick and mortar, unsound interior structure, contamination from pigeons, and complete roof deterioration, among other significant issues. Since purchase of the property in 2006, the current owner, an expert in historic preservation herself, has undertaken stabilization and restoration projects totaling nearly \$500,000 in construction costs, to include restoration and repair of all exterior facades, structural repairs, new slate roof, restoration of copper cornice, gutter and downspouts,

entirely rebuilt interior structure, remediation of contamination, preservation of sanctuary stained glass window, and new windows throughout

IV. The Project

The restored Church is planned to be converted into four condominium apartments, and six stories of new construction will be an addition to the landmark church. The Church has a building footprint of 1,740 SF and, with three floors and a mezzanine level, the structure contains a total of 4,655 sf of space

The attached new apartment building will have a height of 70 feet and will accommodate 42,752 gsf of residential space for a total project of 47,407 gsf. This constitutes a 5.0 FAR on the site of 9,553 sf. The C-2-B district permits a maximum of 3.5 FAR, pursuant to §771.2, as base density. The inclusionary zoning regulations (§2604.1), which are applicable to this project, authorize an increase in density of twenty percent, which makes the allowable FAR 4.2. The ARTS Overlay District (11 DCMR 19) also authorizes bonus density for the provision of preferred uses. An additional 0.3 FAR of bonus density is allowed under §1904.2, where specified uses listed under §1907 and §1908 are included at a specified ratio. As a project that includes at least 3.0 FAR devoted to residential use, this property is entitled to a further bonus FAR of 0.5 (§1904.3). Thus, the total allowable FAR for this site is 5.0. A total of approximately 45 apartments are proposed for this project.

A total of 19 compact parking spaces are provided in the basement level of the project and at grade. Within the C-2-B zone district requirement of one space for every three apartments, the minimum requirement would be 15 spaces. As noted in describing the surrounding context of the property, the site is within 2 blocks of the U Street/African American Civil War Memorial Metro station and numerous other modes of public and shared transportation.

This project is subject to Historic Preservation Review Board ("HPRB") approval, due to the presence of the historic church on the property, and the Applicant is working closely with HPRB staff in

advance of a hearing for concept design approval scheduled for March 6th, 2014 HPRB has granted concept design approval of a similar previous scheme of this restoration and new construction project After these concept approvals were achieved, the country was plunged into the most serious recession in nearly a century, so the project was put on hold BZA approvals, which were gained in 2005, and which contemplated a very similar project in terms of bulk and density, and the HPRB concept approvals that were obtained at the same time, have since lapsed and the market in this neighborhood has changed and strengthened Thus the project has been reimagined for the current state of the Washington DC residential market and the years of ensuing development that has occurred in this vibrant neighborhood

The proposed building complies with the majority of applicable zoning requirements, including

- Building height – 70 ft with IZ modifications,
- Floor Area Ratio – 5.0 with base zoning plus applicable incentives/requirements/bonuses,
- Side yards – none required or provided,
- Penthouse and roof structures,
- Parking (number of spaces) – with waiver for historic building,
- Loading – none provided or required for building of less than 50 units,
- Open courts – complies with requirements

The areas of requested variance relief are for the lot occupancy, from the rear yard setback and for the location of required parking spaces on the property The rationale for the requested relief is set forth in the following sections

V. Burden of Proof

The provisions of §3103.2 require the Applicant to show a unique physical aspect or other extraordinary or exceptional condition of a specific piece of property that creates a practical difficulty In

addition, the provisions require that the relief requested can be granted without substantial detriment to the public good or impairment of the zone plan

A. Exceptional Condition or Situation / Practical Difficulty. In this case, the property is unique because it contains a large existing building that has been determined to be an historic landmark and therefore may not be removed or altered, but must be incorporated into the development. The existing Church must be retained in its entirety and the proposed development will include the Church building in the overall design of the lot. Moreover, the property is a corner lot with two street frontages. The presence of the Church and the location of the lot on a corner does not lead to any difficulty with height requirements, but does lead to a practical difficulty in two areas: the rear yard and meeting the lot occupancy requirements.

The subsurface conditions of the property also pose a practical difficulty in the construction of this project without receiving zoning relief. Five geotechnical borings have been done on the site. The findings of these borings was that very collapsible, or silty, soil exists at the site, requiring a deep foundation system in order to achieve adequate bearing capacity to support the proposed new building. As a precaution, three additional test pits were dug in order to establish the depth of the 2 neighboring buildings foundations. It was determined that the neighboring building to the east, 923 V St, has a foundation extending only 18" below surface grade and the church basement is approximately 6' below grade. The poor soil conditions exacerbate the condition of the foundation of the abutting buildings, impacting the Applicant's ability to comply with the requirements of 2116.12, which states that parking spaces must be located entirely below grade unless they are set back at least 20 feet from all property lines abutting public streets.

1. Lot Occupancy

The presence of the Church on the site and the applicant's requirement to incorporate it into the overall development and not demolish it directly affects the project's ability to comply with the lot

occupancy requirements under §772.1. The location and configuration of the Church building create a practical difficulty in that its structure takes up a large amount of space and volume on the site, taking a large bite out of the available land area upon which the applicant can build. If the Church were not present, the applicant would have no problem accommodating the allowable density on the site as a matter of right. However, because of the location of the Church on the corner of the site, the open portion of the property is an odd L shape, creating an inefficient building layout for the new construction by squeezing the building and making units wider and shorter than would be optimal or possible if the site were entirely vacant.

The configuration of the Church in relation to the area of land that it occupies is also extremely inefficient, causing a larger proportion of the allowable FAR to be taken up by the church for a yield of a very few units. The Church building occupies 18% of the lot but accommodates only 8% of the planned units, due to the space and volume it takes up. Conversely, the new building, as designed, occupies 72% of the lot and accommodates 88% of the residential units. The applicant is requesting a 10% increase in the lot occupancy beyond the 80% maximum, to 90%.

Finally, the project addresses Historic Preservation issues by reducing the massing of the new building on upper floors in order that they not compete with the steeple and architecture of the church. Conforming to these requests by HPRB causes additional pressure on the ability to accommodate density on the property, where there would be none without the presence of the historic Church. It should also be noted that the Lot occupancy on higher floors is below the maximum of 80%.

The inefficiencies caused by the location of the church cause the land area available for the new building to be strangely shaped and therefore the building to have an inefficient layout, requiring more space to accommodate the same number of units. In addition, the comparatively large volume and odd configuration of the church place downward pressure on the lot occupancy, requiring more units to be accommodated in the new structure. These two conditions, combined with the need to respect the historic

structure by setting the new construction back from it, make accommodating density, while still meeting the lot occupancy requirements on the site, practically difficult

2. Rear Yard

The presence of the Church on the site also directly affects the ability to provide the 15-foot rear yard setback, required under §774.1. The entrance of the new portion of the building is placed on V Street so as not to compete with the historic entrance of the Church or with smaller scale properties that extend to the north of the subject site. Additionally, it is less suitable for the entrance of the new portion of the project to be placed on 10th street because compliance with rear yard provisions in this instance would create a large, unsightly and potentially dangerous gap in the street wall on V Street at the eastern edge of the property, in an area that is characterized by densely constructed, predominantly attached structures.

The preferable preservation decision of placing the entrance on V Street creates the northern boundary of the site, bordering a 10-foot wide alley, as the rear yard. In that location, the Church faces 10th Street and its side wall is on the northern property line along the alley. Therefore, for the majority of this portion of the site, the existing Church occupies the entirety of the rear yard and, as stated above, cannot be moved. The new portion of the project will be set back 17 feet from the alley at the ground floor and 12 feet on the second floor and above, thus the project will encroach only 3 feet into the required rear yard on this portion of the property. The lack of a rear yard is, for the most part, a technicality created by V Street becoming the front of the larger project. The exceptional condition leading to a practical difficulty is that, as a designated historic landmark, the Church cannot be demolished and, therefore, there is no practical way to comply with the rear yard setback requirement.

Relief from the rear yard requirements was granted in a previous application for this property in which the bulk and density of the proposed project was very similar.

3. Location of Parking Spaces

The precarious nature of underpinning the Church and the shallow foundation of the of the abutting building to the east on V Street, combined with extremely poor soil conditions, affects the ability of the Application to provide the required parking spaces, while still meeting the requirements of 2116 12, which indicates that parking spaces within a structure cannot be located at the property line unless the ceiling of the parking level is at or below grade. It would be impossible to set the parking level back from the property lines on 10th Street and V Street 20 feet, given the constrained size of the property. This would lead to the provision of 0 parking spaces for the project, leading to another area of required relief.

These facts regarding the subsurface conditions of the property lead to a very difficult condition with regard to excavation of the site. The greater the depth of excavation, the more the historic Church is endangered by earth moving and underpinning. Therefore, in order to disturb as little soil as possible and to exercise caution in adding to the historic structure on the property, the Applicant is proposing to provide one level of parking that is partially submerged below grade and rises partially above grade. The garage level as designed would be 6 feet below grade and extend 4 feet above the grade of the adjacent public sidewalks. The proposed 6 foot depth of the garage on the subject parcel allows us to mitigate extensive underpinning and shoring by supporting 923 V St to the minimum extent necessary and eliminating the need for underpinning the heavier existing historic church structure, therefore reducing the risk of unwanted settlement or a collapse of either building during construction. The effect of this design decision raises the building on a “plinth” four feet above the sidewalk, a condition which is common to many of the row houses in the surrounding area, where one walks up four steps to the front door, and so is not uncharacteristic in the neighborhood. In addition, raising the main floor of the new building 4 feet above grade is in keeping with the design of the entry to the Church and, therefore, creates a more harmonious interplay between the historic and new structures.

The exceptional condition leading to a practical difficulty is that poor soil conditions, the danger associated with underpinning the historic building, and shallow foundations of an abutting building make it challenging to comply with the regulations governing the location of required parking spaces on the property that must be set back from the property line or submerged entirely below grade

B. No Harm to Public Good or Zone Plan. The requested relief can be granted without harm to the public good and without threat to the zone plan. The granting of these variances will not have a detrimental impact on the immediate neighbors or the neighborhood because the project restores and reuses an historic landmark as well as putting a vacant property into productive use and providing much-needed residential dwelling units for the city. With regard to the lot occupancy, allowing the project to occupy 90% of the lot, which represents a 10% increase from the maximum requirement of 80%, will allow the project to make use of available density but will not cause the project to impinge on neighboring properties based, in part, on the property's location on a corner lot. With regard to the rear yard variance, properties to the north are already distanced from the project by a 10-foot alley and the location of the church in the rear yard is an existing condition, while the proposed new construction will only encroach on the 15-foot requirement by 3 feet. With regard to the location of parking spaces on the property, allowing the parking level to be elevated above grade by 4 feet will not create a building that is out of character with its surroundings. On the contrary, this design feature is in keeping with the vernacular of the classic Washington row home. Overall, the enlivening of this corner through the creation of this mixed-use, predominantly residential development, will have a positive effect on the neighborhood and will be a contribution to the community.

The zone plan will not be compromised because the project will include sufficient parking and because the site is in close proximity to several modes of public transport. The project is in keeping with the spirit of applicable regulations, including the Arts/C-2-B zone, the provision of affordable housing through IZ, and the provisions of the Historic Preservation Act. The project restores a historic landmark in conjunction with creating a compatible new construction project.

VI. Conclusion

The applicant has considered and designed this development project thoughtfully and the project is meeting with significant support from the surrounding community, including from the U Street Neighborhood Association, ANC 1B, and the Ward One Councilmember, Jim Graham. As a neighbor, whose business is located within two blocks of the subject property, the Applicant has been a positive force in the development of this area and wishes to continue those efforts with this project. We thank you very much for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Suman Sorg". The signature is fluid and cursive, with the first name "Suman" and last name "Sorg" clearly distinguishable.

Suman Sorg, owner

2101 Morning Bright, LLC